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2007 No. [XXXX]

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Environmental Permitting (England and Wales) Regulations 2007

Made - - - - -	***
Coming into force - -	*6th April 2008*



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These Regulations are made in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(**a**).

The Secretary of State, in relation to England, and the National Assembly for Wales, in relation to Wales, have in accordance with section 2(4) of that Act consulted(**b**)—

(a) the Environment Agency;

(b) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate; and

(c) such other bodies or persons as they consider appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to section 2(8) and (9)(d) and (e) of that Act(**c**).

Accordingly, the Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, make the following Regulations—

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations—

(a) may be cited as the Environmental Permitting (England and Wales) Regulations 2007;

(b) come into force on 6th April 2008; and

(c) extend to England and Wales only.

(**a**) 1999 c. 24. Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I. 2005/1958. Those functions were then transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006, c. 32.

(**b**) The requirement in that section to consult the bodies and persons mentioned was transferred from the National Assembly for Wales to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006, c. 32. The consultation carried out by the National Assembly for Wales has effect as if it were carried out by the Welsh Ministers by virtue of paragraph 39(3) of that Schedule to that Act.

(**c**) The reference in section 2(8) to approval by each House of Parliament has effect in relation to exercise of functions by the Welsh Ministers as if it were a reference to approval by the National Assembly for Wales by virtue of paragraph 33 of Schedule 11 to the Government of Wales Act 2006, c. 32.

(2) For the purposes of this regulation—

(a) England and Wales includes the sea adjacent to England and Wales out as far as the seaward boundary of the territorial sea; and

(b) the sea adjacent to Wales has the same meaning as in section 158 of the Government of Wales Act 2006(**a**).

Interpretation: general

2.—(1) Except where otherwise provided, in these Regulations—

"the 1990 Act" means the Environmental Protection Act 1990(**b**);

"the 1995 Act" means the Environment Act 1995(**c**);

"the 1994 Regulations" means the Waste Management Licensing Regulations 1994(**d**);

"the 2000 Regulations" means the Pollution Prevention and Control (England and Wales) Regulations 2000(**e**);

"activity" means, subject to Part 1 of Schedule 1, an activity listed in Part 2 of that Schedule;

"the Agency" means the Environment Agency;

"agricultural waste" means waste from premises used for agriculture within the meaning of the Agriculture Act 1947(**f**);

"appropriate authority" means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers;

"directly associated activity" means—

(a) in relation to a SED activity, an operation which—

(i) has a technical connection with the SED activity,

(ii) is carried on on the same site as the SED activity, and

(iii) could have an effect on a discharge of volatile organic compounds into the environment;

(b) in relation to any other activity, an operation which—

(i) has a technical connection with the activity,

(ii) is carried on on the same site as the activity, and

(iii) could have an effect on pollution;

"disposal" has the same meaning as in the Waste Framework Directive and related terms must be construed accordingly;

"emission" means—

(a) in relation to a Part A installation, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the installation into the air, water or land,

(b) in relation to a Part B installation, the direct release of substances or heat from individual or diffuse sources in the installation into the air,

(c) in relation to Part A mobile plant, the direct or indirect release of substances, vibrations, heat or noise from the mobile plant into the air, water or land,

---

(**a**) 2006 c. 32; the boundary between the sea adjacent to Wales and that adjacent to England is described by article 6 and Schedule 3 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of section 162 of and paragraph 26 of Schedule 11 to the 2006 Act, S.I. 1999/672 continues to have effect.

(**b**) 1990 c. 43.

(**c**) 1995 c. 25.

(**d**) S.I. 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156, 2007/2596.

(**e**) S.I. 2000/1973, amended by S.I. 2001/503, 2002/275, 2002/1559, 2002/1702, 2002/2469, 2002/2688, 2002/2980, 2003/1699, 2003/3296, 2003/3311, 2004/107, 2004/434, 2004/1375, 2004/3276, 2005/894, 2005/1448, 2005/1806 (W. 138), 2005/2773, 2006/2311, 2006/2802 (W. 241), 2007/713, 2007/2325, 2007/2596.

(**f**) 1947 c. 48.

(d) in relation to Part B mobile plant, the direct release of substances or heat from the mobile plant into the air, and

(e) in relation to a waste operation not falling within paragraph (a) to (d), the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources related to the operation into the air, water or land;

"the End-of-Life Vehicles Directive" means Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles(**a**);

"enforcement notice" has the meaning given in regulation 36(1);

"environmental permit" has the meaning given in regulation 13(1);

"establishment" has the same meaning as in the Waste Framework Directive;

"excluded waste operation" has the meaning given in regulation 4;

"exempt waste operation" has the meaning given in regulation 5;

"exemption registration authority" has the meaning given in paragraph 2 of Schedule 2;

"hazardous waste", except in Section 5.1 of Part 2 of Schedule 1, has the meaning given by—

(a) in England, regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005(**b**),

(b) in Wales, regulation 6 of the Hazardous Waste (Wales) Regulations 2005(**c**);

"installation" means (except where used in the definition of "excluded plant" in Section 5.1 of Part 2 of Schedule 1)—

(a) a stationary technical unit where one or more activities are carried on, and

(b) any other location on the same site where any other directly associated activities are carried on,and references to an installation include references to part of an installation;

"the IPPC Directive" means Council Directive 96/61/EC concerning integrated pollution prevention and control(**d**);

"landfill" has the meaning given in Article 2(g) of the Landfill Directive;

"landfill closure notice" means a closure notice served under paragraph 10 of Schedule 10;

"the Landfill Directive" means Council Directive 1999/31/EC on the landfill of waste(**e**), as read with Council Decision 2003/33/EC(**f**) establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC;

"local authority" has the meaning given in regulation 6;

"mobile plant" means plant which—

(a) is not an installation,

(b) is used to carry on an activity or waste operation, and

(c) where not used to carry on a Part A activity, is designed to move or be moved whether on roads or other land;

"non-hazardous waste", except in Section 5.1 of Part 2 of Schedule 1, means waste which is not hazardous waste;

"operator" has the meaning given in regulation 7;

"Part A installation", "Part A(1) installation, "Part A(2) installation" and "Part B installation" have the meanings given in regulation 3(2);

"Part A mobile plant", "Part A(1) mobile plant", "Part A(2) mobile plant" and "Part B mobile plant" have the meanings given in regulation 3(3);

"pollution" means any emission as a result of human activity which may—

(a) be harmful to human health or the quality of the environment,

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(**a**) OJ No. L 269, 21.10.2000, p34.
(**b**) S.I. 2005/894.
(**c**) S.I. 2005/1806 (W. 138).
(**d**) OJ No. L 257, 10.10.1996, p26, as last amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council (OJ No. L 284, 31.10.2003, p1).
(**e**) OJ No. L 182, 16.7.1999, p1, as amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council (OJ No. L 284, 31.10.2003, p1).
(**f**) OJ No. L11, 16.1.2003, p27.

(b) cause offence to a human sense,

(c) result in damage to material property, or

(d) impair or interfere with amenities and other legitimate uses of the environment;

"public register" has the meaning given by regulation 46(1);

"recovery" has the same meaning as in the Waste Framework Directive and related terms must be construed accordingly;

"regulated facility" has the meaning given by regulation 8;

"regulator" means the authority on whom functions are conferred by regulation 32, or by a direction under regulation 33;

"relevant function" has the meaning given by regulation 9;

"revocation notice" means a notice served under regulation 22(3);

"rule-making authority" means—

(a) in relation to a regulated facility for which a local authority is the regulator, the appropriate authority, and

(b) in relation to any other regulated facility, the Agency;

"standard facility" means a regulated facility described in standard rules published under regulation 26(5);

"SED activity" means an activity falling within section 7 of Part 2 of Schedule 1;

"SED installation" means—

(a) a stationary technical unit where one or more SED activities are carried on, and

(b) any other location on the same site where any other directly associated activities are carried on;

"suspension notice" has the meaning given in regulation 37(1);

"undertaking" has the same meaning as in the Waste Framework Directive;

"waste", except where otherwise defined, means anything that—

(a) is waste for the purposes of the Waste Framework Directive, and

(b) is not excluded from the scope of that Directive by Article 2(1) of that Directive;

"the Waste Framework Directive" means Directive 2006/12/EC of the European Parliament and of the Council on waste(**a**);

"the Waste Incineration Directive" means Directive 2000/76/EC of the European Parliament and of the Council on the incineration of waste(**b**);

"waste oil" means mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

"waste operation" means recovery or disposal of waste;

"WEEE" has the meaning given by Article 3(b) of the WEEE Directive;

"WEEE Directive" means Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment(**c**); and

"working day" means a day other than—

(a) a Saturday or a Sunday,

(b) Good Friday or Christmas Day, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**d**).

(2) Where the duration of a period of time is expressed as being from one event to another event, that period—

(a) starts on the day on which the first event occurs, and

(b) ends on the day on which the second event occurs.

(3) In these Regulations, a power to give a direction includes a power to vary or revoke it.

(**a**) OJ No. L 114, 27.4.2006, p9.
(**b**) OJ No. L 332, 28.12.2000, p91. There is a relevant corrigendum, OJ No. L 145, 31.5.2001, p52.
(**c**) OJ No. L 37, 13.2.2003, p24.
(**d**) 1971 c. 80.

Interpretation: activities, installations and mobile plant

3.—(1) In these Regulations—

"Part A activity" means a Part A(1) activity or a Part A(2) activity;

"Part A(1) activity" means an activity falling within Part A(1) of any Section in Part 2 of Schedule 1;

"Part A(2) activity" means an activity falling within Part A(2) of any Section in Part 2 of Schedule 1; and

"Part B activity" means an activity falling within Part B of any Section in Part 2 of Schedule 1.

(2) In these Regulations—

"Part A installation" means a Part A(1) installation or a Part A(2) installation;

"Part A(1) installation" means an installation where a Part A(1) activity is carried on, including an installation also carrying on a Part A(2) activity or a Part B activity;

"Part A(2) installation" means an installation where a Part A(2) activity is carried on, not being a Part A(1) installation but including an installation also carrying on a Part B activity; and

"Part B installation" means, subject to Sections 2.2, 5.1 and 6.4 of Part 2 of Schedule 1, an installation where a Part B activity is carried on, not being a Part A installation.

(3) In these Regulations—

"Part A mobile plant" means Part A(1) mobile plant or Part A(2) mobile plant;

"Part A(1) mobile plant" means mobile plant used to carry on a Part A(1) activity, including plant also carrying on a Part A(2) activity or a Part B activity;

"Part A(2) mobile plant" means mobile plant used to carry on a Part A(2) activity, not being Part A(1) mobile plant but including plant also carrying on a Part B activity; and

"Part B mobile plant" means mobile plant used to carry out a Part B activity, not being Part A mobile plant.

Interpretation: excluded waste operation

4. In these Regulations, "excluded waste operation" means—

(a) a waste operation which is or forms part of an operation which—

(i) is the subject of a licence under Part II of the Food and Environment Protection Act 1985(**a**), or

(ii) by virtue of an order under section 7 of that Act, does not require such a licence;

(b) the disposal of liquid waste under a consent under Chapter II of Part III of the Water Resources Act 1991(**b**);

(c) the disposal of agricultural waste in or on land under an authorisation under regulation 18 of the Groundwater Regulations 1998(**c**);

(d) the disposal or recovery of waste which is not to be treated as industrial waste or commercial waste by virtue of regulation 7(1) of the Controlled Waste Regulations 1992(**d**).

Interpretation: exempt waste operation

5.—(1) In these Regulations, a waste operation is an "exempt waste operation" if—

(a) the requirements in paragraph 3(1) of Schedule 2 are met in respect of the waste operation;

(b) it falls within a description in Part 1 of Schedule 3; and

(c) the type and quantity of waste submitted to the waste operation, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in Article 4(1) of the Waste Framework Directive.

(**a**) 1985 c. 48.
(**b**) 1991 c. 57.
(**c**) S.I. 1998/2746.
(**d**) S.I. 1992/588; relevant amending instruments are S.I. 1993/556, 1994/1056, 1995/288, 2006/937.

(2) But a waste operation is not an exempt waste operation to the extent that it involves hazardous waste or the storage or treatment of WEEE, unless otherwise indicated in Part 1 of Schedule 3.

(3) Schedule 2 (exempt waste operations: general) has effect.

Interpretation: local authority

6.—(1) In these Regulations "local authority" means—

(a) in England outside Greater London—

(i) a district council,

(ii) where there is a county council but no district council, the county council, or

(iii) the Council of the Isles of Scilly;

(b) in Greater London—

(i) the council of a London borough,

(ii) the Common Council of the City of London,

(iii) the Sub-Treasurer of the Inner Temple, or

(iv) the Under-Treasurer of the Middle Temple;

(c) in Wales—

(i) a county council, or

(ii) a county borough council.

(2) Where a port health authority has been constituted for a port health district by an order under section 2 of the Public Health (Control of Disease) Act 1984(**a**) that authority is the local authority for the area covered by that district in relation to a Part B installation.

Interpretation: operator

7. In these Regulations "operator" means—

(a) the person who has control over the operation of a regulated facility;

(b) if a regulated facility has not been put into operation, the person who will have control over the facility when it is put into operation; or

(c) if a regulated facility has ceased to be in operation, the person who holds the environmental permit which authorised the operation of the facility.

Interpretation: regulated facility

8.—(1) Subject to paragraphs (2) and (3), in these Regulations, "regulated facility" means any of the following—

(a) an installation,

(b) mobile plant other than waste mobile plant,

(c) waste mobile plant,

(d) a waste operation not carried on at an installation or by means of mobile plant.

(2) An exempt waste operation is not a regulated facility.

(3) The following are not regulated facilities within paragraph (1)(c) or (d)—

(a) an excluded waste operation,

(b) the disposal or recovery of household waste from a domestic property within the curtilage of that property by a person other than an establishment or undertaking.

(4) In this regulation—

"household waste" has the meaning given in section 75(5) of the 1990 Act; and

"waste mobile plant" means mobile plant which—

(a) is used to carry on a waste operation, and

(b) is not Part A mobile plant or Part B mobile plant.

(**a**) 1984 c. 22.

Interpretation: relevant function

9. In these Regulations, "relevant function" means one of the following functions—

(a) determining an application—

(i) for an environmental permit under regulation 13(1),

(ii) to vary an environmental permit under regulation 20(1),

(iii) to transfer an environmental permit in whole or in part under regulation 21(1),

(iv) to surrender an environmental permit in whole or in part under regulation 25(2);

(b) varying an environmental permit—

(i) on the initiative of the regulator under regulation 20(1),

(ii) in relation to a transfer in whole or in part under regulation 21(1),

(iii) in relation to a partial revocation under regulation 22(1),

(iv) in relation to a partial surrender under regulation 24(2) or 25(2);

(c) revoking an environmental permit in whole or in part under regulation 22(1);

(d) exercising the following powers or duty—

(i) any power in relation to standard rules in Chapter 4 of Part 2,

(ii) the duty to vary an environmental permit after revocation of standard rules in regulation 30(3);

(e) exercising any of the following powers relating to enforcement—

(i) the power to serve an enforcement notice, or

(ii) the power to serve a suspension notice.

Giving notices, notifications and directions, and the submission of forms

10.—(1) In this regulation, "instrument" means a notice, notification, certificate, direction or form under these Regulations.

(2) An instrument must be in writing.

(3) An instrument may be served on or given to a person by—

(a) delivering it to him in person;

(b) leaving it at his proper address, or

(c) sending it by post or electronic means to his proper address.

(4) In the case of a body corporate, an instrument may be served on or given to the secretary or clerk of that body.

(5) In the case of a partnership, an instrument may be served on or given to a partner or a person having control or management of the partnership business.

(6) If a person to be served with or given an instrument has specified an address in the United Kingdom other than his proper address at which he or someone on his behalf will accept instruments of that description, that address must also be treated as his proper address.

(7) For the purposes of this regulation, "proper address" means—

(a) in the case of a body corporate or their secretary or clerk—

(i) the registered or principal office of that body, or

(ii) the email address of the secretary or clerk;

(b) in the case of a partnership or a partner or person having control or management of the partnership business—

(i) the principal office of the partnership, or

(ii) the email address of a partner or a person having that control or management;

(c) in any other case, a person's last known address, which includes an email address.

(8) For the purposes of paragraph (7), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

(9) A form provided by the regulator which specifies an electronic address for submission may be submitted electronically to that address.

(10) A form provided by the regulator for completion and submission through a website may be submitted through that site.

PART 2

Environmental Permits

CHAPTER 1

Application of these Regulations to the Crown and requirement for an environmental permit

Application of these Regulations to the Crown

11. Schedule 4 (application of these Regulations to the Crown) has effect.

Requirement for an environmental permit

12. No person may operate a regulated facility except under and to the extent authorised by an environmental permit.

CHAPTER 2

Grant of an environmental permit

Grant of an environmental permit

13.—(1) On the application of an operator, the regulator may grant to that operator a permit (in these Regulations, an "environmental permit") authorising the operation of a regulated facility.

(2) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application for the grant of an environmental permit.

Content and form of an environmental permit

14.—(1) An environmental permit must specify—

(a) every regulated facility to which it relates, and

(b) the person authorised to operate that regulated facility.

(2) An environmental permit may be in electronic form.

(3) An environmental permit authorising the operation of a regulated facility, other than mobile plant, must include a map, plan or other description of the site showing the geographical extent of the site of the facility.

(4) If there is more than one regulated facility on the site, the map, plan or other description may show only the combined extent of all the facilities.

Conditions in relation to certain land

15.—(1) Conditions in an environmental permit may require the operator to carry out works or do other things in relation to land which he is not entitled to do without obtaining the consent of another person.

(2) If an environmental permit contains such a condition, the person whose consent is required must grant the operator such rights as are necessary to enable the operator to comply with the condition.

(3) Part 2 (compensation in relation to conditions affecting certain interests in land) of Schedule 5 applies where such rights are granted.

Mobile plant operating on the site of another regulated facility: conflict of permit conditions

16. If—

(a) an environmental permit ("permit A") authorises the operation of mobile plant on the site of a regulated facility the operation of which is authorised by a separate environmental permit ("permit B"); and

(b) there is an inconsistency between the requirements imposed by permit A and those imposed by permit B,

the requirements imposed by permit B prevail.

Single site permits etc.

17. An environmental permit may authorise the operation by the same operator—

(a) on the same site of more than one regulated facility, other than a Part B installation or Part B mobile plant;

(b) on the same site of more than one Part B installation;

(c) of more than one mobile plant; or

(d) of more than one standard facility (other than a standard facility to which the IPPC Directive applies),

but may not otherwise authorise the operation of more than one regulated facility.

Consolidation of an environmental permit

18.—(1) Paragraph (2) applies if there is more than one environmental permit which authorises—

(a) the operation of mobile plant by the same operator;

(b) the operation of standard facilities, not being standard facilities to which the IPPC Directive applies, by the same operator; or

(c) in any other case, the operation of regulated facilities on the same site by the same operator.

(2) The regulator may replace the environmental permits with a consolidated environmental permit—

(a) applying to the same regulated facilities; and

(b) subject to the same conditions as the permits being replaced.

(3) The regulator may replace an environmental permit which has been varied with a consolidated environmental permit subject to the same conditions.

Subsistence of an environmental permit

19. Once granted an environmental permit continues in force until—

(a) it is revoked in whole in accordance with regulation 22;

(b) it is surrendered in whole in accordance with—

(i) regulation 24, or

(ii) regulation 25 and Part 1 of Schedule 5; or

(c) it is replaced with a consolidated permit in accordance with—

(i) regulation 18(2),

(ii) regulation 22(5),

(iii) paragraph 19(2) of Part 1 of Schedule 5.

CHAPTER 3

Variation, transfer, revocation and surrender of an environmental permit

Variation of an environmental permit

20.—(1) The regulator may vary an environmental permit on the application of the operator or on its own initiative.

(2) But a variation made under paragraph (1) must not reduce the extent of the site of a regulated facility.

(3) Paragraph (2) does not apply to Part B installations.

(4) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application to vary an environmental permit or a proposal to vary an environmental permit on the initiative of the regulator under paragraph (1).

