

SCHEDULE 1

Article 2

PART 1

MODIFICATION OF PUBLIC GENERAL ACTS

Electricity Act 1989 (c. 29)

1.—(1) The Electricity Act 1989 is amended in accordance with sub-paragraphs (2) to (5).

(2) In section 36 (consent required for construction etc. of generating stations)—

- (a) insert at the beginning of subsection (5), “Subject to subsections (5A) and (5B),”; and
- (b) after subsection (5), insert—

“(5A) In the case of a generating station in respect of which a controlled activity, within the meaning of the Water Environment (Controlled Activities) (Scotland) Regulations 2005, will be carried on, the Secretary of State shall, before granting a consent under subsection (1), obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment and have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

(5B) In the event that the conditions of a consent granted under subsection (1) on matters relating to the protection of the water environment, and the conditions of an authorisation granted under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant conditions of that consent shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.”.

(3) In section 111 (general interpretation)(1), insert at the appropriate place—

““protection of the water environment” has the same meaning as in section 1(2) of the Water Environment and Water Services (Scotland) Act 2003;”.

(4) In Schedule 5 (water rights for hydro-electric generating stations in Scotland)(2)—

- (a) insert at the beginning of paragraph 5, “Subject to paragraphs 5A and 5B,”; and
- (b) after paragraph 5, insert—

“5A. Before making an order under paragraph 2, and in considering the matters referred to in paragraphs 3 to 5, the Secretary of State shall—

- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and
- (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

5B. In the event that the provisions of an order made under paragraph 2 on matters relating to the protection of the water environment, and the conditions of an authorisation granted under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 differ and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.”.

(1) There are amendments to section 111 not relevant to this Order.

(2) There are amendments to Schedule 5 not relevant to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (5) In Schedule 9, paragraph 5 (Fisheries Committee: Scotland)–
- (a) insert at the beginning of sub-paragraph (6), “Subject to sub-paragraph (6A),”; and
 - (b) after sub-paragraph (6), insert–
 - “(6A) In the case of a generating station in respect of which a controlled activity within the meaning of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 will be carried on, the Committee shall, before making a recommendation under sub-paragraph (6), obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment.”.

Finance Act 1996 (c. 8)

2. In section 43A(4) of the Finance Act 1996 (contaminated land)(3)–
- (a) omit the word “or” where it occurs after paragraph (j); and
 - (b) after paragraph (k), insert–
 - “; or
 - (l) a notice served under regulation 28(2) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005.”.

PART 2

MODIFICATION OF SUBORDINATE LEGISLATION

Landfill Tax Regulations 1996 (S.I. 1996/1527)

3. In regulation 33(4) of the Landfill Tax Regulations 1996 (bodies eligible for approval)(4), after paragraph (j), insert–
- “(k) a notice served under regulation 28(2) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005.”.

(3) Section 43A was inserted by [S.I. 1996/1529](#) and amended by the Pollution Prevention and Control Act 1999 ([c. 24](#)), Schedule 3 which is not yet in force and [S.S.I. 2000/323](#).

(4) Regulation 33(4) was amended by [S.I. 2000/1973](#), [S.S.I. 2000/323](#) and [S.R. 2003/46](#).