Transfer of an environmental permit

21.—(1) The regulator may transfer an environmental permit in whole or in part from the operator to another person on the joint application of the operator and that other person.

(2) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to the transfer of an environmental permit in whole or in part.

(3) If—

(a) an enforcement notice is in force in respect of an environmental permit; and

(b) the permit is transferred to another person, either in whole or in part,

the duty to comply with the enforcement notice is also transferred to the other person to the extent that it relates to the permit or part transferred.

Revocation of an environmental permit: general

22.—(1) The regulator may revoke an environmental permit in whole or in part.

(2) If the regulator revokes a permit in part, it may vary the permit conditions to the extent that it considers necessary to take account of the revocation.

(3) Where the regulator decides to revoke an environmental permit it must serve a notice on the operator specifying—

(a) the reasons for the revocation;

(b) in the case of a partial revocation—

(i) the extent to which the environmental permit is being revoked, and

(ii) any variation to the conditions of the environmental permit; and

(c) the date on which the revocation will take place, which must not be less than 20 working days from the date on which the notice is served.

(4) Unless the regulator withdraws a revocation notice, an environmental permit ceases to have effect on the date specified in the notice—

(a) in the case of a revocation in whole, entirely; or

(b) in the case of a partial revocation, to the extent of the part revoked.

(5) In the case of a partial revocation, the regulator may replace the environmental permit with a consolidated environmental permit reflecting the change.

(6) If the regulator issues such a consolidated permit—

(a) it must at the same time serve a notice on the operator specifying any variation to the permit conditions; and

(b) only the variations specified are subject to the right of appeal in regulation 31(1)(b).

Revocation of an environmental permit: steps to be taken after the revocation takes effect

23.—(1) This paragraph applies where the regulator has decided to revoke an environmental permit and it considers that, after the revocation takes effect, it is appropriate for the operator to take steps—

(a) to avoid a pollution risk resulting from the operation of the regulated facility; or

(b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

(2) But this paragraph does not apply in relation to a Part B installation or Part B mobile plant.

(3) If the operator is already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator's view under paragraph (1) and state that paragraph (4) applies.

(4) The environmental permit continues to have effect to the extent that it requires the steps to be taken until the regulator issues a certificate stating that it is satisfied that all the steps have been taken.

(5) If the operator is not already required to take the steps mentioned in paragraph (1) under the environmental permit, the revocation notice must specify the regulator's view under paragraph (1) and the steps to be taken.

(6) If paragraph (5) applies, unless the regulator issues a certificate stating that it is satisfied that all the steps have been taken, the steps must be treated as if they were conditions of an environmental permit for the purposes of—

(a) regulation 20;

(b) regulation 36; and

(c) the offence of failing to comply with or contravening a condition in regulation 38(1)(b).

Notification of the surrender of an environmental permit

24.—(1) This regulation applies to—

(a) an environmental permit for mobile plant;

(b) an environmental permit for a Part B installation; and

(c) any part of an environmental permit which relates to an activity falling within Part A(2) of section 5.1 of Part 2 of Schedule 1.

(2) An operator may surrender an environmental permit to which this regulation applies, in whole or in part, by notifying the regulator of the surrender.

(3) A notification must—

(a) be made on the form provided by the regulator;

(b) include such information as is specified in the form; and

(c) specify the date on which the surrender is to take place, which must not be less than 20 working days from the date on which the notification is given.

(4) Subject to paragraph (7), the environmental permit ceases to have effect on the date specified in the notification to the extent specified there.

(5) Paragraphs (6) and (7) apply to a partial surrender if the regulator considers it necessary to vary the environmental permit conditions to take account of that surrender.

(6) The regulator must serve a notice on the operator specifying—

(a) the regulator's view under paragraph (5);

(b) the variation; and

(c) the date the variation takes effect.

(7) If the date specified in the notice under paragraph (6)(c) is later than the date specified in the notification under paragraph (3), the variation and partial surrender both take effect on the later date.

Application to surrender an environmental permit

25.—(1) This regulation applies to the surrender of an environmental permit to which regulation 24 does not apply.

(2) An operator may surrender an environmental permit to which this regulation applies, in whole or in part, by application to the regulator.

(3) Part 1 (grant, variation, transfer and surrender of environmental permits) of Schedule 5 applies in relation to an application to surrender an environmental permit in whole or in part.

CHAPTER 4

Standard rules

Preparation and revision of standard rules

26.—(1) A rule-making authority may prepare standard rules for such regulated facilities as are described in those rules.

(2) In preparing or revising standard rules the authority must consult—

(a) such persons or bodies as it considers are representative of the interests of communities likely to be affected by, or persons operating, the regulated facilities described in the rules; and

(b) such other persons as it considers are likely to be affected by or have an interest in the rules.

(3) But the duty in paragraph (2) does not apply in relation to revisions which comprise only minor administrative changes.

(4) The authority must keep under review all standard rules published by it under this regulation and revise those rules when it considers necessary.

(5) The authority must publish on its website all standard rules prepared or revised by it under this regulation.

(6) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

Standard rules as conditions of an environmental permit

27.—(1) This regulation applies where a rule-making authority has published standard rules under regulation 26(5).

(2) At the request of the operator of a standard facility the regulator may include in the environmental permit authorising the facility a term providing that the relevant rules are conditions of the permit.

(3) If the regulator includes such a term, the relevant rules are conditions of the permit for the purposes of these Regulations, but there is no right of appeal under regulation 31 in relation to such a condition or the relevant rules.

(4) In this regulation "relevant rules" means the standard rules which apply to the standard facility.

Notification of revisions of standard rules

28.—(1) This regulation applies where the rule-making authority proposes to revise standard rules under regulation 26(4).

(2) Before the rule-making authority complies with regulation 26(5), the regulator must notify any operator who holds a relevant environmental permit—

(a) of the proposed revisions;

(b) of the date when the revised rules will be published, which must not be less than 3 months from the date the notification is served; and

(c) that on this date the revised rules will become conditions of the environmental permit.

(3) But the authority may publish the revised rules before 3 months from the date the notification is served if the revisions comprise only minor administrative changes.

(4) The revised rules take effect when published under regulation 26(5).

(5) In this regulation "relevant environmental permit" means an environmental permit which will be affected by the proposed revisions.

Revocation of standard rules

29. The rule-making authority may revoke standard rules, but before doing so must consult the persons and bodies referred to in regulation 26(2).

Variation of an environmental permit: revocation of standard rules

30.—(1) This regulation applies to an environmental permit which includes a standard rules term if the standard rules applying by virtue of that term have been revoked by the regulator.

(2) The revoked rules continue to have effect until the regulator varies the permit under paragraph (3).

(3) As soon as reasonably practicable after the revocation of the rules, the regulator must vary the permit so as to—

(a) remove the standard rules term; and

(b) include such alternative conditions as it considers appropriate.

(4) In this regulation, "standard rules term" means a term of the type mentioned in regulation 27(2).

CHAPTER 5

Appeals in relation to environmental permits

Appeals to an appropriate authority

31.—(1) Subject to paragraphs (2) and (3), the following persons may appeal to the appropriate authority—

(a) a person whose application—

(i) for the grant of an environmental permit,

(ii) to vary an environmental permit,

(iii) to transfer an environmental permit in whole or in part, or

(iv) to surrender an environmental permit in whole or in part,

is refused;

(b) a person who is aggrieved by an environmental permit condition imposed—

(i) following an application for the grant of an environmental permit,

(ii) following an application to vary an environmental permit,

(iii) pursuant to a regulator initiated variation, or

(iv) to take account of the transfer in whole or in part or the partial surrender of an environmental permit;

(c) a person who is aggrieved by the deemed withdrawal of a duly-made application under paragraph 4(2) of Schedule 5;

(d) a person who is aggrieved by a decision not to authorise the closure procedure mentioned in Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive;

(e) a person on whom a revocation notice, enforcement notice, suspension notice or landfill closure notice is served.

(2) Paragraph (1) does not apply where the relevant decision or notice implements a direction of the appropriate authority given under—

(a) regulation 61(1);

(b) regulation 62(1);

(c) regulation 62(6); or

(d) paragraph (4).

(3) Paragraph (1)(e) does not apply to the extent that a revocation notice or suspension notice is served because of a failure to pay a charge prescribed in a scheme made under regulation 65(1) in respect of the subsistence of an environmental permit.

(4) When determining an appeal in respect of a decision the appropriate authority has the same powers as the regulator had when making the decision.

(5) Schedule 6 (appeals to the appropriate authority) has effect in relation to the making and determination of appeals under this regulation.

(6) On determining an appeal under paragraph (1) in respect of a notice the appropriate authority—

(a) may quash or affirm the notice; and

(b) if it affirms, may do so in its original form or with such modifications as it thinks fit.

(7) On the determination of an appeal against a decision, unless the appropriate authority affirms the decision the authority must direct the regulator to give effect to its determination when sending a copy of it to the regulator under paragraph 6(2) of Schedule 6.

(8) An appeal under paragraph (1) does not have the effect of suspending the decision or notice in question.

(9) But where an appeal is brought against a revocation notice, the revocation does not take effect until the final determination or the withdrawal of the appeal.

PART 3

Discharge of functions in relation to a regulated facility

Discharge of functions

32.—(1) Functions in relation to a Part A(1) installation or Part A(1) mobile plant are exercisable by the Agency.

(2) Functions in relation to a Part A(2) installation or a Part B installation are exercisable by the local authority in whose area the installation is or will be operated.

(3) If the operator of Part A(2) mobile plant or Part B mobile plant has his principal place of business in England and Wales, functions in relation to that plant are exercisable by the local authority in whose area the place of business is.

(4) If the operator of Part A(2) mobile plant or Part B mobile plant does not have his principal place of business in England and Wales, functions in relation to that plant are exercisable by—

(a) the local authority which granted the environmental permit authorising the operation of the plant; or

(b) if no permit has been granted, the local authority in whose area the plant is first operated, or is intended to be first operated.

(5) Functions in relation to a waste operation which is carried on other than at an installation, or by Part A mobile plant or Part B mobile plant, are exercisable by the Agency.

Direction to a regulator: discharge of functions by a different regulator

33.—(1) An appropriate authority may direct—

(a) the Agency to exercise such local authority functions as are, and for such period as is, specified in the direction; or

(b) a local authority to exercise such Agency functions as are, and for such period as is, specified in the direction.

(2) A direction under this regulation may include such saving and transitional provisions as the appropriate authority considers necessary or expedient.

(3) A direction under this regulation may be made in respect of a description of regulated facility or a specific regulated facility.

(4) A direction under paragraph (1)(b) may not be made in relation to a waste operation carried on other than at an installation or by means of mobile plant.

(5) When giving a direction under this regulation the appropriate authority must notify the persons in paragraph (6) of the direction and publish the direction on its website.

(6) The persons are—

(a) the Agency; and

(b) any local authority or other person who in the appropriate authority's opinion are affected by the direction.

(7) An appropriate authority must not comply with a duty under paragraph (5) in a case where the authority considers that to do so would be contrary to the interests of national security.

(8) In this regulation—

"local authority functions" means functions which are exercisable by a local authority by virtue of regulation 32 or paragraph 2 of Schedule 2 (ignoring any direction under this regulation); and

"Agency functions" means functions which are exercisable by the Agency by virtue of regulation 32 or paragraph 2 of Schedule 2 (ignoring any direction under this regulation).

Review of environmental permits and inspection of regulated facilities

34.—(1) The regulator must periodically review environmental permits.

(2) The regulator must make appropriate periodic inspections of regulated facilities.

Provision in relation to types of regulated facility

35. The following Schedules, which contain provision in relation to types of regulated facility, have effect—

(a) Schedule 7 (provision in relation to Part A installations and Part A mobile plant);
(b) Schedule 8 (provision in relation to Part B installations and Part B mobile plant);
(c) Schedule 9 (provision in relation to waste operations);
(d) Schedule 10 (provision in relation to landfill);
(e) Schedule 11 (provision in relation to waste motor vehicles);
(f) Schedule 12 (provision in relation to waste electrical and electronic equipment);
(g) Schedule 13 (provision in relation to waste incineration);
(h) Schedule 14 (provision in relation to SED installations);
(i) Schedule 15 (provision in relation to certain combustion plants);
(j) Schedule 16 (provision in relation to asbestos);
(k) Schedule 17 (provision in relation to titanium dioxide);
(l) Schedule 18 (provision in relation to petrol vapour recovery).

PART 4

Enforcement and offences

Enforcement notices

36.—(1) If the regulator considers that an operator has contravened, is contravening, or is likely to contravene an environmental permit condition, the regulator may serve a notice on him under this regulation (in these Regulations, an "enforcement notice").

(2) An enforcement notice must—
(a) state the regulator's view under paragraph (1);
(b) specify the matters constituting the contravention or making a contravention likely;
(c) specify the steps that must be taken to remedy the contravention or to ensure that the likely contravention does not occur; and
(d) specify the period within which those steps must be taken.

(3) Steps that may be specified in an enforcement notice include steps—
(a) to make the operation of a regulated facility comply with the environmental permit conditions; and
(b) to remedy the effects of pollution caused by the contravention.

(4) The regulator may withdraw an enforcement notice at any time by further notice served on the operator.

Suspension notices

37.—(1) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may serve a notice on the operator under this regulation (in these Regulations, a "suspension notice").

(2) Paragraph (1) applies whether or not the manner of operating the facility which involves the risk is subject to or contravenes an environmental permit condition.

(3) A suspension notice must—
(a) state the regulator's view under paragraph (1);
(b) specify—
(i) the risk of serious pollution mentioned in that paragraph,
(ii) the steps that must be taken to remove that risk, and
(iii) the period within which the steps must be taken;
(c) state that the environmental permit ceases to have effect to the extent specified in the notice until the notice is withdrawn; and

(d) if the environmental permit continues to authorise an operation, state any steps (in addition to those already required to be taken by the environmental permit conditions) that are to be taken when carrying on that operation.

(4) If a suspension notice is served the environmental permit ceases to have effect to the extent stated in the notice.

(5) The regulator—

(a) may withdraw a suspension notice at any time by further notice served on the operator; and

(b) must withdraw a notice when satisfied that the steps specified in it have been taken.

Offences

38.—(1) It is an offence for a person—

(a) to contravene, or knowingly cause or knowingly permit the contravention of, regulation 12;

(b) to fail to comply with or to contravene an environmental permit condition;

(c) to fail to comply with the requirements of an enforcement notice, a suspension notice or a landfill closure notice;

(d) to fail to comply with a notice under regulation 60(2) requiring the provision of information, without reasonable excuse;

(e) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to provide information imposed by or under a provision of these Regulations, or

(ii) for the purpose of obtaining the grant of an environmental permit to himself or another person, or the variation, transfer in whole or in part, or surrender in whole or in part of an environmental permit;

(f) intentionally to make a false entry in a record required to be kept under an environmental permit condition;

(g) with intent to deceive—

(i) to forge or use a document issued or authorised to be issued or required for any purpose under an environmental permit condition, or

(ii) to make or have in his possession a document so closely resembling such a document as to be likely to deceive.

(2) It is an offence for an establishment or undertaking to—

(a) fail to comply with paragraph 9 or 12(3) of Schedule 2; or

(b) intentionally make a false entry in a record required to be kept under paragraph 12(3) of Schedule 2.

(3) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly.

Penalties

39.—(1) A person guilty of an offence under regulation 38(1)(a), (b) or (c) is liable—

(a) on summary conviction to a fine not exceeding £50,000 or imprisonment for a term not exceeding 12 months, or to both; or

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or to both.

(2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003(**a**), paragraph (1)(a) has effect as if—

(a) for "£50,000" there were substituted "£20,000"; and

(b) for "12 months" there were substituted "6 months".

(**a**) 2003 c. 44.

(3) A person guilty of an offence under regulation 38(1)(d), (e), (f) or (g) is liable—

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

(4) An establishment or undertaking guilty of an offence under regulation 38(2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Defence: acts done in an emergency

40. It is a defence for a person charged with an offence under regulation 38(1)(a), (b) or (c) to prove that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

(a) he took all such steps as were reasonably practicable in the circumstances for minimising pollution; and

(b) particulars of the acts were furnished to the regulator as soon as reasonably practicable after they were done.

Offences by bodies corporate

41.—(1) If an offence committed under these Regulations by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) In this regulation, "officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Enforcement by the High Court

42. If the regulator considers that proceedings against a person for an offence under regulation 38(1)(c) would afford an ineffectual remedy against the person, the regulator may take proceedings in the High Court for the purpose of securing compliance with the enforcement notice, suspension notice or landfill closure notice.

Admissibility of evidence

43. Where, pursuant to an environmental permit granted by a local authority, an entry is required to be made in any record as to the observance of a condition of the environmental permit and the entry has not been made, that fact is admissible as evidence that the condition has not been observed.

Power of court to order cause of offence to be remedied

44.—(1) This regulation applies where a person is convicted of an offence under regulation 38(1)(a), (b) or (c) in respect of a matter which appears to the court to be a matter which it is in his power to remedy.

(2) In addition to or instead of a punishment imposed under regulation 39 the court may order the person to take such steps for remedying the matter within such period as may be specified in the order.

(3) The period may be extended, or further extended, by order of the court on an application made before the end of the period or the extended period, as the case may be.

(4) If a person is ordered to remedy a matter, that person is not liable under regulation 38 in respect of that matter during the period or the extended period.

PART 5

Public Registers

Interpretation of this Part

45. In this Part—

"confidential information" means information that is commercially or industrially confidential in relation to any person;

"final confidentiality decision" means—

(a) a determination made in accordance with regulation 51,

(b) a determination under section 22(2) or 66(2) of the 1990 Act,

(c) a determination under regulation 31(2) of the 2000 Regulations, or

(d) the determination or withdrawal of an appeal in relation to a determination referred to in sub-paragraphs (a) to (c);

"the information subject" means the person to whom information relates;

"objection notice" means a notice given under regulation 48(1)(b).

Duty of the regulator to maintain a public register

46.—(1) Subject to regulations 47 and 48, the regulator must maintain a register containing the information in paragraph 1 of Schedule 19 (in these Regulations, a "public register").

(2) But, nothing in paragraph (1) requires a public register to contain information relating to criminal proceedings, or anything which is the subject matter of criminal proceedings, before those proceedings are finally disposed of.

(3) In paragraph (2) "criminal proceedings" includes prospective criminal proceedings.

(4) A local authority must also include on its public register any information which is included on the Agency's public register in respect of a regulated facility (other than mobile plant)—

(a) for which the Agency is the regulator; and

(b) which is in the area of the authority.

(5) But—

(a) paragraph (4) does not apply to a port health authority; and

(b) every local authority whose area adjoins that of a port health authority must comply with paragraph (4) as if the port health authority had not been constituted.

(6) The Agency must provide the local authority with the information necessary to comply with paragraph (4).

(7) The regulator must enter information on its public register as soon as reasonably practicable after it comes within the regulator's possession.

(8) The regulator must—

(a) make its public register available for public inspection at all reasonable times, free of charge; and

(b) enable members of the public to obtain copies of entries on its public register on payment of a reasonable charge.

(9) A public register may be kept in any form.

Exclusion from public registers of information affecting national security

47.—(1) The appropriate authority may direct the regulator that in the interests of national security specified information or a specified description of information must be excluded from a public register.

(2) The regulator must notify the appropriate authority of any information it excludes from a public register pursuant to such a direction.

(3) The appropriate authority may direct the regulator that in the interests of national security a specified description of information must be referred to the authority for its determination before the information is included on a public register.

(4) A person may give a notice to the appropriate authority stating that in his opinion the inclusion of information on a public register would be contrary to the interests of national security.

(5) A notice under paragraph (4) must specify the information and indicate its apparent nature.

(6) A person giving a notice under paragraph (4) must at the same time notify the regulator.

(7) The regulator must not include information notified under paragraph (4) on a public register unless the appropriate authority determines that it may be included.

Exclusion from public registers of confidential information

48.—(1) The regulator must exclude information from a public register, unless a condition in paragraph (2) is met, if it—

(a) considers that the information may be confidential information; or

(b) receives notice from the information subject which—

(i) states that he considers the information is confidential information, and

(ii) gives reasons for that view.

(2) The conditions are that—

(a) in relation to paragraph (1)(a), the regulator has given a notice under regulation 49(1) and the information subject has given notice of consent under regulation 49(2)(a);

(b) in relation to paragraph (1)(a) or (b)—

(i) a final confidentiality decision that the information should be included on the register has been made, or

(ii) the appropriate authority has given a direction under regulation 56(1) which requires the information to be included on the register.

Procedure if the regulator considers that information may be confidential

49.—(1) If the regulator considers that information may be confidential information but has not received an objection notice, it must give notice of that view to the information subject.

(2) The information subject may within 15 working days after the date of the notice given by the regulator under paragraph (1)—

(a) give notice to the regulator consenting to the regulator including the information on the register; or

(b) give an objection notice to the regulator.

Duty to determine confidentiality

50. The regulator must determine whether information must be included on the public register, or excluded from the public register because it is confidential information, if—

(a) having given notice under regulation 49(1), it does not receive notice of consent in accordance with regulation 49(2)(a); or

(b) it receives an objection notice.

Determination of confidentiality

51.—(1) When making a determination required by regulation 50, the regulator must comply with this regulation.

(2) In making the determination, the regulator must—

(a) take any reasons given in an objection notice into account;

(b) apply a presumption in favour of including the information on the public register; and

(c) determine to exclude the information from the public register if it considers that—

(i) the information is commercial or industrial information,

(ii) its confidentiality is provided by law to protect a legitimate economic interest, and

(iii) in all the circumstances, the public interest in maintaining the confidentiality of the information outweighs the public interest in including it on the register.

(3) But, to the extent that information relates to emissions the regulator must determine to include it on the public register.

(4) Nothing in this regulation authorises the exclusion from the public register of information contained in or otherwise held with other information excluded from the register unless the information is not reasonably capable of being separated for the purposes of inclusion on the register.

Procedure following a determination

52.—(1) The regulator must give notice of its determination, the reasons for it and the details of the appeals procedure to the information subject within—

(a) a period of 20 working days beginning with the date its duty under regulation 50 arises; or

(b) such longer period as it agrees with the information subject.

(2) If the regulator fails to give notice under paragraph (1) within the period required by that paragraph, the information subject may give notice to the regulator of that failure, and on such notice—

(a) the regulator is deemed to have determined that the information must be included on the register; and

(b) the deemed determination is subject to the right of appeal in regulation 53(1).

(3) If the regulator determines that the information must be included on the public register, it must not include the information before the expiry of the period of 15 working days after—

(a) it has given notice of the determination; or

(b) a notice under paragraph (2) resulting in a deemed determination is given,

but must include it after the expiry of that period if notice of appeal has not been given.

Appeals in relation to confidentiality

53.—(1) The information subject may give notice of appeal to the appropriate authority against a determination under regulation 51 within 15 working days after the regulator has given notice of it.

(2) A notice of appeal must—

(a) be in writing;

(b) include a statement of the grounds of appeal;

(c) state whether the information subject wishes the appeal to be in the form of a hearing or to be disposed of through written representations; and

(d) be copied to the regulator.

(3) If the information subject gives notice of appeal, the regulator must not include the information on the public register before the appeal is decided.

(4) The appropriate authority—

(a) may give the information subject and the regulator an opportunity of appearing before and being heard by a person appointed by it; and

(b) must do so in a case where the notice of appeal states that the information subject wishes the appeal to be in the form of a hearing.

(5) A hearing under paragraph (4) is subject to paragraphs 5(2) to 5(6) and 6 (except paragraph 5(3)(c)) of Schedule 6 as if it was a hearing under paragraph 5(1) of that Schedule, save that "the appellant" must be read as "the information subject".

Consequences of an appeal

54.—(1) If the appropriate authority allows the appeal, the regulator must exclude the information from the public register.

(2) If the appropriate authority rejects the appeal or the appeal is withdrawn, the regulator must include the information on the public register.

Reconsideration of confidentiality

55.—(1) The regulator must cease to treat information as confidential information at the expiry of—

(a) a period of four years after the final confidentiality decision; or

(b) such shorter period as is specified in that decision.

(2) But if the person to whom the information relates gives notice to the regulator before the expiry of that period that he considers that the information remains confidential information—

(a) regulation 48 applies in respect of the information and the regulator must treat the notice as an objection notice; and

(b) regulations 50 to 54 apply notwithstanding any previous compliance with those regulations in relation to the information.

Directions of the appropriate authority in relation to confidentiality

56.—(1) The appropriate authority may direct the regulator that specified information, or a specified description of information, must be included on the public register even though it is confidential information.

(2) But, the appropriate authority must not give a direction under paragraph (1) unless it considers that the public interest in including such information on the register outweighs the public interest in maintaining its confidentiality.

PART 6

Powers and functions of the regulator and the appropriate authority

Power of the regulator to prevent or remedy pollution

57.—(1) If the regulator considers that the operation of a regulated facility under an environmental permit involves a risk of serious pollution, it may arrange for steps to be taken to remove that risk.

(2) If the commission of an offence under regulation 38(1)(a), (b) or (c) causes pollution, the regulator may arrange for steps to be taken to remedy the effects of that pollution.

(3) If the regulator intends to arrange for steps to be taken under paragraph (2), it must notify the operator of the steps not less than 5 working days before they are taken.

(4) If the regulator arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the operator.

(5) But costs are not recoverable under paragraph (4)—

(a) if the steps referred to in paragraph (1) are taken and the operator shows that there was no risk of serious pollution; or

(b) to the extent that the operator shows that the costs were unnecessarily incurred by the regulator.

Environment Agency: notices in relation to emissions to water

58.—(1) This regulation applies to Part A installations and Part A mobile plant for which a local authority is the regulator.

(2) At any time the Agency may give notice to the local authority specifying the emission limit values or the conditions it considers appropriate for preventing or reducing emissions into water from the installation or plant.

(3) If such a notice is issued, the local authority must exercise its functions under these Regulations to ensure the environmental permit for the installation or plant includes—

(a) the emission limit values or conditions specified in the notice; or

(b) such stricter limit values or more onerous conditions as the authority thinks fit.

(4) In this regulation, "emission limit value" means the mass, expressed in terms of specific parameters, concentration or level of an emission, which must not be exceeded during a period of time.

Environment Agency: public participation statement

59.—(1) The Agency must prepare and publish a statement of its policies for complying with its public participation duties.

(2) In preparing or revising the statement the Agency must consult such persons as it considers are affected by, are likely to be affected by, or have an interest in the statement.

(3) The Agency must—

(a) keep the statement under review;

(b) revise the statement when it considers necessary; and

(c) publish any revised statement.

(4) The Agency must comply with any published statement when exercising its functions under regulations 26 and 29, and Schedules 2 and 3.

(5) The duty in paragraph (2) may be satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

(6) In this regulation, "public participation duties" means the duties in the following provisions—

(a) regulation 26;

(b) regulation 29; and

(c) paragraphs 6 and 8(2) of Schedule 5.

Power to require the provision of information

60.—(1) For the purposes of discharging its functions under these Regulations, an appropriate authority may, by notice served on a regulator, require the regulator to provide such information as is specified in the notice.

(2) For the purposes of discharging its functions under these Regulations, a regulator may, by notice served on any person, require that person to provide such information in such form and within such period as is specified in the notice.

(3) A notice under paragraph (2) may require a person to provide any information on emissions where that requirement is reasonable, including the provision of information—

(a) not in the person's possession; and

(b) which would not usually come into the person's possession.

(4) For the purposes of this regulation the discharge by the appropriate authority of—

(a) an obligation of the United Kingdom under the Community Treaties; or

(b) an international obligation of the United Kingdom,

must be treated as a function of the authority under these Regulations.

(5) For the purposes of this regulation the compilation of an inventory of emissions (whether or not from a regulated facility) must be treated as a function of the regulator under these Regulations.

Directions to a regulator: general

61.—(1) An appropriate authority may give directions to the regulator of a general or specific character with respect to the carrying out of its functions under these Regulations.

(2) Without prejudice to the generality of the power in paragraph (1), a direction may direct the regulator to exercise or not to exercise—

(a) specified powers;

(b) its powers in specified circumstances; or

(c) its powers in a specified manner.

(3) The regulator must comply with a direction given to it under these Regulations.

Reference of applications to an appropriate authority

62.—(1) An appropriate authority may give directions to the regulator requiring that a particular application or class of application be referred to it for determination.

(2) The regulator must—

(a) inform the applicant of the fact that his application is being referred to the appropriate authority; and

(b) forward to the appropriate authority any representations made in respect of the application.

(3) When an application is referred to it, the appropriate authority—

(a) may afford the applicant and the regulator an opportunity of appearing before and being heard by a person appointed by him, and

(b) must do so in any case where a request is duly-made by the applicant or the regulator to be so heard.

(4) A request under paragraph (3)(b) must be made in writing within 15 working days of the day the applicant is informed that the application is being referred to the appropriate authority.

(5) A hearing under paragraph (3) is subject to paragraphs 5(2) to 5(6) and 6 (except paragraph 5(3)(c)) of Schedule 6 as if it was a hearing under paragraph 5(1) of that Part of that Schedule with the following modifications—

(a) "the appellant" must be read as "the applicant";

(b) "the appeal" must be read as "the application".

(6) On determining an application referred to it under this paragraph the appropriate authority must give to the regulator a direction as to whether the regulator is to grant the application and, if so, the conditions that are to be attached to the environmental permit.

(7) In this regulation "application" means an application—

(a) for the grant of an environmental permit; or

(b) to vary an environmental permit.

Directions to the Agency: installations outside the United Kingdom

63.—(1) This regulation applies where an appropriate authority receives information pursuant to Article 17(1) of the IPPC Directive in relation to the operation of an installation outside the United Kingdom which is likely to have a significant negative effect on the environment of England or Wales.

(2) For the purpose of complying with Article 17(2) of the IPPC Directive, the appropriate authority must direct the Agency to take such steps as it considers appropriate to—

(a) bring the information to the attention of persons likely to be affected by the operation of the installation; and

(b) provide them with an opportunity to comment on the information.

Guidance to regulators and exemption registration authorities

64.—(1) An appropriate authority may issue guidance to a regulator or exemption registration authority with respect to the exercise of its functions under these Regulations.

(2) In the exercise of those functions the regulator or exemption registration authority must have regard to the guidance.

Fees and charges in relation to local authorities

65.—(1) An appropriate authority may make, and from time to time revise, a scheme prescribing—

(a) fees payable in respect of applications—

(i) for the grant of an environmental permit,

(ii) to vary an environmental permit,

(iii) to transfer an environmental permit in whole or in part,

(iv) to surrender an environmental permit in whole or in part;

(b) fees payable in respect of a variation on the initiative of the regulator under regulation 20(1); and

(c) charges payable in respect of the subsistence of an environmental permit.

(2) A scheme may in particular—

(a) prescribe specific fees and charges or the methods by which they are to be calculated;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;

(c) subject to the requirements of these Regulations, provide for the time when, and the manner in which, payments required by the scheme are to be made; and

(d) make such incidental, supplementary and transitional provision as appears necessary or expedient to the appropriate authority.

(3) In making or revising a scheme, so far as practicable the appropriate authority must ensure that the fees and charges payable are sufficient to cover expenditure by local authorities—

(a) in exercising their functions under these Regulations;

(b) in making payment to the Agency in relation to the exercise of its functions under regulation 58;

(c) in making payment to any person who prepares guidance in relation to regulated facilities and regulated activities for which those authorities are the regulator.

(4) A scheme must provide for the payment of sums by a local authority to the Agency where those sums are related to expenditure by the Agency under regulation 58 or in preparing guidance referred to in paragraph (3)(c).

(5) If a regulator considers that an operator has failed to pay a charge specified in a scheme in respect of the subsistence of the operator's permit, the regulator may revoke the permit.

Plans relating to emissions

66.—(1) Subject to paragraph (3), an appropriate authority may make plans for—

(a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source; or

(b) the allocation of quotas relating to such emissions.

(2) If the appropriate authority allocates a quota in a plan made under paragraph (1) it may also make a scheme for the trading or other transfer of that quota.

(3) This regulation does not apply to an emission plan.

(4) In this regulation—

"emission" means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land;

"emission plan" has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**a**).

(**a**) S.I. 2007/2325.

PART 7

Miscellaneous and transitional provision, savings, consequential amendments, revocations and repeals

Interpretation of this Part

67. In this Part—

"at the relevant time" means immediately before the coming into force of these Regulations;

"disposal licence" means a disposal licence issued under section 5 of the Control of Pollution Act 1974(**a**);

"PPC permit" means a permit granted under regulation 10 of the 2000 Regulations(**b**);

"transitional application" means an application mentioned in regulation 70(1)(c) or (d) or to which regulation 71 applies; and

"waste management licence" means a licence granted under section 35 of the 1990 Act(**c**).

Further provision in relation to waste

68.—(1) Section 33(1)(a) of the 1990 Act does not apply to an operation falling within a description in Part 2 of Schedule 3.

(2) But, paragraph (1) does not apply—

(a) to the extent that the operation involves hazardous waste, or the storage or treatment of WEEE, unless otherwise indicated in that Part;

(b) in relation to an operation falling within a description in paragraph 50, 51 or 52 of Schedule 3 unless the operation is carried on—

(i) by or with the consent of the occupier of the land where it is carried on, or

(ii) by a person who is otherwise entitled to do so on that land.

(3) Schedule 20 (further provision in relation to waste) has effect.

Transitional provision: general

69.—(1) Except where it is the subject of a transitional application, a disposal licence, PPC permit or waste management licence which was in force at the relevant time becomes an environmental permit on the coming into force of these Regulations and must be treated as if it was granted under regulation 13(1).

(2) The holder of a waste management licence which becomes an environmental permit under these Regulations must be treated as the operator under that permit for the purposes of these Regulations.

(3) An establishment or undertaking which at the relevant time was registered in relation to an exempt activity under regulation 18 of the 1994 Regulations(**d**) is deemed to be registered in relation to an exempt waste operation under Schedule 2 on the coming into force of these Regulations.

(4) The information on any register at the relevant time which was required to be kept by—

(a) section 20(1) or 64(1) of the 1990 Act(**e**); or

(b) regulation 29(1) of the 2000 Regulations,

is deemed to become information kept on a public register under these Regulations on their coming into force, to the extent that such keeping is required.

(**a**) 1974 c. 40. Section 5 was repealed by section 162 and Schedule 16 of the Environmental Protection Act 1990 (c.43), subject to the transitional and saving provision in section 77 of that Act.

(**b**) Regulation 10 was amended by S.I. 2002/1559, 2004/107.

(**c**) Section 35 was amended by the Environment Act 1995 (c. 25) and by S.I. 2000/1973.

(**d**) Regulation 18 was amended by S.I. 1995/288, 1996/593, 1998/606, 2000/1973, 2003/2635, 2005/1728, 2006/937, 2006/3315.

(**e**) Section 64(1) was amended by the Environment Act 1995, section 120 and Schedule 24.

(5) Paragraph (6) applies where—

(a) a PPC permit authorising the operation of an installation becomes an environmental permit by virtue of these Regulations; and

(b) the environmental permit does not contain a condition giving effect to Article 12(1) of the IPPC Directive.

(6) If this paragraph applies, the environmental permit must be read as if it contained the following condition—

> "If the operator proposes to make a change in operation of the installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition "change in operation" means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.".

Transitional provision: conversion of permits and licences subject to certain applications

70.—(1) Each of the following becomes an environmental permit on the determination date and must be treated as if it was granted under regulation 13(1)—

(a) a PPC permit which was the subject of an application for grant, outstanding at the relevant time, except an application to which regulation 71 applies;

(b) a waste management licence which was the subject of an application for grant, outstanding at the relevant time;

(c) a PPC permit which was the subject of an application, outstanding at the relevant time, for variation, transfer or surrender under, respectively, regulation 17, 18 or 19 of the 2000 Regulations;

(d) a waste management licence which was the subject of an application, outstanding at the relevant time, for modification, surrender or transfer under, respectively, section 37, 39 or 40 of the 1990 Act.

(2) In this regulation, "determination date" means—

(a) if an application is refused and the applicant appeals against that refusal, the date the appeal is determined or withdrawn;

(b) if an application is granted and the applicant appeals against the imposition of conditions, the date the appeal is determined or withdrawn;

(c) in any other case, the day following the last day on which an appeal against—

(i) the refusal of an application, or

(ii) the imposition of conditions pursuant to an application,

could be made, determined in accordance with the applicable provisions of the 1990 Act or the 2000 Regulations, as the case may be.

Transitional provision: conversion of PPC permits resulting from applications in relation to existing Part A installations and mobile plant

71.—(1) This regulation applies to an application for the grant of a PPC permit which falls within paragraph (2).

(2) An application falls within this paragraph if—

(a) it was outstanding at the relevant time; and

(b) the operation to which the application relates is carried on at an installation or by means of mobile plant which was at the time of the application an existing Part A installation or mobile plant.

(3) A PPC permit granted on the determination of an application to which this regulation applies becomes an environmental permit on the determination date and must be treated as if it was granted under regulation 13(1).

(4) In this regulation, "existing" and "determination date" have the meanings given at the relevant time by paragraph 6 of Schedule 3 to the 2000 Regulations.

Savings

72.—(1) Notwithstanding their repeal or revocation by these Regulations, the provisions of the 1990 Act, the 2000 Regulations and the 1994 Regulations continue to have effect for the purposes of—

(a) determining an application for the grant of a PPC permit or waste management licence which was outstanding at the relevant time;

(b) giving effect to a notice served before the coming into force of these Regulations;

(c) determining an appeal brought before the coming into force of these Regulations; and

(d) bringing and determining an appeal, after the coming into force of these Regulations, in respect of—

(i) the determination of an application referred to in sub-paragraph (a), or

(ii) a notice served before the coming into force of these Regulations.

(2) The enactments repealed, revoked and amended by these Regulations continue to have effect until the determination date as if they had not been repealed, revoked or amended, for any purpose in connection with—

(a) a transitional application; and

(b) an operation to which such an application relates,

and these Regulations, other than this paragraph, do not apply for such a purpose until that date.

(3) Notwithstanding their repeal by these Regulations, the provisions of the 1990 Act continue to have effect for the purposes of paragraph 20 of Schedule 1 to the Pollution Prevention and Control Act 1999.

(4) Notwithstanding its revocation by these Regulations, paragraph 7 of Schedule 4 to the 1994 Regulations continues to have effect in relation to sections 12(3A), 31(3) and 36(3) of the Town and Country Planning Act 1990(**a**) to the extent that those provisions are saved by—

(a) in England, article 4 of, and Schedule 2 to, the Planning and Compulsory Purchase Act 2004 (Commencement No. 2, Transitional Provisions and Savings) Order 2004(**b**);

(b) in Wales, article 3 of, and Schedule 2 to, the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005(**c**).

(5) Notwithstanding its revocation by these Regulations, regulation 3 of the 1994 Regulations continues to have effect for the purposes of Schedule 5 to those Regulations.

(6) Notwithstanding the revocation of regulation 12(10) of the 2000 Regulations by these Regulations, any condition implied in a permit by that regulation continues to have effect when the permit becomes an environmental permit.

(7) Notwithstanding the revocation of regulation 44 of the End-of-Life Vehicles Regulations 2003(**d**) by these Regulations, any modification to a waste management licence made by that regulation continues to have effect when the licence becomes an environmental permit.

(8) Notwithstanding the revocation of regulation 5(1) of the Pet Cemeteries (England and Wales) Regulations 2007 by these Regulations, that regulation continues to have effect when a waste management licence to which it applies becomes an environmental permit.

(9) Notwithstanding their revocation by these Regulations, the amendments to enactments and other instruments made by the 1994 Regulations and the 2000 Regulations continue to have effect.

(**a**) 1990, c. 8. Section 12(3A) was inserted by the Planning and Compensation Act 1991 (c. 34), section 27 and Schedule 4.
(**b**) S.I. 2004/2202. Article 4 was amended by S.I. 2005/2085.
(**c**) S.I. 2005/2847 (W. 118).
(**d**) S.I. 2003/2635, to which there are amendments not relevant to these Regulations.

(10) In this regulation, "determination date", in relation to a transitional application, has the meaning given in regulation 70(2) or 71(4), as the case may be.

Consequential amendments

73. Schedule 21 (consequential amendments) has effect.

Revocations and repeals

74.—(1) The instruments specified in Schedule 22 (revocations) are revoked to the extent specified.

(2) The enactments specified in Schedule 23 (repeals) are repealed to the extent specified.

Signed on behalf of the Welsh Ministers

Name
Date [position]

Name
Address Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulations 2(1) and 3

Activities

PART 1

Interpretation and application: general

Interpretation

1. In this Schedule, "background quantity" means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

(a) water supplied to the site where the activity is carried on;

(b) water abstracted for use in the activity; and

(c) precipitation onto the site on which the activity is carried on.

Activities falling within more than one Part description

2.—(1) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part A(2) that activity must be regarded as falling only within that description which fits it most aptly.

(2) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(1) and a description in Part B (other than a description in Section 7) that activity must be regarded as falling only within the description in Part A(1).

(3) Where, in Part 2 of this Schedule, an activity falls within a description in Part A(2) and a description in Part B (other than a description in Section 7) that activity must be regarded as falling only within the description in Part A(2).

(4) If, immediately before the coming into force of these Regulations, an installation where a Part A(2) activity and a waste operation were carried out was a Part A(1) installation by virtue of paragraph 17 of Part 3 of Schedule 1 to the 2000 Regulations, that installation carries on a Part A(1) activity for the purposes of these Regulations.

Application of activities falling within Sections 1.1 to 6.9 of Part 2

3. An activity must not be taken to be an activity falling within Sections 1.1 to 6.9 of Part 2 if it is—

(a) carried on in a working museum to demonstrate an industrial activity of historic interest;

(b) carried on for educational purposes in a school as defined in section 4(1) of the Education Act 1996(**a**);

(c) carried on at an installation or mobile plant solely used for research, development and testing of new products and processes;

(d) the running on or within an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive or ship or other vessel of an engine which propels or provides electricity for it;

(e) the running of an engine in order to test it before it is installed or in the course of its development; or

(f) carried on as a domestic activity in connection with a private dwelling.

Capacity: Part A(1) and A(2) descriptions

4.—(1) This paragraph applies for the purpose of determining whether an activity carried on in a stationary technical unit falls within a description in Part A(1) or Part A(2) of Part 2 of this Schedule which refers to capacity, other than design holding capacity.

(2) Where a person carries out several activities falling within the same description in Part A(1) or Part A(2) in different parts of the same stationary technical unit or in different stationary technical units on the same site, the capacities of each part or unit, as the case may be, must be added together and the total capacity must be attributed to each part or unit for the purpose of determining whether the activity carried on in each part or unit falls within a description in Part A(1) or Part A(2).

(3) For the purpose of sub-paragraph (2), no account must be taken of capacity when determining whether activities fall within the same description.

(4) Where an activity falls within a description in Part A(1) or Part A(2) by virtue of this paragraph it must not be taken to be an activity falling within a description in Part B (other than a description in Section 7).

(**a**) 1996 c. 56; section 4(1) was substituted by the Education Act 1997 (c. 44), section 51.

Operation below thresholds: effect on the installation

5. Where an operator is authorised by an environmental permit to carry out Part A(1) activities, Part A(2) activities or Part B activities which are described in Part 2 of this Schedule by reference to a threshold (whether in terms of capacity or otherwise) at an installation, the installation does not cease to be a Part A(1) installation, a Part A(2) installation, or a Part B installation, as the case may be, by virtue of the installation being operated below the relevant threshold unless the permit ceases to have effect in accordance with these Regulations.

Application of Part B activities: releases into the air

6.—(1) Subject to sub-paragraph (2), an activity must not be taken to be a Part B activity within Part 2 of this Schedule if it cannot result in the release into the air of a substance listed in sub-paragraph (3) or there is no likelihood that it will result in the release into the air of any such substance except in a quantity which is so trivial that it is incapable of causing pollution or its capacity to cause pollution is insignificant.

(2) Sub-paragraph (1) does not apply to—

(a) an SED activity; or

(b) an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried on.

(3) References to, or to the release into the air of, a substance listed in this paragraph are to any of the following substances—

(a) oxides of sulphur and other sulphur compounds;

(b) oxides of nitrogen and other nitrogen compounds;

(c) oxides of carbon;

(d) organic compounds and partial oxidation products;

(e) metals, metalloids and their compounds;

(f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres;

(g) halogens and their compounds;

(h) phosphorus and its compounds;

(i) particulate matter.

References to releases into water

7. References in Part 2 to, or to the release into water of, a substance listed in this paragraph or to its release in a quantity which, in any period of 12 months, is greater than the background quantity by an amount specified in this paragraph are to the following substances and amounts—

Table

Substance	*Amount greater than the background quantity (in grammes) in any period of 12 months*
Mercury and its compounds	200 (expressed as metal)
Cadmium and its compounds	1,000 (expressed as metal)
All isomers of hexachlorocyclohexane	20
All isomers of DDT	5
Pentachlorophenol and its compounds	350 (expressed as PCP)
Hexachlorobenzene	5
Hexachlorobutadiene	20
Aldrin	2
Dieldrin	2
Endrin	1
Polychlorinated Biphenyls	1
Dichlorvos	0.2
1, 2—Dichloroethane	2,000
All isomers of trichlorobenzene	75
Atrazine	350*
Simazine	350*
Tributyltin compounds	4 (expressed as TBT)
Triphenyltin compounds	4 (expressed as TPT)
Trifluralin	20
Fenitrothion	2

Substance	*Amount greater than the background quantity (in grammes) in any period of 12 months*
Azinphos-methyl	2
Malathion	2
Endosulfan	0.5

* Where both Altrazine and Simazine are released, the figure for both substances in aggregate is 350 grammes.

References to certain substances

8.—(1) References in Part 2 to a substance listed in this paragraph are to any of the following substances—

(a) alkali metals and their oxides and alkaline earth metals and their oxides;
(b) organic solvents;
(c) azides;
(d) halogens and their covalent compounds;
(e) metal carbonyls;
(f) organo-metallic compounds;
(g) oxidising agents;
(h) polychlorinated dibenzofuran and any congener thereof;
(i) polychlorinated dibenzo-p-dioxin and any congener thereof;
(j) polyhalogenated biphenyls, terphenyls and naphthalenes;
(k) phosphorus;
(l) pesticides.

(2) In this paragraph, "pesticide" means any chemical substance or preparation prepared or used for destroying any pest, including those used for—

(a) protecting plants or wood or other plant products from harmful organisms;
(b) regulating the growth of plants;
(c) giving protection against harmful creatures or rendering such creatures harmless;
(d) controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products; or
(e) protecting animals against ectoparasites.

PART 2

Activities

CHAPTER 1

Energy activities

SECTION 1.1

Combustion activities

Interpretation of Section 1.1

1. In this Section "recovered oil" means waste oil which has been processed before being used.

Part A(1)

(a) Burning any fuel in an appliance with a rated thermal input of 50 or more megawatts.
(b) Unless carried on as part of a Part A(2) or Part B activity, burning any—
(i) waste oil;
(ii) recovered oil; or
(iii) fuel manufactured from, or comprising, any other waste,
in an appliance with a rated thermal input of 3 or more megawatts, but less than 50 megawatts.

Interpretation and application of Part A(1)

1. For the purpose of paragraph (a), where two or more appliances with an aggregate rated thermal input of 50 megawatts or more are operated on the same site by the same operator those appliances must be treated as a single appliance with a rated thermal input of 50 megawatts or more.

2. Nothing in this Part of this Section applies to burning fuels in an appliance installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea.

3. In paragraph 2, "offshore platform" means any fixed or floating structure which—

(a) is used for the purposes of or in connection with the production of petroleum; and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

4. In paragraph 3, "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

5. In paragraph (b)(iii), "fuel" does not include gas produced by biological degradation of waste in a landfill that does not require a permit under these Regulations.

Part B

Unless falling within Part A(1)(a) of this Section—

(a) Burning any fuel (other than a fuel mentioned in Part A(1)(b)) in—

(i) a boiler;

(ii) a furnace;

(iii) a gas turbine; or

(iv) a compression ignition engine,

with a net rated thermal input of 20 or more megawatts, but a rated thermal input of less than 50 megawatts.

(b) Burning any—

(i) waste oil;

(ii) recovered oil;

(iii) solid fuel which has been manufactured from waste by an activity involving the application of heat,

in an appliance with a rated thermal input of less than 3 megawatts.

(c) Burning fuel manufactured from or including waste (other than a fuel mentioned in paragraph (b)) in any appliance with a net rated thermal input of 0.4 or more megawatts, but a rated thermal input of less than 3 megawatts—

(i) which is used together with other appliances which each have a rated thermal input of less than 3 megawatts; and

(ii) where the aggregate net rated thermal input of all the appliances is at least 0.4 megawatts.

Interpretation and application of Part B

1. This Part does not apply to any activity falling within Part A(1) or Part A(2) of Section 5.1.

2. In this Part, "net rated thermal input" is the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

3. In paragraph (c), "fuel" does not include gas produced by biological degradation of waste.

SECTION 1.2

Gasification, Liquefaction and Refining Activities

Part A(1)

(a) Refining gas where this is likely to involve the use of 1,000 or more tonnes of gas in any period of 12 months.

(b) Reforming natural gas.

(c) Operating coke ovens.

(d) Coal or lignite gasification.

(e) Producing gas from oil or other carbonaceous material or from mixtures thereof, other than from sewage, unless the production is carried out as part of an activity which is a combustion activity (whether or not that combustion activity is described in Section 1.1).

(f) Purifying or refining any product of any of the activities falling within paragraphs (a) to (e) or converting it into a different product.

(g) Refining mineral oils.

(h) The loading, unloading, handling or storage of, or the physical, chemical or thermal treatment of—

(i) crude oil;

(ii) stabilised crude petroleum;

(iii) crude shale oil;

(iv) where related to another activity described in this paragraph, any associated gas or condensate; or

(v) emulsified hydrocarbons intended for use as a fuel.

(i) The further refining, conversion or use (otherwise than as a fuel or solvent) of the product of any activity falling within paragraphs (g) or (h) in the manufacture of a chemical.

(j) Activities involving the pyrolysis, carbonisation, distillation, liquefaction, gasification, partial oxidation, or other heat treatment of—

(i) coal (other than the drying of coal);

(ii) lignite;

(iii) oil;

(iv) other carbonaceous material; or

(v) mixtures thereof,otherwise than with a view to making charcoal.

(k) Odorising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.

Interpretation and application of Part A(1)

1. Paragraph (j) does not include—

(a) the use of any substance as a fuel;

(b) the incineration of any substance as a waste;

(c) any activity for the treatment of sewage or sewage sludge.

2. In paragraph (j), the heat treatment of oil, other than distillation, does not include the heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

3. In this Part, "carbonaceous material" includes such materials as charcoal, coke, peat, rubber and wood, but does not include wood which has not been chemically treated.

Part A(2)

(a) Refining gas where this activity does not fall within Part A(1)(a) of this Section.

Part B

(a) Odorising natural gas or liquefied petroleum gas, except where that activity is related to a Part A activity.

(b) Blending odorant for use with natural gas or liquefied petroleum gas.

(c) The storage of petrol in stationary storage tanks at a terminal, or the loading or unloading at a terminal of petrol into or from road tankers, rail tankers or inland waterway vessels.

(d) The unloading of petrol into stationary storage tanks at a service station, if the total quantity of petrol unloaded into such tanks at the service station in any period of 12 months is likely to be $500m^3$ or more.

(e) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the petrol refuelling throughput at the existing service station in any period of 12 months is, or is likely to be, $3500m^3$ or more.

(f) Motor vehicle refuelling activities at new service stations, if the petrol refuelling throughput at the service station in any period of 12 months is likely to be $500m^3$ or more.

Interpretation of Part B

1. In this Part—

"existing service station" means a service station—

(a) which is put into operation; or

(b) for which planning permission under the Town and Country Planning Act 1990(**a**) was granted,

before 31st December 2009;

(**a**) 1990 c. 8.

"inland waterway vessel" means a vessel, other than a sea-going vessel, having a total dead weight of 15 or more tonnes;

"new service station" means a service station which is put into operation on or after 31st December 2009, other than an existing service station;

"petrol" means any petroleum derivative (other than liquefied petroleum gas), with or without additives, having a Reid vapour pressure of 27.6 or more kilopascals, which is intended for use as a fuel for motor vehicles;

"prescribed date" means—

(a) if an application for the grant or variation of an environmental permit is made on or before 1st January 2010—

(i) if the application is granted, the date of grant,

(ii) if the application is refused and the applicant appeals against the refusal, the date of the appeal determination or the date the appeal is withdrawn, or

(iii) if the application is refused, and the applicant does not appeal against the refusal, the day after the last day on which an appeal could have been brought; or

(b) if no such application is made, 1st January 2010;

"service station" means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks;

"terminal" means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

2. Any other expressions used in this Part which are also used in Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**a**) have the same meaning as in that Directive.

CHAPTER 2

Production and Processing of Metals

SECTION 2.1

Ferrous Metals

Interpretation of Section 2.1

1. In this Section, "ferrous alloy" means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2.

Part A(1)

(a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials.

(b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces used are—

(i) electric arc furnaces with a designed holding capacity of less than 7 tonnes, or

(ii) cupola, crucible, reverbatory, rotary, induction, vacuum, electro-slag or resistance furnaces.

(c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour.

(d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total in any period of 12 months of iron ore, except in the course of mining operations, or burnt pyrites.

Part A(2)

(a) Unless falling within Part A(1)(b) of this Section producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour.

(b) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts.

(c) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour.

(d) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

(**a**) OJ No. L 365, 31.10.1994, p24, as amended by Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p1).

Part B

(a) Unless falling within Part A(1)(b) of this Section, producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 or less tonnes per hour.

(b) Unless falling within Part A(2)(a) or (d) of this Section, producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, including continuous casting) using—

(i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 or more tonnes; or

(ii) a cupola, crucible, reverberatory, rotary, induction, electro-slag or resistance furnace.

(c) Desulphurising iron, steel or any ferrous alloy.

(d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering from scrap cable) unless—

(i) it is carried on in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts;

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant; and

(iii) it is not related to any other activity falling within this Part of this Section.

(e) Unless falling within Part A(1) or Part A(2) of this Section, casting iron, steel or any ferrous alloy from deliveries of 50 or more tonnes of molten metal.

SECTION 2.2

Non-Ferrous Metals

Interpretation and application of Section 2.2

1. In this Section "non-ferrous metal alloy" means an alloy which is not a ferrous alloy, as defined in Section 2.1.

2. Part A(1)(c) to (h) and Part B do not apply to hand soldering, flow soldering or wave soldering.

Part A(1)

(a) Unless falling within Part A(2) of this Section, producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities.

(b) Melting, including making alloys, of non-ferrous metals, including recovered products (refining, foundry casting etc) where—

(i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals; and

(ii) any furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes.

(c) Except where the activity is related to an activity described in Part A(2)(a), or Part B(a), (d) or (e) of this Section, refining any non-ferrous metal or alloy, other than the electrolytic refining of copper.

(d) Producing, melting or recovering by chemical means or by the use of heat, lead or any lead alloy, if—

(i) the activity may result in the release into the air of lead; and

(ii) in the case of lead alloy, the percentage by weight of lead in the alloy in molten form is more than 23 per cent if the alloy contains copper and 2 per cent in other cases.

(e) Recovering any gallium, indium, palladium, tellurium, or thallium if the activity may result in their release into the air.

(f) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or both in aggregate.

(g) Mining zinc or tin bearing ores where the activity may result in the release into water of cadmium or any compound of cadmium in a concentration which is greater than the background concentration.

(h) Manufacturing or repairing involving the use of beryllium or selenium or an alloy containing one or both of those metals, if the activity may result in the release into the air of any substance in paragraph 6(3) of Part 1; but an activity does not fall within this paragraph by reason of it involving an alloy that contains beryllium if that alloy in molten form contains less than 0.1 per cent by weight of beryllium and the activity falls within Part B(a) or (d) of this Section.

(i) Pelletising, calcining, roasting or sintering any non-ferrous metal ore or any mixture of such ore and other materials.

Interpretation of Part A(1)

1. In paragraph (g), "background concentration" means any concentration of cadmium or any compound of cadmium which would be present in the release irrespective of any effect the activity may have had on the composition of the release and, without prejudice to the generality of the foregoing, includes such concentration of those substances as is present in—

(a) water supplied to the site where the activity is carried on;

(b) water abstracted for use in the activity; and

(c) precipitation onto the site on which the activity is carried on.

Part A(2)

(a) Melting, including making alloys, of non-ferrous metals, including recovered products (refining, foundry casting, etc.) where—

(i) the plant has a melting capacity of more than 4 tonnes per day for lead or cadmium or 20 tonnes per day for all other metals, and no furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 or more tonnes; or

(ii) the plant uses a vacuum furnace of any design holding capacity.

Part B

(a) Melting, including making alloys, of non-ferrous metals (other than tin or any alloy which in molten form contains 50 per cent or more by weight of tin), including recovered products (refining, foundry casting, etc.) in plant with a melting capacity of 4 tonnes or less per day for lead or cadmium or 20 tonnes or less per day for all other metals.

(b) The heating in a furnace or any other appliance of any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable, if not related to another activity described in this Part of this Section; but an activity does not fall within this paragraph if—

(i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts; and

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.

(c) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate of 20 or less tonnes per day.

(d) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate of 20 or less tonnes per day.

(e) Unless falling within Part A(1) or Part A(2) of this Section, the separation of copper, aluminium, magnesium or zinc from mixed scrap by differential melting.

Interpretation and application of Part B

1. In this Part "net rated thermal input" is the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

2. When determining the extent of an installation carrying on an activity within paragraph (e), any location where the associated storage or handling of scrap which is to be heated as part of that activity is carried on, other than a location where scrap is loaded into a furnace, must be ignored.

SECTION 2.3

Surface Treating Metals and Plastic Materials

Part A(1)

(a) Unless falling within Part A(2) of this Section, surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$.

Part A(2)

(a) Surface treating metals and plastic materials using an electrolytic or chemical process where the aggregated volume of the treatment vats is more than $30m^3$ and where the activity is carried on at the same installation as one or more activities falling within—

(i) Part A(2) or Part B of Section 2.1;

(ii) Part A(2) or Part B of Section 2.2; or

(iii) Part A(2) or Part B of Section 6.4.

Part B

(a) Any process for the surface treatment of metal which is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within Part A(1) or Part A(2) of this Section.

CHAPTER 3

Mineral Industries

SECTION 3.1

Production of Cement and Lime

Part A(1)

(a) Producing cement clinker or producing and grinding cement clinker.

(b) Producing lime—

(i) in kilns or other furnaces with a production capacity of more than 50 tonnes per day; or

(ii) if the activity is likely to involve the heating in any period of 12 months of 5,000 or more tonnes of calcium carbonate or calcium magnesium carbonate or both in aggregate.

Part A(2)

(a) Unless falling with Part A(1) of this Section, grinding cement clinker.

(b) Unless falling within Part A(1) of Section 2.1 or 2.2, grinding metallurgical slag in plant with a grinding capacity of more than 250,000 tonnes in any period of 12 months.

Part B

(a) Storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk.

(b) Blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixtures, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products.

(c) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide.

(d) Producing lime where the activity is not likely to involve the heating in any period of 12 months of 5,000 or more tonnes of calcium carbonate or calcium magnesium carbonate or both in aggregate.

SECTION 3.2

Activities Involving Asbestos

Interpretation of Section 3.2

1. In this Section "asbestos" means any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

Part A(1)

(a) Producing asbestos or manufacturing products based on or containing asbestos.

(b) Stripping asbestos from railway vehicles except—

(i) in the course of the repair or maintenance of the vehicle;

(ii) in the course of recovery operations following an accident; or

(iii) where the asbestos is permanently bonded in cement or in any other material (including plastic, rubber or resin).

(c) Destroying a railway vehicle by burning if asbestos has been incorporated in, or sprayed on to, its structure.

Part B

(a) Unless related to an activity falling within Part A(1) of this Section, the industrial finishing of—

(i) asbestos cement;

(ii) asbestos cement products;

(iii) asbestos fillers;

(iv) asbestos filters;

(v) asbestos floor coverings;

(vi) asbestos friction products;

(vii) asbestos insulating board;

(viii) asbestos jointing, packaging and reinforcement material;

(ix) asbestos packing;

(x) asbestos paper or card; or

(xi) asbestos textiles.

SECTION 3.3

Manufacturing Glass and Glass Fibre

Part A(1)

(a) Manufacturing glass fibre.

(b) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture and the aggregate quantity of such substances manufactured in any period of 12 months is likely to be 100 or more tonnes.

Part A(2)

(a) Manufacturing glass, unless falling within Part A(1) of this Section, where the melting capacity of the plant is more than 20 tonnes per day.

Part B

Unless falling within Part A(1) or Part A(2) of this Section—

(a) Manufacturing glass at any location with the capacity to make 5,000 or more tonnes of glass in any period of 12 months, and any activity involving the use of glass which is carried on at any such location in conjunction with its manufacture.

(b) Manufacturing glass where the use of lead or any lead compound is involved.

(c) Manufacturing any glass product where lead or any lead compound has been used in the manufacture of the glass except—

(i) making products from lead glass blanks; or

(ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.

(d) Polishing or etching glass or glass products in the course of any manufacturing activity if—

(i) hydrofluoric acid is used; or

(ii) hydrogen fluoride may be released into the air.

(e) Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

SECTION 3.4

Production of Other Mineral Fibres

Part A(1)

(a) Unless falling within Part A(1) or Part A(2) of Section 3.3, melting mineral substances in plant with a melting capacity of more than 20 tonnes per day.

(b) Unless falling within Part A(1) of Section 3.3, producing any fibre from any mineral.

SECTION 3.5

Other Mineral Activities

Part A(2)

(a) Manufacturing cellulose fibre reinforced calcium silicate board using unbleached pulp.

Part B

(a) Unless falling within Part A(1) or Part A(2) of any Section, the crushing, grinding or other size reduction, other than the cutting of stone, or the grading, screening or heating of any designated mineral or mineral product except where the operation of the activity is unlikely to result in the release into the air of particulate matter.

(b) Any of the following activities unless carried on at an exempt location—

(i) crushing, grinding or otherwise breaking up coal, coke or any other coal product;

(ii) screening, grading or mixing coal, coke or any other coal product;

(iii) loading or unloading petroleum coke, coal, coke or any other coal product except unloading on retail sale.

(c) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.

(d) Screening the product of any activity described in paragraph (c).

(e) Coating road stone with tar or bitumen.

(f) Loading, unloading, or storing pulverised fuel ash in bulk prior to further transportation in bulk.

(g) The fusion of calcined bauxite for the production of artificial corundum.

Interpretation and application of Part B

1. In this Part—

"coal" includes lignite;

"designated mineral or mineral product" means—

(a) clay, sand and any other naturally occurring mineral other than coal;

(b) metallurgical slag;

(c) boiler or furnace ash produced from the burning of coal, coke or any other coal product;

(d) gypsum which is a by-product of any activity;

"exempt location" means—

(a) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any period of 12 months is in aggregate likely to be less than 10,000 tonnes; or

(b) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there;

"retail sale" means sale to the final customer.

2. This Part does not apply to any activity carried on underground.

SECTION 3.6

Ceramic Production

Part A(1)

(a) Manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day; or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than 300 kg/m^3,

and a reducing atmosphere is used other than for the purposes of colouration.

Part A(2)

(a) Unless falling within Part A(1) of this Section, manufacturing ceramic products (including roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing in kilns, where—

(i) the kiln production capacity is more than 75 tonnes per day; or

(ii) the kiln capacity is more than $4m^3$ and the setting density is more than 300 kg/m^3.

Part B

(a) Unless falling within Part A(1) or A(2) of this Section, firing heavy clay goods or refractory materials (other than heavy clay goods) in a kiln.

(b) Vapour glazing earthenware or clay with salts.

Interpretation of Part B

1. In this Part—

"clay" includes a blend of clay with ash, sand or other materials;

"refractory material" means material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

CHAPTER 4

The Chemical Industry

Interpretation of Chapter 4

1. In Part A(1) of the Sections of this Chapter, "producing" means producing in a chemical plant by chemical processing for commercial purposes substances or groups of substances listed in the relevant Sections.

SECTION 4.1

Organic Chemicals

Interpretation of Section 4.1

1. In this Section, "pre-formulated resin or pre-formulated gel coat" means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

Part A(1)

(a) Producing organic chemicals such as—

(i) hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

(ii) organic compounds containing oxygen, such as alcohols, aldehydes, ketones, carboxylic acids, esters, ethers, peroxides, phenols, epoxy resins;

(iii) organic compounds containing sulphur, such as sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics;

(iv) organic compounds containing nitrogen, such as amines, amides, nitrous-, nitro- or azo-compounds, nitrates, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers;

(v) organic compounds containing phosphorus, such as substituted phosphines and phosphate esters;

(vi) organic compounds containing halogens, such as halocarbons, halogenated aromatic compounds and acid halides;

(vii) organometallic compounds, such as lead alkyls, Grignard reagents and lithium alkyls;

(viii) plastic materials, such as polymers, synthetic fibres and cellulose-based fibres;

(ix) synthetic rubbers;

(x) dyes and pigments;

(xi) surface-active agents.

(b) Producing any other organic compounds not described in paragraph (a).

(c) Polymerising or co-polymerising any unsaturated hydrocarbon or vinyl chloride (other than a pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon) which is likely to involve, in any period of 12 months, the polymerisation or co-polymerisation of 50 or more tonnes of any of those materials, or any combination of those materials in aggregate.

(d) Any activity involving the use in any period of 12 months of 1 or more tonnes of toluene di-isocyanate or other di-isocyanate of comparable volatility or, where partly polymerised, the use of partly polymerised di-isocyanates or prepolymers containing 1 or more tonnes of those monomers, if the activity may result in a release into the air which contains such a di-isocyanate monomer.

(e) The flame bonding of polyurethane foams or polyurethane elastomers.

(f) Recovering—
  (i) carbon disulphide;
  (ii) pyridine or any substituted pyridine.
(g) Recovering or purifying acrylic acid, substituted acrylic acid or any ester of acrylic acid or of substituted acrylic acid.

Part B

(a) Unless falling within Part A(1) of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.
(b) Cutting polyurethane foams or polyurethane elastomers with heated wires.
(c) Any activity for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon, where the activity is likely to involve, in any period of 12 months, the polymerisation or co-polymerisation of 100 or more tonnes of unsaturated hydrocarbon.
(d) Unless falling within Part A(1) of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if—
  (i) less than 1 tonne of toluene di-isocyanate monomer is likely to be used in any 12 month period; and
  (ii) the activity may result in a release into the air which contains toluene di-isocyanate.

SECTION 4.2

Inorganic Chemicals

Part A(1)

(a) Producing inorganic chemicals such as—
  (i) gases, such as ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide, hydrogen sulphide, oxides of carbon, sulphur compounds, oxides of nitrogen, hydrogen, oxides of sulphur, phosgene;
  (ii) acids, such as chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum and chlorosulphonic acid;
  (iii) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
  (iv) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate;
  (v) non-metals, metal oxides, metal carbonyls or other inorganic compounds such as calcium carbide, silicon, silicon carbide, titanium dioxide;
  (vi) halogens or interhalogen compound comprising two or more of halogens, or any compound comprising one or more of those halogens and oxygen.
(b) Unless falling within any other Section, any manufacturing activity which is likely to result in the release into the air of any hydrogen halide (other than the manufacture of glass or the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogen or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water).
(c) Unless falling within any other Section, any manufacturing activity involving the use of hydrogen cyanide or hydrogen sulphide.
(d) Unless falling within any other Section, any manufacturing activity (other than the application of a glaze or vitreous enamel) involving the use of, or the use or recovery of, any compound of any of the following elements—
  (i) antimony;
  (ii) arsenic;
  (iii) beryllium;
  (iv) gallium;
  (v) indium;
  (vi) lead;
  (vii) palladium;
  (viii) platinum;
  (ix) selenium;
  (x) tellurium;
  (xi) thallium,

where the activity may result in the release into the air of any of those elements or compounds or the release into water of any substance listed in paragraph 7 of Part 1.

(e) Recovering any compound of cadmium or mercury.

(f) Unless falling within any other Section, any manufacturing activity involving the use of mercury or cadmium or any compound of either element or which may result in the release into air of either of those elements or their compounds.

(g) Unless carried on as part of any other activity within this Schedule—

(i) recovering, concentrating or distilling sulphuric acid or oleum;

(ii) recovering nitric acid;

(iii) purifying phosphoric acid.

(h) Unless falling within any other Section, any activity (other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A(1) of Section 1.2) which is likely to result in the release into the air of any acid-forming oxide of nitrogen.

(i) Unless carried on as part of any other activity within this Schedule, recovering ammonia.

(j) Extracting any magnesium compound from sea water.

SECTION 4.3

Chemical Fertiliser Production

Part A(1)

(a) Producing (including any blending which is related to their production) phosphorus, nitrogen or potassium based fertilisers (simple or compound fertilisers).

(b) Converting chemical fertilisers into granules.

SECTION 4.4

Plant Health Products and Biocides

Part A(1)

(a) Producing plant health products or biocides.

(b) Formulating such products if this may result in the release into water of any substance listed in paragraph 7 of Part 1 in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

SECTION 4.5

Pharmaceutical Production

Part A(1)

(a) Producing pharmaceutical products using a chemical or biological process.

(b) Formulating such products if this may result in the release into water of any substance listed in paragraph 7 of Part 1 in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.

SECTION 4.6

Explosives Production

Part A(1)

(a) Producing explosives.

SECTION 4.7

Manufacturing Activities Involving Carbon Disulphide or Ammonia

Part A(1)

(a) Unless falling within Part A(2) of Section 6.7, any manufacturing activity which may result in the release of carbon disulphide into the air.

(b) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.

Part B

(a) The storage in tanks, other than in tanks for the time being forming part of a powered vehicle, of any of the substances listed below except where the total storage capacity of the tanks installed at the location in question in which the relevant substance may be stored is less than the figure specified below in relation to that substance—

(i) one or more acrylates, 20 tonnes (in aggregate);

(ii) acrylonitrile, 20 tonnes;

(iii) anhydrous ammonia, 100 tonnes;

(iv) anhydrous hydrogen fluoride, 1 tonne;

(v) toluene di-isocyanate, 20 tonnes;

(vi) vinyl chloride monomer, 20 tonnes;

(vii) ethylene, 8,000 tonnes.

CHAPTER 5

Waste Management

SECTION 5.1

Incineration and Co-incineration of Waste

Interpretation of Section 5.1

1. In this Section—

"co-incineration" means the use of wastes as a regular or additional fuel in a co-incineration plant or the thermal treatment of waste for the purpose of disposal in a co-incineration plant;

"co-incineration plant" means any stationary or mobile plant whose main purpose is the generation of energy or production of material products, and—

(a) which uses wastes as a regular or additional fuel; or

(b) in which waste is thermally treated for the purpose of disposal.

If co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant must be regarded as an incineration plant.

This definition covers the site and the entire plant including all co-incineration lines, waste reception, storage, on site pre-treatment facilities, waste-, fuel- and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions, but does not cover co-incineration in an excluded plant;

"excluded plant" means—

(a) a plant treating only the following wastes—

(i) vegetable waste from agriculture and forestry,

(ii) vegetable waste from the food processing industry, if the heat generated is recovered,

(iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered,

(iv) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood-preservatives or coating, and which includes in particular such wood waste originating from construction and demolition waste,

(v) cork waste,

(vi) radioactive waste,

(vii) animal carcasses as regulated by Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption(**a**), or

(viii) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation; and

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(**a**) OJ No. L27, 10.10.2002, p1.

(b) an experimental plant used for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year;

"hazardous waste" means any solid or liquid waste as defined in regulation 6 of (in relation to England) the Hazardous Waste (England and Wales) Regulations 2005(**a**) or (in relation to Wales) the Hazardous Waste (Wales) Regulations 2005(**b**) except for—

(a) combustible liquid wastes including waste oils provided that they meet the following criteria—

(i) the mass content of polychlorinated aromatic hydrocarbons, for example polychlorinated biphenyls or pentachlorinated phenol, amounts to concentrations not higher than those set out in the relevant Community legislation,

(ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Schedule 2 to (in relation to England) the Hazardous Waste (England and Wales) Regulations 2005, or (in relation to Wales) the Hazardous Waste (Wales) Regulations 2005 in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of the Waste Framework Directive, and

(iii) the net calorific value amounts to at least 30 MJ per kilogramme;

(b) any combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gasoil as defined in Article 1(1) of Council Directive 93/12/EEC relating to the sulphur content of certain liquid fuels(**c**) or a higher concentration of emissions than those resulting from the combustion of gasoil as so defined;

"incineration plant" means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated, including—

(a) the incineration by oxidation of waste; and

(b) other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated.

This definition covers the site and the entire incineration plant including all incineration lines, waste reception, storage, on site pre-treatment facilities, waste-fuel and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack, devices and systems for controlling incineration operations recording and monitoring incineration conditions, but does not cover incineration in an excluded plant;

"non-hazardous waste" means waste which is not hazardous waste;

"waste" means any solid or liquid waste as defined in Article 1(a) of the Waste Framework Directive.

Part A(1)

(a) The incineration of hazardous waste in an incineration plant.

(b) Unless carried on as part of any other Part A(1) activity, the incineration of hazardous waste in a co-incineration plant.

(c) The incineration of non-hazardous waste in an incineration plant with a capacity of 1 tonne or more per hour.

(d) Unless carried on as part of any other activity in this Part, the incineration of hazardous waste in a plant which is not an incineration plant or a co-incineration plant.

(e) Unless carried on as part of any other activity in this Part, the incineration of non-hazardous waste in a plant which is not an incineration plant or a co-incineration plant but which has a capacity of 1 tonne or more per hour.

(f) The incineration, other than incidentally in the course of burning landfill gas or solid or liquid waste, of any gaseous compound containing halogens in a plant which is not an incineration plant or a co-incineration plant.

Part A(2)

(a) The incineration of non-hazardous waste in an incineration plant with a capacity of less than 1 tonne per hour.

(b) Unless carried on as part of any other Part A activity, the incineration of non-hazardous waste in a co-incineration plant.

(c) The incineration of animal carcasses in a plant, which is not an incineration plant or a co-incineration plant, with a capacity of more than 10 tonnes per day but less than 1 tonne per hour.

Part B

(a) The incineration of non-hazardous waste in a plant which is—

(i) not an incineration plant or a co-incineration plant, and

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(**a**) S.I. 2005/894.
(**b**) S.I. 2005/1806 (W. 138).
(**c**) OJ No. L74, 23.3.1993, p81, as last amended by Directive 1999/32/EC (OJ No. L 121, 11.5.1999, p13).

(ii) on premises where there is plant, other than incineration plant or co-incineration plant, which has an aggregate capacity of 50 kilogrammes or more per hour but less than 1 tonne per hour.

(b) The cremation of human remains.

Application of Part B

1. When determining the extent of an installation carrying on an activity within Part B, any location of the following description must be ignored: any location where the associated storage or handling of wastes and residues which are to be incinerated as part of that activity is carried on, other than a location where the associated storage or handling of animal remains intended for burning in an incinerator used wholly or mainly for the incineration of such remains or residues from the burning of such remains in such an incinerator is carried on.

SECTION 5.2

Disposal of Waste by Landfill

Part A(1)

(a) The disposal of waste in a landfill—

(i) receiving more than 10 tonnes of waste in any day, or

(ii) with a total capacity of more than 25,000 tonnes,

but excluding disposals in a landfill taking only inert waste.

SECTION 5.3

Disposal of Waste Other Than by Incineration or Landfill

Part A(1)

(a) The disposal of hazardous waste (other than by incineration or landfill) in a facility with a capacity of more than 10 tonnes per day.

(b) The disposal of waste oils (other than by incineration or landfill) in a facility with a capacity of more than 10 tonnes per day.

(c) Disposal of non-hazardous waste in a facility with a capacity of more than 50 tonnes per day by—

(i) biological treatment, not being treatment specified in any paragraph other than paragraph D8 of Annex IIA to the Waste Framework Directive, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex (D8), or

(ii) physico-chemical treatment, not being treatment specified in any paragraph other than paragraph D9 in Annex IIA to the Waste Framework Directive, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex (for example, evaporation, drying, calcination, etc) (D9).

Interpretation and application of Part A(1)

1. In paragraph (b) "disposal" means the processing or destruction of waste oil as well as its storage and tipping above ground.

2. This Part does not apply to the treatment of—

(a) waste soil; or

(b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters, as defined in section 104 of the Water Resources Act 1991(**a**),

by means of mobile plant.

3. The reference to a D paragraph number in brackets at the end of paragraphs (c)(i) and (ii) is to the number of the corresponding paragraph in Annex IIA of the Waste Framework Directive (disposal operations).

(**a**) 1991, c. 57.

SECTION 5.4

Recovery of Waste

Part A(1)

(a) Recovering by distillation of any oil or organic solvent.

(b) Cleaning or regenerating carbon, charcoal or ion exchange resins by removing matter which is, or includes, any substance listed in paragraphs 6 to 8 of Part 1.

(c) Unless carried on as part of any other Part A activity, recovering hazardous waste in a plant with a capacity of more than 10 tonnes per day by means of the following operations—

(i) the use principally as a fuel or other means to generate energy (R1),

(ii) solvent reclamation/regeneration (R2),

(iii) recycling/reclamation of inorganic materials other than metals and metal compounds (R5),

(iv) regeneration of acids or bases (R6),

(v) recovering components used for pollution abatement (R7),

(vi) recovery of components from catalysts (R8),

(vii) oil re-refining or other reuses of oil (R9).

Interpretation and application of Part A(1)

1. Paragraphs (a) and (b) of this Part do not apply to—

(a) distilling oil for the production or cleaning of vacuum pump oil; or

(b) an activity which is ancillary to and related to another activity, whether described in this Schedule or not, which involves the production or use of the substance which is recovered, cleaned or regenerated,

except where the activity involves distilling more than 100 tonnes per day.

2. This Part does not apply to the treatment of—

(a) waste soil; or

(b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters, as defined in section 104 of the Water Resources Act 1991,

by means of mobile plant.

3. The reference to an R paragraph number in brackets at the end of paragraphs (c)(i) to (vii) is to the number of the corresponding paragraph in Annex IIB of the Waste Framework Directive (recovery operations).

SECTION 5.5

The Production of Fuel from Waste

Part A(1)

(a) Making solid fuel (other than charcoal) from waste by any process involving the use of heat.

CHAPTER 6

Other Activities

SECTION 6.1

Paper, Pulp and Board Manufacturing Activities

Part A(1)

(a) Producing, in industrial plant, pulp from timber or other fibrous materials.

(b) Producing, in industrial plant, paper and board where the plant has a production capacity of more than 20 tonnes per day.

(c) Any activity associated with making paper pulp or paper, including activities connected with the recycling of paper such as de-inking, if the activity may result in the release into water of any substance in paragraph 7 of Part 1 in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.

Interpretation of Part A(1)

1. In paragraph (c), "paper pulp" includes pulp made from wood, grass, straw and similar materials and references to the making of paper are to the making of any product using paper pulp.

Part A(2)

(a) Manufacturing wood particleboard, oriented strand board, wood fibreboard, plywood, cement-bonded particleboard or any other composite wood-based board.

SECTION 6.2

Carbon Activities

Part A(1)

(a) Producing carbon or hard-burnt coal or electro graphite by means of incineration or graphitisation.

SECTION 6.3

Tar and Bitumen Activities

Part A(1)

(a) The following activities—

(i) distilling tar or bitumen in connection with any process of manufacture, or

(ii) heating tar for the manufacture of electrodes or carbon-based refractory materials,

where the activity is likely to involve the use in any period of 12 months of 5 or more tonnes of tar or of bitumen or both in aggregate.

Part B

(a) Any activity not falling within Part A(1) of this Section or of Section 6.2 involving—

(i) heating, but not distilling, tar or bitumen in connection with any manufacturing activity, or

(ii) oxidising bitumen by blowing air through it, at plant where no other activities described in any Section in this Schedule are carried on,

where the carrying on of the activity is likely to involve the use in any period of 12 months of 5 or more tonnes of tar or bitumen or both in aggregate.

Interpretation of Part B

1. In this Part "tar" and "bitumen" include pitch.

SECTION 6.4

Coating Activities, Printing and Textile Treatments

Part A(1)

(a) Applying or removing a coating material containing any tributyltin compound or triphenyltin compound, if carried on at a shipyard or boatyard where vessels of a length of 25 metres or more can be built, maintained or repaired.

(b) Pre-treating (by operations such as washing, bleaching or mercerization) or dyeing fibres or textiles in plant with a treatment capacity of more than 10 tonnes per day.

(c) Treating textiles if the activity may result in the release into water of any substance in paragraph 7 of Part 1 in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.

Part A(2)

(a) Unless falling within Part A(1) of this Section, surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, in plant with a consumption capacity of more than 150 kg per hour or more than 200 tonnes per year.

Part B

(a) Unless falling within Part A(1) or Part A(2) of this Section or Part A(2)(c) of Section 2.1, any process (other than for the repainting or re-spraying of or of parts of aircraft or road or railway vehicles) for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity, where the process may result in the release into the air of particulate matter or of any volatile organic compound and is likely to involve the use in any period of 12 months of—

(i) 20 or more tonnes of printing ink, paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coating which is sprayed on in molten form,

(iii) 25 or more tonnes of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity, or

(iv) 5 or more tonnes of organic solvents in respect of any activity not mentioned in sub-paragraph (iii).

(b) Unless falling within Part A(2) of this Section, repainting or re-spraying road vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use of 1 or more tonne of organic solvents in any period of 12 months.

(c) Repainting or re-spraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity is likely to involve the use in any period of 12 months of—

(i) 20 or more tonnes of any paint or other coating material which is applied in solid form,

(ii) 20 or more tonnes of any metal coatings which are sprayed on in molten form, or

(iii) 5 or more tonnes of organic solvents.

Interpretation and application of Part B

1. In this Part—

"aircraft" includes gliders and missiles;

"coating material" means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material.

2. The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes; less

(b) any organic solvents that are removed from the process for re-use or for recovery for re-use.

3. When determining the extent of an installation carrying on an activity within Part B any location where the associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is carried on must be ignored, unless that location forms part of an SED installation.

SECTION 6.5

The Manufacture of Dyestuffs, Printing Ink and Coating Materials

Part B

(a) Unless falling within Part A(1) or Part A(2) of any other Section—

(i) manufacturing or formulating printing ink or any other coating material containing, or involving the use of, an organic solvent, where the carrying on of the activity is likely to involve the use of 100 or more tonnes of organic solvents in any period of 12 months,

(ii) manufacturing any powder for use as a coating material where there is the capacity to produce 200 tonnes or more of such powder in any period of 12 months.

Interpretation of Part B

1. In this Part, "coating material" has the same meaning as in Section 6.4.

2. The amount of organic solvents used in an activity must be calculated as—

(a) the total input of organic solvents into the process, including both solvents contained in coating materials and solvents for cleaning or other purposes; less

(b) any organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

SECTION 6.6

Timber Activities

Part A(1)

(a) Curing, or chemically treating, as part of a manufacturing process, timber or products wholly or mainly made of wood if any substance in paragraph 7 of Part 1 is used.

Part B

(a) Unless falling within Part A(2) of Section 6.1, manufacturing products wholly or mainly of wood at any works if the activity involves a relevant activity and the throughput of the works in any period of 12 months is likely to be more than—

(i) 10,000 cubic metres in the case of works at which wood is only sawed, or wood is sawed and subjected to excluded activities, or

(ii) 1,000 cubic metres in any other case.

Interpretation of Part B

1. In this Part—

"excluded activity" means any relevant activity (other than sawing) which, ignoring any sawing carried on at the works, would be unlikely to result in the release into the air of any substance in paragraph 6(3) of Part 1 in a quantity capable of causing significant harm;

"relevant activity" means the sawing, drilling, sanding, shaping, turning, planing, curing or chemical treatment of wood;

"throughput" means the amount of wood which is subjected to a relevant activity, but where wood is subject to two or more relevant activities at the same works, the second and any subsequent activity must be ignored;

"wood" includes any product consisting wholly or mainly of wood; and

"works" includes a sawmill or any other premises where relevant activities are carried on.

SECTION 6.7

Activities Involving Rubber

Part A(2)

(a) Manufacturing new tyres (but not remoulds or retreads) if this involves the use in any period of 12 months of 50,000 or more tonnes of one or more of the following—

(i) natural rubber,

(ii) synthetic organic elastomers,

(iii) other substances mixed with them.

Part B

(a) Unless falling within Part A(1) or Part A(2) of any Section, the mixing, milling or blending of—

(i) natural rubber, or

(ii) synthetic organic elastomers,

if carbon black is used.

(b) Any activity which converts the product of an activity falling within paragraph (a) into a finished product if related to an activity falling within that paragraph.

SECTION 6.8

The Treatment of Animal and Vegetable Matter and Food Industries

Interpretation of Section 6.8

1. In this Section—

"animal" includes a bird or a fish;

"excluded activity" means—

(a) any activity carried on in a farm or agricultural holding other than the manufacture of goods for sale,

(b) the manufacture or preparation of food or drink for human consumption but excluding—

(i) the extraction, distillation or purification of animal or vegetable oil or fat otherwise than as an activity incidental to the cooking of food for human consumption,

(ii) any activity involving the use of green offal or the boiling of blood except the cooking of food (other than tripe) for human consumption,

(iii) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed,

(c) the fleshing, cleaning and drying of pelts of fur-bearing mammals,

(d) any activity carried on in connection with the operation of a knacker's yard,

(e) any activity for the manufacture of soap not falling within Part A(1) of Section 4.1,

(f) the storage of vegetable matter not falling within any other Section,

(g) the cleaning of shellfish shells,

(h) the manufacture of starch,

(i) the processing of animal or vegetable matter at premises for feeding a recognised pack of hounds which have been granted an authorisation under the Animal By-Products Regulations 2005(**a**) or the Animal By-Products (Wales) Regulations 2006(**b**),

(j) the salting of hides or skins, unless related to any other activity listed in this Schedule,

(k) any activity for composting animal or vegetable matter or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms,

(l) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers (and "related activity" means an activity being carried on by the same person at the same site),

(m) the drying of grain or pulses,

(n) any activity for the production of cotton yarn from raw cotton or for the conversion of cotton yarn into cloth;

"food" includes—

(a) drink,

(b) articles and substances of no nutritional value which are used for human consumption, and

(c) articles and substances used as ingredients in the preparation of food;

"green offal" means the stomach and intestines of any animal, other than poultry or fish, and their contents.

Part A(1)

(a) Tanning hides and skins at a plant with a treatment capacity of more than 12 tonnes of finished products per day.

(b) Slaughtering animals at a plant with a carcass production capacity of more than 50 tonnes per day.

(c) Disposing of or recycling animal carcasses or animal waste, other than by rendering or by incineration falling within Section 5.1, at a plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

(d) Treating and processing materials intended for the production of food products from—

(i) animal raw materials (other than milk) at a plant with a finished product production capacity of more than 75 tonnes per day; or

(ii) vegetable raw materials at a plant with a finished product production capacity of more than 300 tonnes per day (average value on a quarterly basis).

(e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).

(f) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—

(i) does not fall within any other Section, or Part A(2) of this Section and is not an excluded activity; and

(ii) may result in the release into water of any substance in paragraph 7 of Part 1 in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in relation to the substance in that paragraph.

Part A(2)

(a) Disposing of or recycling animal carcasses or animal waste by rendering at plant with a treatment capacity exceeding 10 tonnes per day of animal carcasses or animal waste or both in aggregate.

Part B

(a) Processing, storing or drying by the application of heat the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into controlled waters or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if the processing, storing or drying—

(i) does not fall within another Section, or Part A(1) or Part A(2) of this Section;

(ii) is not an excluded activity; and

(iii) may result in the release into the air of—

(**a**) S.I. 2005/2347.
(**b**) S.I. 2006/1293 (W.127).

(aa) any substance in paragraph 6(3) of Part 1, or

(bb) any offensive smell noticeable outside the premises on which the activity is carried on.

(b) Breeding maggots in any case where 5 or more kg of animal matter, vegetable matter or both in aggregate, are introduced into the process in any week.

SECTION 6.9

Intensive Farming

Part A(1)

(a) Rearing poultry or pigs intensively in an installation with more than—

(i) 40,000 places for poultry;

(ii) 2,000 places for production pigs (over 30 kg); or

(iii) 750 places for sows.

SECTION 7

SED Activities

Part B

(a) The activities listed in the table below if they are operated above the solvent consumption threshold for the activity.

Activity	*Solvent consumption threshold in tonnes/year*
Heatset web offset printing	15
Publication rotogravure	25
Other rotogravure, flexography, rotary screen printing, laminating or varnishing units	15
Rotary screen printing on textile/cardboard	30
Surface cleaning using substances or preparations which because of their content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances(**a**) are assigned or need to carry one or more of the risk phrases R45, R46, R49, R60 or R61, or halogenated VOC's which are assigned or need to carry the risk phrase R40	1
Other surface cleaning	2
Vehicle coating and vehicle refinishing	0.5
Coil coating	25
Other coating activities, including metal, plastic, textile (except rotary screen printing on textile), fabric, film and paper coating	5
Winding wire coating	5
Coating activity applied to wooden surfaces	15
Dry cleaning	0
Wood impregnation	25
Coating activity applied to leather	10
Footwear manufacture	5
Wood and plastic lamination	5
Adhesive coating	5
Manufacture of coating preparations, varnishes, inks and adhesives	100
Rubber conversion	15
Vegetable oil and animal fat extraction and vegetable oil refining activities	10
Manufacturing of pharmaceutical products	50

(**a**) OJ No. 196, 16.8.1967, p1 (OJ/SE Series I Chapter 1967 P, p19), as last amended by Directive 2006/121/EC (OJ No. L 396, 30.12.2006, p850).

Interpretation and application of Part B

1. For the purposes of this Part—

"adhesive" means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product;

"adhesive coating" means any activity in which an adhesive is applied to a surface, excluding the application of adhesive and laminating associated with printing activities;

"coating" means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a decorative, protective or other functional effect on a surface;

"coating activity" means any activity in which a single or a multiple application of a continuous film of a coating is applied (including a step in which the same article is printed using any technique) but does not include the coating of substrate with metals by electrophoretic and chemical spraying techniques;

"coil coating" means any activity where coiled steel, stainless steel, coated steel copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process;

"consumption" means the total input of organic solvents into an installation per calendar year, or any other twelve month period, less any volatile organic compounds that are recovered for reuse;

"dry cleaning" means any industrial or commercial activity using volatile organic compounds to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile and clothing industry;

"flexography" means a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas, and liquid inks which dry through evaporation;

"footwear manufacture" means any activity of producing complete footwear or parts of footwear;

"heat web offset printing" means a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where—

(a) the non-printing area is treated to attract water and reject ink,

(b) the printing area is treated to receive and transmit ink to the surface to be printed, and

(c) evaporation takes place in the oven where hot air is used to heat the printed material;

"ink" means a preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application which is used in a printing activity to impress text or images on to a surface;

"laminating associated to a printing activity" means the adhering together of two or more flexible materials to produce laminates;

"manufacturing of coating preparations, varnishes, inks and adhesives" means the manufacture of coating preparations, varnishes, inks and adhesives as final products and where carried on at the same site, the manufacture of intermediates by the mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including—

(a) dispersion and predispersion activities,

(b) viscosity and tint adjustments, and

(c) operations for filling the final product into its container;

"manufacturing of pharmaceutical products" means one or more of the following activities—

(a) chemical synthesis,

(b) fermentation,

(c) extraction, or

(d) formulation and finishing,

of pharmaceutical products and, where carried on at the same site, the manufacture of intermediate products;

"the Motor Vehicle Directive" means Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers(**a**);

"organic compound" means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

"organic solvents" means any volatile organic compound which is used alone or in combination with other agents, and without undergoing a chemical change to dissolve raw materials, products or waste materials, as a—

(a) cleaning agent to dissolve contaminants,

(**a**) OJ No. L42, 23.2.1970, p1 (OJ/SE Series I Chapter 1970(I) P, p82, as last amended by Directive 2006/40/EC (OJ No. L 161, 14.6.2006, p12).

(b) dissolver,

(c) dispersion medium,

(d) viscosity adjuster,

(e) surface tension adjuster,

(f) plasticiser, or

(g) preservative;

"other coating activities" means a coating activity applied to—

(a) trailers, defined in categories O1, O2, O3, and O4 in the Motor Vehicle Directive,

(b) metallic and plastic surfaces including surfaces of airplanes, ships, trains, or

(c) textile, fabric, film and paper surfaces;

"printing activity" means any activity (not being a step in a coating activity) for reproducing text and/or images in which, with the use of an image carrier, ink is transferred onto any type of surface, including the use of associated varnishing, coating and laminating techniques;

"publication rotogravure" means a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;

"reuse" means the use of organic solvents recovered from an installation for any technical or commercial purpose and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste;

"rotary screen printing" means a web-fed printing activity in which liquid ink which dries only through evaporation is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off;

"rotogravure" means a printing activity, using a cylindrical image carrier in which the printing area is below the non-printing area and liquid inks which dry through evaporation, and in which the recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;

"rubber conversion" means—

(a) any activity of mixing, milling, blending, calendering, extrusion and vulcanisation of natural or synthetic rubber, and

(b) any ancillary operations for converting natural or synthetic rubber into a finished product;

"surface cleaning" means any activity, except dry cleaning, using organic solvents to remove contamination from the surface of material including degreasing but excluding the cleaning of equipment; and a cleaning activity consisting of more than one step before or after any other activity must be considered as one surface cleaning activity;

"varnish" means a transparent coating;

"varnishing" means an activity by which varnish or an adhesive coating for the purpose of sealing the packaging material is applied to a flexible material;

"vegetable oil and animal fat extraction and vegetable oil refining activities" means any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter or animal matter;

"vehicle coating" means a coating activity applied to the following vehicles—

(a) new cars, defined as vehicles of category M1 in the Motor Vehicle Directive, and of category N1 in so far as they are coated at the same installation as M1 vehicles,

(b) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N2 and N3 in the Motor Vehicle Directive,

(c) vans and trucks, defined as vehicles of categories N1, N2 and N3 in the Motor Vehicle Directive, but not including truck cabins, or

(d) buses, defined as vehicles in categories M2 and M3 in the Motor Vehicle Directive;

"vehicle refinishing" means any industrial or commercial coating activity and associated degreasing activities performing—

(a) the original coating of road vehicles as defined in the Motor Vehicle Directive or part of them with refinishing-type materials, where this is carried on away from the original manufacturing line, or

(b) the coating of trailers (including semi-trailers) (category O in the Motor Vehicle Directive);

"volatile organic compound" or "VOC" means—

(c) any organic compound having a vapour pressure of 0.01 or more kPa at 293.15K or having a corresponding volatility under the particular conditions of use, or

(d) the fraction of creosote which exceeds a vapour pressure of 0.01 kPA at 293.15K;

"web-fed" means that the material to be printed is fed to the machine from a reel as distinct from separate sheets;

"winding wire coating" means any coating activity of metallic conductors used for winding the coils in transformers and motors, etc;

"wood and plastic lamination" means any activity to adhere together wood or plastic to produce laminated products;

"wood impregnation" means any activity giving a loading of preservative in timber.

2. An activity must be deemed to be operated above the solvent consumption threshold specified for that activity under this Part if the activity is likely to be operated above that threshold in any period of 12 months.

3. An activity listed in this Part includes the cleaning of equipment but, except for a surface cleaning activity, not the cleaning of products.

SCHEDULE 2

Regulations 2(1) and 5

Exempt waste operations: general

Interpretation: general

1. In this Schedule—

"notifiable exempt waste operation" means an exempt waste operation in relation to which notice must be given to the exemption registration authority under paragraph 3(1)(b);

"registered", in relation to an establishment or undertaking, means that the relevant particulars appear in the register, and "registration" must be construed accordingly;

"relevant particulars" means—

(a) the information in paragraph 4(3), and

(b) in the case of a waste operation falling within paragraph 45(1) or 45(3) of Schedule 3, the plan referred to in paragraph 6(2)(b).

Interpretation: exemption registration authority

2.—(1) Subject to sub-paragraphs (2) and (3), the exemption registration authority in relation to a waste operation falling within Part 1 of Schedule 3 is the Agency.

(2) The exemption registration authority in relation to the following waste operations is the local authority regulator—

(a) a waste operation falling within paragraph 2, 3, 24 or 43 of Schedule 3;

(b) a waste operation falling within paragraph 4(3) of Schedule 3, if—

(i) the operation relates to the coating or spraying of metal containers, and

(ii) that coating or spraying is an activity within Part B of Section 6.4 of Part 2 of Schedule 1;

(c) a waste operation falling within paragraph 12(3) of Schedule 3, if—

(i) the operation relates to the composting of biodegradable waste,

(ii) the operation is an activity within paragraph (a) of Part B of Section 6.8 of Part 2 of Schedule 1, and

(iii) the compost is to be used for cultivating mushrooms.

(3) The exemption registration authority in relation to a waste operation falling within paragraph 23 of Schedule 3 is the authority responsible for granting an authorisation—

(a) in England, under regulation 27 of the Animal By-Products Regulations 2005(**a**);

(b) in Wales, under regulation 27 of the Animal By-Products (Wales) Regulations 2006(**b**).

(4) In this paragraph "local authority regulator" means the local authority responsible for granting an environmental permit authorising the Part B activity in question.

Registration, notification and consent requirements for exempt waste operations

3.—(1) The requirements referred to in regulation 5(1)(a) are—

(a) an establishment or undertaking must be registered in relation to the waste operation, except in relation to a waste operation falling within paragraph 48 of Schedule 3;

(b) an establishment or undertaking carrying on a waste operation falling within a description mentioned in sub-paragraph (2) must give notice to the exemption registration authority in accordance with paragraph 8; and

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(**a**) S.I. 2005/2347.
(**b**) S.I. 2006/1293 (W. 127).

(c) a waste operation falling within a description mentioned in sub-paragraph (3) must be carried on—

(i) by, or with the consent of, the occupier of the land where the operation is carried on, or

(ii) by a person who is otherwise entitled to do so on that land.

(2) The descriptions mentioned in this sub-paragraph are the waste operation descriptions in paragraphs 6, 7, 9, 10, 19 , 40 and 46 of Schedule 3.

(3) The descriptions mentioned in this sub-paragraph are the waste operation descriptions in paragraphs 4, 6, 7 ,8, 9, 11, 13, 14, 15, 17, 18, 19, 25, 40, 41, 42, 45, 46 and 48 of Schedule 3.

Registration of exempt waste operations

4.—(1) Every exemption registration authority must establish and maintain a register of exempt waste operations in relation to which it is the exemption registration authority.

(2) The exemption registration authority must ensure the register contains the information required by sub-paragraph (3) in every case where—

(a) the authority receives notice of that information in writing;

(b) in the case of a notifiable exempt waste operation, the establishment or undertaking has given notice under paragraph 3(1)(b); and

(c) in the case of an exempt waste operation falling within paragraph 45(1) or 45(3) of Schedule 3 (which makes provision in relation to recovery and storage of scrap metal and waste motor vehicles), any extra requirement under paragraph 6 is complied with.

(3) The information required is—

(a) the name and address of the establishment or undertaking carrying on an exempt waste operation;

(b) the waste operation which constitutes the exempt waste operation; and

(c) the place where the exempt waste operation is carried on.

(4) The exemption registration authority may enter the information required by sub-paragraph (3) on the register if it receives notice which is not in writing.

(5) Every exemption registration authority must—

(a) ensure that its register is open to inspection by members of the public free of charge at all reasonable hours; and

(b) provide reasonable facilities to members of the public for obtaining a copy of an entry on payment of a reasonable charge.

(6) A register may be kept in any form.

Duty to remove entries from the register

5.—(1) The duty to maintain a register in paragraph 4(1) includes a duty to remove an entry if—

(a) the exemption registration authority becomes aware that the establishment or undertaking has ceased to carry out the waste operation;

(b) the waste operation is no longer an exempt waste operation;

(c) in the case of a waste operation falling within paragraph 45(1) or 45(3) of Schedule 3, the exemption registration authority—

(i) has carried out an inspection in accordance with the second paragraph of Article 6(2) of the End-of-Life Vehicles Directive, and

(ii) is not satisfied as to the particulars required to be verified under that paragraph; or

(d) in the case of a waste operation falling within paragraph 40 of Schedule 3, the exemption registration authority—

(i) has carried out an inspection in accordance with the second paragraph of Article 6(2) of the WEEE Directive, and

(ii) is not satisfied as to the particulars required to be verified under that paragraph.

(2) An exemption registration authority must notify the establishment or undertaking in question if it removes an entry from the register under this paragraph.

Extra requirements in relation to recovery and storage of scrap metal or waste motor vehicles

6.—(1) An exempt waste operation falling within paragraph 45(1) or 45(3) of Schedule 3 must comply with the extra requirements mentioned in sub-paragraph (2).

(2) The requirements are that—

(a) the notice is given by the establishment or undertaking carrying on the operation;

(b) the notice is accompanied by a plan of every place at which the operation is carried on showing—

(i) the boundaries of the place,

(ii) the locations within the place at which the exempt waste operation is to be carried on,

(iii) the location and specifications of any impermeable pavement or drainage system mentioned in paragraph 45(1)(c), 45(3)(f) or 45(3)(g) of Schedule 3, and

(iv) the location of any secure container mentioned in paragraph 45(3)(e) of Schedule 3;

(c) the notice is accompanied by payment of any charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act(**a**); and

(d) if the operation comprises or includes the dismantling of waste motor vehicles, the exemption registration authority—

(i) has carried out an inspection in accordance with the second paragraph of Article 6(2) of the End-of-Life Vehicles Directive, and

(ii) is satisfied as to the particulars required to be verified under that paragraph.

(3) A verification under sub-paragraph (2)(d) is valid for 12 months, but the exemption registration authority may inspect and verify again before a verification becomes invalid.

Removal of entries in relation to recovery and storage of scrap metal or waste motor vehicles

7.—(1) The exemption registration authority must remove a register entry relating to a waste operation requiring verification under paragraph 6(2)(d) if the verification becomes invalid.

(2) If a fee payable under paragraph 45(5)(f) of Schedule 3 is not received by the exemption registration authority within 2 months of the due date, ascertained in accordance with paragraph 45(6) of that Schedule, the authority must—

(a) amend the register in accordance with sub-paragraph (3); and

(b) notify the establishment or undertaking in question.

(3) The register must be amended to remove the registration in respect of every place—

(a) where an exempt waste operation to which this paragraph applies is carried on; and

(b) in respect of which the fee remains unpaid.

Notifiable exempt waste operations: giving notice

8.—(1) Every notice required by paragraph 3(1)(b) must contain—

(a) the relevant particulars of the establishment or undertaking;

(b) details of the quantity of waste to be disposed of or recovered;

(c) any plans or other documents reasonably required by the authority; and

(d) any other information reasonably required by the authority.

(2) Every such notice in relation to an exempt waste operation falling within paragraph 6, 7 or 9(1)(b) of Schedule 3 must also certify that, in the opinion of the person signing it, the activity—

(a) will result in benefit to agriculture or ecological improvement; and

(b) will be consistent with the objectives in Article 4 of the Waste Framework Directive.

(3) A certificate given under paragraph (2) must—

(a) be signed by a person with appropriate technical expertise; and

(b) contain evidence demonstrating the reasons for his opinion.

(4) Every such notice must be in the form required by the authority.

(5) Every such notice must be accompanied by payment of any charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.

Notifiable exempt waste operations: changes to the quantity of waste disposed of or recovered

9. An establishment or undertaking which wishes to dispose of or recover a quantity of waste greater than that notified to the exemption registration authority must give the authority a further notice which complies with paragraph 8.

Notifiable exempt waste operations: renewal notices

10.—(1) An establishment or undertaking which—

(a) carries on a notifiable exempt waste operation; and

(b) wishes to maintain its entry on the register,

must give a renewal notice in writing to the exemption registration authority within 12 months of the date the particulars were entered or last renewed.

(**a**) Section 41 was amended by S.I. 2005/894, 2005/1806 (W. 138), 2006/937 and 2007/1711.

(2) Every renewal notice must contain—

(a) confirmation that the establishment or undertaking continues to carry on the exempt waste operation;

(b) the information required by paragraph 8(1); and

(c) if it is in relation to an exempt waste operation mentioned in paragraph 8(2), the certificate required by that paragraph.

(3) Every renewal notice must be accompanied by payment of any charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.

Notifiable exempt waste operations: duties of the exemption registration authority

11.—(1) If an exemption registration authority receives a notice under paragraph 3(1)(b) or 9, it must—

(a) enter the relevant particulars on the register; or

(b) during the relevant period, refuse to do so.

(2) But an authority which receives notice in relation to a waste operation falling within paragraph 40 of Schedule 3 must not enter the relevant particulars on the register unless—

(a) it has first carried out an inspection in accordance with paragraph 13; and

(b) in addition to verification in accordance with paragraph 13(3), the authority is satisfied that best available treatment, recovery and recycling techniques will be used.

(3) An exemption registration authority must remove an entry in relation to a notifiable exempt waste operation from the register if it—

(a) does not receive a renewal notice which complies with paragraph 10 in relation to the entry; or

(b) decides, within the relevant period, to refuse to renew a registration in response to a renewal notice.

(4) If an exemption registration authority refuses to enter relevant particulars on the register or renew a registration, the authority must give notice to the establishment or undertaking in question of the decision and the reasons for it.

(5) In this paragraph—

"best available treatment, recovery and recycling techniques" has the meaning given by paragraph 1 of Schedule 3;

"the relevant period" means—

(a) in the case of a waste operation falling within paragraph 40 of Schedule 3, the period of 2 months beginning with the receipt by the exemption registration authority of the notice; or

(b) in any other case, the period of 25 working days beginning with the date of receipt by the exemption registration authority of the notice in question,

or in any case, a longer period than the period in paragraph (a) or (b), if it is agreed in writing between the exemption registration authority and the establishment or undertaking in question.

Record keeping

12.—(1) This paragraph applies to every—

(a) notifiable exempt waste operation; and

(b) exempt waste operation falling within paragraph 47(1) of Schedule 3.

(2) But it does not apply in relation to an exempt waste operation falling within—

(a) paragraph 9 of Schedule 3 at a place where the quantity of waste recovered in reliance on the exemption at that place is less than 2,500 cubic metres;

(b) paragraph 19 of Schedule 3 at a place where the quantity of waste recovered in reliance on the exemption at that place is less than 2,500 tonnes; or

(c) paragraph 47(1) of Schedule 3 if it is carried out on land subject to an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998(**a**).

(3) An establishment or undertaking which carries out an exempt waste operation to which this paragraph applies must—

(a) keep records of the quantity, nature, origin and, where relevant, the destination and treatment method of all waste disposed of or recovered in the course of that activity;

(b) keep those records for a period of 2 years; and

(c) during that period make those records available to the exemption registration authority on request.

(**a**) S.I. 1998/1202, amended by S.I. 2002/2614 and 2003/1852 (W. 202).

Periodic inspections

13.—(1) Every exemption registration authority must carry out appropriate periodic inspections of establishments and undertakings carrying on exempt waste operations in respect of which it is the exemption registration authority.

(2) If an exempt waste operation falls within paragraph 45(1) or 45(3) of Schedule 3, or involves the treatment of WEEE, the exemption registration authority must discharge that duty by carrying out an inspection—

(a) within 2 months of receipt of a notice fulfilling the extra requirements in paragraph 6; and

(b) subsequently, at least every 12 months.

(3) If an exempt waste operation involves the treatment of WEEE, the inspection must be carried out for the purposes of the second paragraph of Article 6(2) of the WEEE Directive.

SCHEDULE 3

Regulations 5(1)(b) and 68(1)

Descriptions: exempt waste operations and other operations to which section 33(1)(a) of the 1990 Act does not apply

PART 1

Exempt waste operations: descriptions

Interpretation

1.—(1) In this Schedule—

"the 1989 Regulations" means the Sludge (Use in Agriculture) Regulations 1989(**a**);

"the 1991 Act" means the Water Resources Act 1991(**b**);

"best available treatment, recovery and recycling techniques" has the meaning given in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive on 27th November 2006, entitled "Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE)"(**c**);

"construction work" includes the repair, alteration or improvement of existing works;

"domestic purposes" has the same meaning as in section 218 of the Water Industry Act 1991(**d**);

"food production purposes" means the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used, and for the purposes of this definition "food production premises" means premises used for the purposes of a business of preparing food or drink for consumption otherwise than on the premises;

"inland waters" has the meaning given by section 221(1) of the 1991 Act;

"internal drainage board" has the same meaning as in section 1(1) of the Land Drainage Act 1991(**e**);

"operational land" unless the context otherwise requires has the meaning given by sections 263 and 264 of the Town and Country Planning Act 1990(**f**);

"recycling", "reuse" and "treatment", in relation to WEEE, have the meanings given by Article 3 of the WEEE Directive;

"scrap metal" has the meaning given by section 9(2) of the Scrap Metal Dealers Act 1964(**g**);

"sealed drainage system" in relation to an impermeable pavement, means a drainage system with impermeable components which does not leak and which will ensure that—

(a) no liquid will run off the pavement otherwise than via the system, and

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(**a**) S.I. 1989/1263, amended by S.I. 1990/880, 1996/593, 2000/656.
(**b**) 1991 c. 57.
(**c**) Available at the Defra website, www.defra.gov.uk.
(**d**) 1991 c. 56.
(**e**) 1991 c. 59.
(**f**) 1990 c. 8; section 263 is amended by the Planning and Compensation Act 1991 (c. 34), sections 31(4) and 84(6) and Schedules 6 and 19, by the Transport Act 2000 (c. 38), section 37 and Schedule 5, and by S.I. 2001/1149; section 264 is amended by the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), section 2(1) and Schedule 54, and by S.I. 2001/4050 and S.I. 2003/1615.
(**g**) 1964 c. 69.

(b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump;

"work" includes preparatory work.

(2) In this Schedule, a 6 digit code used to refer to a waste is a reference to that waste as specified by the 6 digit code—

(a) in England, in the List of Wastes (England) Regulations 2005(**a**);

(b) in Wales, in the List of Wastes (Wales) Regulations 2005(**b**).

(3) An asterisk following any such code indicates that the waste is considered to be hazardous pursuant to Directive 91/689/EEC on hazardous waste(**c**), and subject to the provisions of that Directive unless Article 1(5) of that Directive applies.

(4) When interpreting this Schedule a container, lagoon or other place is secure in relation to waste kept in it if—

(a) all reasonable precautions are taken to ensure that the waste cannot escape from it; and

(b) members of the public are unable to gain access to the waste.

Scrap metal furnaces

2.—(1) Loading or unloading a scrap metal furnace, except at a place used for carrying on the business of a scrap metal dealer (within the meaning given by section 9(1) of the Scrap Metal Dealers Act 1964).

(2) Storing, at the place where a scrap metal furnace is located, scrap metal intended to be loaded into that scrap metal furnace.

(3) In this paragraph "scrap metal furnace" means a furnace—

(a) with a designed holding capacity of less than 25 tonnes operated such that it is or forms part of an activity within—

(i) paragraph (a), (b) or (d) of Part B of Section 2.1 of Part 2 of Schedule 1, or

(ii) paragraph (a), (b) or (e) of Part B of Section 2.2 of Part 2 of Schedule 1; and

(b) which is operated under an environmental permit.

Burning waste as a fuel

3.—(1) Secure storage on any premises of any specified substance which is intended to be burned or fed into an appliance in which it is to be burned if—

(a) no more than 25 tonnes is stored there at any one time; and

(b) no waste is stored there for longer than 12 months.

(2) In this paragraph—

(a) "specified substance" means the following types of waste—

(i) straw included in **02 01 03,**

(ii) poultry litter included in **02 01 06,**

(iii) wood included in **02 01 07, 03 01 01, 03 03 01, 20 01 38** or **20 02 01,**

(iv) solid fuel which has been manufactured from waste by a process involving the application of heat included in **19 12 10;**

(b) "burned" means burned as a fuel pursuant to an environmental permit to the extent that it is or forms part of a Part B activity.

Packaging or containers

4.—(1) Subject to sub-paragraph (2), cleaning, washing, spraying or coating of waste consisting of packaging or containers so that it can be reused if the total quantity of such waste so dealt with at any place does not exceed 1,000 tonnes in any period of seven days.

(2) An operation does not fall within this paragraph if the cleaning, washing, spraying or coating falls within Part B of Section 6.4 (coating activities and printing) of Part 2 of Schedule 1.

(**a**) S.I. 2005/895, amended by S.I. 2005/1673.
(**b**) S.I. 2005/1820 (W.148).
(**c**) OJ No. L 377, 31.12.1991, p20, as amended by Directive 94/31/EC (OJ No. L 168, 2.7.1994, p28).

(3) Storing waste in connection with the carrying on of an operation described in sub-paragraph (1) at the place where the operation is carried on unless—

(a) the total quantity of such waste stored at that place exceeds 1,000 tonnes; or

(b) more than 1 tonne of metal containers used for the transport or storage of any chemical are dealt with in any period of seven days.

Burning waste as a fuel in small appliances

5.—(1) Burning waste as a fuel in an appliance if—

(a) the appliance has a net rated thermal input of less than 0.4 megawatts; or

(b) the appliance is used together with other appliances (whether or not it is operated simultaneously with such other appliances) and the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

(2) Secure storage of waste intended to be submitted to such burning.

(3) In this paragraph, "net rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

Sludge on land

6.—(1) Treatment with sludge of land which is not agricultural land within the meaning of the 1989 Regulations if—

(a) it results in—

(i) ecological improvement, or

(ii) in the case of the treatment of land used for non-food crops not grown in short term rotation with food crops, benefit to agriculture;

(b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in column 2 of that table; and

(c) no more than 250 tonnes of sludge per hectare is used on the land in any period of 12 months.

(2) Storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge intended to be used for such treatment if—

(a) the sludge is stored at the place where it is to be used;

(b) the sludge is stored at least—

(i) 10 metres from any watercourse,

(ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes, and

(iii) 250 metres from any borehole used to supply water for domestic or food production purposes;

(c) no sludge is stored within a zone defined by a 50 day travel time for groundwater to reach a groundwater source used to supply water for domestic or food production purposes;

(d) no sludge is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon;

(e) no sludge is stored for a period of more than 12 months; and

(f) no more than 1,250 tonnes of sludge is stored at any one time.

(3) In this paragraph "sludge" means residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters.

Waste for the benefit of land

7.—(1) Subject to sub-paragraph (5), treatment of land used for agriculture with any kind of waste specified in column 2 of the Table in sub-paragraph (3) from the corresponding source specified in column 1 of that Table where such treatment results in benefit to agriculture or ecological improvement.

(2) Subject to sub-paragraph (5), treatment with a kind of waste specified in column 2 of Part 1 of the Table in sub-paragraph (3) from the corresponding source specified in column 1 of Part 1 of that Table of—

(a) operational land of a railway, light railway, water undertaker, internal drainage board, British Waterways Board or the Agency; or

(b) land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery,

where the land in question is not used for agriculture and such treatment results in ecological improvement.

(3) The Table referred to in sub-paragraphs (1) and (2) is set out below.

Column 1 *Source of Waste*	*Column 2* *Kind of Waste*
PART 1	
Wastes from forestry, aquaculture, horticulture and fishing	Plant-tissue waste
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from wood processing and the production of panels and furniture	Waste bark and cork Sawdust shavings, cuttings, wood and particle board
Wastes from pulp, paper and cardboard production and processing	Waste bark and wood, pulp from virgin timber
Soil (excluding excavated soil from contaminated sites), stones and dredging spoil	Soil and stones
Wastes from aerobic treatment of solid wastes	Compost of biodegradable garden and park waste
Garden and park wastes (including cemetery waste)	Biodegradable waste Soil and stones
PART 2	
Wastes from the preparation and processing of meat, fish and other foods of animal origin	Blood and gut contents from abattoirs, poultry preparation plants or fish preparation plants Wash waters and sludges (with or without treatment) from abattoirs, poultry preparation plants or fish preparation plants Shells from shellfish processing
Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation	All wastes derived from the processing of such materials
Wastes from sugar processing	All wastes derived from the processing of sugar
Wastes from the dairy products industry	Wastes derived from the processing of dairy products
Wastes from the baking and confectionery industry	All wastes derived from the processing of raw materials used in the baking and confectionery industry
Wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa)	All wastes derived from the processing of the raw materials used in the production of such beverages
Wastes from pulp, paper and cardboard production and processing	De-inked paper sludge and de-inked paper pulp from paper recycling Lime mud waste
Wastes from the leather and fur industry	Sludges from on-site effluent treatment free of chromium

Column 1 *Source of Waste*	*Column 2* *Kind of Waste*
Wastes from the textile industry	Organic matter from natural products Wastes from finishing other than those containing organic solvents Sludges from on-site effluent treatment Wastes from textile fibres
Wastes from the manufacture of cement, lime and plaster and articles and products made from them	Wastes from calcinations and hydration of lime Gypsum
Wastes from power stations and other combustion plants	Gypsum
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Dredging spoil (other than those containing dangerous substances)
Wastes from aerobic treatment of waste	Compost derived from source segregated biodegradable waste Liquor from aerobic treatment of source segregated biodegradable waste Digestate from aerobic treatment of source segregated biodegradable waste
Wastes from anaerobic treatment of waste	Compost derived from source segregated biodegradable waste Liquor from anaerobic treatment of source segregated biodegradable waste Digestate from anaerobic treatment of source segregated biodegradable waste
Wastes from the preparation of water intended for human consumption or water for industrial use	Sludges from water clarification

(4) Secure storage, at the place where it is to be used, of not more than 1,250 tonnes of waste intended to be used for a treatment falling within sub-paragraph (1) or (2), if—

(a) the waste is stored at a distance of at least—

(i) 10 metres from any watercourse,

(ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes, and

(iii) 250 metres from any borehole used to supply water for domestic or food production purposes;

(b) no waste is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon; and

(c) the waste is stored for no more than 12 months.

(5) An operation only falls within sub-paragraph (1) or (2) if—

(a) it is carried on in relation to an area of land of 50 hectares or less;

(b) no more than the following quantities of waste are used on the land in any period of 12 months—

(i) in the case of sugar beet soil, 1,500 tonnes per hectare,

(ii) in the case of dredging spoil from inland waters, 5,000 tonnes per hectare, or

(iii) in the case of any other waste, no more than 250 tonnes per hectare; and

(c) the operation is carried on in accordance with any requirements imposed by—

(i) in England, the Animal By-Products Regulations 2005(**a**);

(**a**) S.I. 2005/2347.

(ii) in Wales, the Animal By-Products (Wales) Regulations 2006(**a**).

(6) In this paragraph—

(a) "agriculture" has the meaning given by section 109 of the Agriculture Act 1947(**b**);

(b) "operational land" in relation to an internal drainage board means land which is held for the purpose of carrying out its functions as an internal drainage board.

Storage of sludge which is to be used in accordance with the 1989 Regulations

8.—(1) Storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge which is to be used in accordance with the 1989 Regulations if—

(a) the sludge is stored at the place where it is to be used;

(b) the sludge is stored at a distance of at least—

(i) 10 metres from any watercourse,

(ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes, and

(iii) 250 metres from any borehole used to supply water for domestic or food production purposes;

(c) no sludge is stored within a zone defined by a 50 day travel time for groundwater to reach a groundwater source used to supply water for domestic or food production purposes;

(d) no sludge is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon;

(e) no sludge is stored for a period of more than 12 months; and

(f) no more than 1,250 tonnes of sludge is stored at any one time.

(2) In this paragraph "sludge" means residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters.

Land reclamation or improvement

9.—(1) Subject to sub-paragraph (3)—

(a) spreading a kind of waste specified in column 2 of Part 1 of the Table in sub-paragraph (2) from the corresponding source specified in column 1 of Part 1 of that Table on any land; or

(b) spreading a kind of waste specified in column 2 of Part 2 of the Table in sub-paragraph (2) from the corresponding source specified in column 1 of Part 2 of that Table on any land where that operation results in benefit to agriculture or ecological improvement.

(2) The Table referred to in sub-paragraph (1) is set out below.

Column 1 *Source of Waste*	*Column 2* *Kind of Waste*
PART 1	
Wastes from physical and chemical processing of non-metalliferous minerals	Waste gravel and crushed rocks Waste sand and clays
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use)	Pulverised fuel ash, bottom ash and slag
Wastes from manufacture of ceramic goods, bricks, tiles and construction products	Waste ceramics, bricks, tiles and construction products (after thermal processing)

(**a**) S.I. 2006/1293 (W.127).
(**b**) 1947 c. 48.

Column 1 *Source of Waste*	*Column 2* *Kind of Waste*
Wastes from manufacture of cement, lime and plaster and articles and products made from them	Waste concrete and concrete sludge
Concrete, bricks, tiles and ceramics	Bricks Tiles and ceramics Mixtures of concrete, bricks, tiles and ceramics
Wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, palletising) not otherwise specified	Minerals (for example sand, stones)
Wastes from soil and groundwater remediation	Solid wastes from soil remediation (other than those containing dangerous substances)
Garden and park wastes (including cemetery waste)	Soil and stones
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Track ballast other than those containing dangerous substances
PART 2	
Wastes from pulp, paper and cardboard production and processing	De-inked paper sludge and de-inked paper pulp Lime mud waste
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Soil and stones other than those containing dangerous substances Dredging spoil other than those containing dangerous substances
Wastes from aerobic treatment of solid wastes	Compost
Wastes from waste water treatment plants	Sludges from treatment of urban waste water
Wastes from the preparation of water intended for human consumption or water for industrial use	Sludges from water clarification
Wastes from soil and groundwater remediation	Sludges from soil remediation (other than those containing dangerous substances)

(3) An operation does not fall within sub-paragraph (1) unless—

(a) the waste is spread for the purpose of reclamation, restoration or improvement of land which has been subject to industrial or other man-made development, and the use to which that land could be put would be improved by the spreading;

(b) the waste is spread in accordance with any requirement of or under the Town and Country Planning Act 1990(**a**);

(c) the waste is spread to a depth not exceeding the lesser of—

(i) 2 metres, or

(ii) the final cross-sections shown on any plan submitted under paragraph 8 of Schedule 2; and

(**a**) 1990 c. 8.

(d) no more than 20,000 cubic metres of waste are spread per hectare.

(4) Secure storage for a period not exceeding 6 months, at the place where it is to be spread, of waste intended to be spread in reliance on sub-paragraph (1).

Sewage and water treatment works

10.—(1) Treatment within the curtilage of a water treatment works of—

(a) sludge from water clarification;

(b) sludge from decarbonation solutions;

(c) sludge from regeneration of solutions and ion exchanges; and

(d) waste water and bore-hole flushings,

arising from water treatment at the works if the total quantity of waste which is treated in any period of 12 months does not exceed 10,000 cubic metres.

(2) Secure storage of waste intended to be submitted to such treatment if that storage is at the works where the waste is produced.

(3) Subject to sub-paragraph (5)—

(a) any recovery operation carried on within the curtilage of a sewage treatment works (other than the recovery of sewage, sludge or septic tank sludge as an integral part of the operation of those works) in relation to a kind of waste specified in column 2 of the Table in sub-paragraph (4) from the corresponding source specified in column 1 of that Table; and

(b) secure storage within the curtilage of a sewage treatment works of waste intended to be subjected to such a recovery operation.

(4) The Table referred to in sub-paragraph (3) is set out below.

Column 1 *Source of Waste*	*Column 2* *Kind of Waste*
Wastes from other sewage treatment works	Screenings Sludges from treatment of urban waste water
Other municipal wastes	Septic tank sludge Cesspool waste and other sewage sludge Waste from sewage cleaning
Wastes from the preparation of water intended for human consumption or for industrial use	Sludges from water clarification Sludges from decarbonation Solutions and sludges from regeneration of ion exchangers

(5) An operation does not fall within sub-paragraph (3) unless—

(a) the total quantity of waste brought to the sewage treatment works in any period of 12 months does not exceed 100,000 cubic metres; and

(b) the operation is carried out on an area with an impermeable pavement capable of containing any spillage of waste received and connected to a drainage system with impermeable components which does not leak and which will ensure that—

(i) no liquid will run off the pavement otherwise than via the system, and

(ii) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump.

(6) In this paragraph—

"sludge" (in relation to sewage) means residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters;

"septic tank sludge" means residual sludge from septic tanks and other similar installations for the treatment of sewage.

Preparatory treatments of certain waste

11.—(1) Carrying on, at any place, an operation specified in column 2 of the Table in sub-paragraph (2) relating to a corresponding kind of waste listed in column 1 of that Table where—

(a) the operation is carried on with a view to the recovery or reuse of the waste, whether or not by the person carrying it on; and

(b) the total quantity of any particular kind of waste dealt with at that place does not in any period of 7 days exceed the corresponding limit specified in column 3 of that Table.

(2) The Table referred to in sub-paragraph (1) is set out below.

Column 1 *Kind of waste*	*Column 2* *Operations*	*Column 3* *Limit (tonnes per week)*
Waste paper or cardboard	Baling, sorting or shredding	3,000
Waste textiles	Baling, sorting or shredding	100
Waste plastic	Baling, sorting, shredding, densifying or washing	100
Waste glass	Sorting, crushing or washing	1,000
Waste steel cans, aluminium cans or aluminium foil	Sorting, crushing, pulverising, shredding, compacting or baling	100
Waste food or drink cartons	Sorting, crushing, pulverising, shredding, compacting or baling	100

Composting waste

12.—(1) Subject to sub-paragraph (2), composting biodegradable waste at the place where the waste is produced or where the compost is to be used, or at any other place occupied by the person producing the waste or using the compost, if the total quantity of waste being composted at that place at any time does not exceed—

(a) in the case of waste composted or to be composted for the purposes of cultivating mushrooms, 10,000 cubic metres; and

(b) in any other case, 1,000 cubic metres.

(2) An operation does not fall within sub-paragraph (1) if it falls within paragraph (a) of Part B of Section 6.8 of Part 2 of Schedule 1.

(3) Storing biodegradable waste which is to be composted if that storage is at the place where the waste is produced or is to be composted.

(4) In this paragraph, "composting" includes any biological transformation process that results in materials which may be spread on land for the benefit of agriculture or ecological improvement.

Construction and soil materials

13.—(1) Manufacturing timber products, straw board, plasterboard, bricks, blocks, roadstone or aggregate from—

(a) waste which arises from demolition or construction work or tunnelling or other excavations; or

(b) waste which consists of ash, slag, clinker, rock, wood, bark, paper, straw or gypsum.

(2) Manufacturing soil or soil substitutes from any of the wastes listed in sub-paragraph (1) if—

(a) the manufacture is carried out at the place where either the waste is produced or the manufactured product is to be applied to land; and

(b) the total amount manufactured at that place on any day does not exceed 500 tonnes.

(3) Treatment of waste soil or rock which, when treated, is to be spread on land under paragraph 7 or 9, if—

(a) it is carried out at the place where the waste is produced or the treated product is to be spread; and

(b) the total amount treated at that place in any day does not exceed 100 tonnes.

(4) Storage of waste which is to be submitted to any operation falling within sub-paragraphs (1) to (3) if—

(a) the waste is stored at the place where the operation is to be carried on; and

(b) the total quantity of waste stored at that place does not exceed—

(i) in the case of the manufacture of roadstone from road planings, 50,000 tonnes, and

(ii) in any other case, 20,000 tonnes.

Manufacturing finished goods

14.—(1) Manufacturing finished goods from any of the following kinds of waste—

(a) metal;
(b) plastic;
(c) glass;
(d) ceramics;
(e) rubber;
(f) textiles;
(g) wood;
(h) paper; or
(i) cardboard.

(2) Storing any such waste intended to be used in such manufacturing if—

(a) the waste is stored at the place of manufacture; and
(b) the total amount of any particular kind of waste stored at that place at any time does not exceed 15,000 tonnes.

Use of waste

15.—(1) Subject to sub-paragraph (3), the beneficial use of waste if—

(a) the waste is put to that use without further treatment; and
(b) that use does not involve the disposal of the waste.

(2) Storing waste intended to be used for such beneficial use to the extent that the storage does not amount to disposal of the waste.

(3) An operation does not fall within this paragraph if it falls within a description in paragraph 7, 9, 10, 11, 19 or 25.

Biobeds

16.—(1) Disposal of agricultural waste consisting of non-hazardous pesticide solution or washings in a lined biobed at the place of production of the waste if—

(a) every part of the place where the activity is carried out is surfaced with an impermeable pavement provided with a sealed drainage system so that all liquids are directed into the biobed;
(b) the biobed is located at a secure place at least—
  (i) 10 metres from a watercourse, and
  (ii) 50 metres from a spring, well or borehole;
(c) the lining of the biobed is impermeable;
(d) the biobed is suitable for treatment of the waste;
(e) the biobed is covered with turf; and
(f) the total quantity of waste being treated does not exceed 15,000 litres in any period of 12 months.

(2) Secure covered storage of not more than 1,500 litres of waste at the place where it is intended to be so disposed of.

(3) Treatment of land used for agriculture with agricultural waste consisting of biobed material where such treatment results in benefit to agriculture or ecological improvement if—

(a) the biobed material is stored securely for 12 months before it is spread;
(b) the biobed material consists of a mixture of straw, compost and biologically active soil;
(c) the land is at least—
  (i) 10 metres from a watercourse, and
  (ii) 50 metres from a spring, well or borehole;
(d) at the start of the treatment and at any time during the treatment—
  (i) the land has not been frozen for 12 or more hours during the preceding 24 hours, and
  (ii) the land is not waterlogged, flooded or snow-covered;
(e) the operation is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998(**a**); and

(**a**) S.I. 1998/1202, amended by S.I. 2002/2614, 2003/1852 (W.202)

(f) the total quantity of waste used does not exceed 50 tonnes per hectare in any period of 12 months.

(4) Secure storage at the place of production of waste that is intended to be so treated if—

(a) no more than 50 cubic metres is stored at any one time; and

(b) no waste is stored for more than 3 years.

Storage of waste in a secure place

17.—(1) Storage in a secure place on any premises of waste of a type listed in the Table in sub-paragraph (2) if—

(a) the waste is stored for the purpose of its recovery;

(b) the total quantity of any particular type of waste stored on those premises at any time does not exceed the corresponding storage limit specified in the Table;

(c) the period for which any particular type of waste is stored on those premises does not exceed the corresponding limits specified in the Table;

(d) in the case of hazardous waste, the waste is stored on an impermeable surface;

(e) in the case of any solvents, chlorofluorocarbons, hydrochlorofluorocarbons, hydrofluorocarbons, paints or edible oil, the waste is stored in sealed leak proof containers; and

(f) each kind of waste listed in the Table and stored on those premises is kept separately.

(2) The Table referred to in sub-paragraph (1) is set out below.

Kind of Waste(1)	*Maximum quantity stored at one time*	*Maximum duration of storage*
02 01 02, 02 02 02 (mammalian protein)	60,000 tonnes	12 months
02 01 02, 02 02 02 (mammalian tallow)	45,000 tonnes	12 months
10 11 12, 15 01 07, 16 01 20, 17 02 02, 19 12 05, 20 01 02 (glass)	5,000 tonnes	12 months
14 06 01* (chlorofluorocarbons, hydrochlorofluorocarbons and hydrofluorocarbons)	18 tonnes	6 months
14 06 02*, 14 06 03*, 20 01 13* (solvents and solvent mixtures)	5 cubic metres	6 months
15 01 01, 19 12 01, 20 01 01 (paper and cardboard)	15,000 tonnes	12 months
15 01 01, 19 12 01, 20 01 01 (cartons)	500 tonnes	12 months
15 01 02, 20 01 39 (plastic)	500 tonnes	12 months
15 01 04, 20 01 40 (cans and foil)	500 tonnes	12 months
16 01 03 (tyres)	1,000 tyres	12 months
17 01 01 to **17 08 02** except for **17 03 02, 17 05 04, 17 05 06** and **17 05 08** (non-hazardous construction and demolition waste articles which are to be used for construction work and are capable of being used in their existing state)	100 tonnes	12 months
15 01 03, 17 02 01, 17 02 04*, 20 01 37*, 20 01 38 (wood including telegraph poles and railway sleepers)	100 tonnes	12 months
15 01 09, 19 12 08, 20 01 10, 20 01 11 (textiles and clothes)	1,000 tonnes	12 months
20 01 25 (edible oil)	500 tonnes	12 months
20 01 27*, 20 01 28 (paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) pending re-use as paint)	10,000 litres	6 months

(1) Where a description of a waste follows a 6 digit code, only that kind of waste falling within the code is included

Waste in secure containers

18.—(1) The storage on any premises in a secure container or containers of waste of a kind listed in the Table in sub-paragraph (2) if—

(a) the storage capacity of the container or containers does not exceed 400 cubic metres in total;

(b) there are no more than 20 containers on those premises;

(c) the waste is stored for the purpose of recovery;

(d) each kind of waste listed in the Table and stored on the premises is kept separately;

(e) the waste is not stored on the premises for longer than—

(i) in the case of hypodermic syringes and sharps, 1 month,

(ii) in any other case, 12 months;

(f) the person storing the waste is the owner of the container or has the consent of the owner; and

(g) the other requirements specified in relation to that kind of waste in the Table are met.

(2) The Table referred to in sub-paragraph (1) is set out below.

Kind of Waste(1)	*Other requirements*
13 01 09* to **13 07 01*** except **13 03 01*** to **13 03 10*** and **13 05 01*** to **13 05 08*** (waste oils)	The waste is stored at a distance of at least 10 metres from any inland or coastal waters and 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply; The storage capacity of any container or containers used for the waste does not exceed 3 cubic metres in total; Provision is made to prevent oil escaping into the ground.
15 01 01, 20 01 01 (cartons)	
15 01 02, 20 01 39 (plastics and plastic packaging)	
15 01 04, 20 01 40 (cans and foil)	
20 01 99 (hypodermic syringes and sharps)	The storage capacity of the container or containers used for the waste does not exceed 2 cubic metres in total
15 01 01, 20 01 01 (paper and cardboard)	
15 01 07, 20 01 02 (glass)	
15 01 09, 20 01 10, 20 01 11 (textiles and clothes)	
20 01 33* (sorted or unsorted separate collections of batteries containing hazardous batteries)	
20 01 34 (sorted or unsorted separate collections of batteries not containing hazardous batteries)	

(1) Where a description of a waste follows a 6 digit code, only that kind of waste falling within the code is included.

Waste for construction

19.—(1) Storage on a site of a kind of waste specified in Column 2 of the Table in sub-paragraph (3) from the corresponding source specified in Column 1 of that Table for the purposes of relevant work carried on at the site, if—

(a) the waste is suitable for use for those purposes;

(b) no more than 50,000 tonnes of such waste are stored at the site; and

(c) in the case of waste which is not produced on the site, it is not stored there for longer than 6 months.

(2) The use of a kind of waste specified in Column 2 of the Table in sub-paragraph (3) from the corresponding source specified in Column 1 of that Table for the purposes of relevant work, if—

(a) the waste is suitable for use for those purposes;

(b) the work is carried out in accordance with any requirement of or under the Town and Country Planning Act 1990(**a**); and

(c) the waste is used to a depth that does not exceed the dimensions of the final cross sections shown on any plan submitted under paragraph 8 of Schedule 2.

(3) The Table referred to in sub-paragraphs (1) and (2) is set out below.

Column 1 *Source of Waste*	*Column2* *Kind of Waste*
Wastes from physical and chemical processing of non-metalliferous minerals	Waste gravel and crushed rocks other than those containing dangerous substances Waste sand and clays
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and waste for industrial use)	Bottom ash, slag and boiler dust (excluding oil fly ash and boiler dust) Pulverised fuel ash Gypsum
Wastes from the iron and steel industry	Unprocessed slag
Wastes from the casting of ferrous and non ferrous pieces	Furnace slag
Wastes from the manufacture of ceramic goods, bricks, tiles and construction pieces	Waste ceramics, bricks, tiles and construction products (after thermal processing)
Wastes from the manufacture of cement, lime and plaster and articles and products made from them	Waste concrete and concrete sludge
Concrete, bricks, tiles and ceramics	Concrete Bricks Tiles and ceramics Mixtures of concrete, bricks, tiles and Ceramics
Wastes from incineration and pyrolysis of waste	Bottom ash and slag
Wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified	Minerals (for example sand, stones)
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Track ballast, soil and stones other than those containing dangerous substances Dredging spoil (unless it contains dangerous substances)
Garden and park waste (including cemetery waste)	Soil and stones
Bituminous mixtures, coal tar and tarred products	Road base and road planings

(4) For the purposes of sub-paragraphs (1) and (2), dredging spoil is only suitable for use in drainage works.

(5) Storage on a site of waste consisting of road planings and roadbase which are to be used for the purposes of relevant work carried on elsewhere if—

(a) no more than 50,000 tonnes of such waste are stored at the site; and

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(**a**) 1990 c. 8.

(b) the waste is stored there for no longer than six months.

(6) In this paragraph—

"drainage" means drainage carried out for the purposes of the Land Drainage Act 1991(**a**), the 1991 Act or the 1995 Act; and

"relevant work" means work for the construction, maintenance or improvement of—

(a) a building or a highway, railway, airport, dock or other transport facility;

(b) recreational facilities; or

(c) drainage,

but does not include work involving land reclamation.

Recovery of textiles

20.—(1) Laundering or otherwise cleaning waste textiles with a view to their recovery or reuse.

(2) Storing waste textiles at the place where they are to be so laundered or cleaned.

Preparatory treatments of waste plant matter

21.—(1) Subject to sub-paragraph (2),—

(a) chipping, shredding, cutting or pulverising waste plant matter, including wood or bark; or

(b) sorting and baling sawdust or wood shavings,

on any premises.

(2) An operation does not fall within sub-paragraph (1) unless—

(a) it is carried on for the purposes of recovery or reuse; and

(b) no more than 1,000 tonnes of such waste is dealt with on those premises in any period of 7 days.

(3) Storage of waste in connection with an operation mentioned in sub-paragraph (1) at the premises where it is carried on if the total amount of waste stored at those premises does not at any time exceed 1,000 tonnes.

Recovery of silver

22.—(1) Recovery, at any premises, of silver from waste produced in connection with printing or photographic processing if no more than 50,000 litres of such waste are dealt with on those premises in any day.

(2) Storage, at those premises, of waste which is to be submitted to such a recovery operation.

Recovery of waste consisting of animal by-products at a collection centre

23.—(1) The recovery of waste consisting of animal by-products at a collection centre—

(a) in England, in accordance with an authorisation under regulation 27 of the Animal By-Products Regulations 2005(**b**);

(b) in Wales, in accordance with an authorisation under regulation 27 of the Animal By-Products (Wales) Regulations 2006(**c**),

if the total quantity of waste being recovered at that collection centre at any time does not exceed 10 tonnes.

(2) Storage of the waste intended to be submitted to such a recovery operation if—

(a) storage takes place in a secure place; and

(b) no waste is stored for more than twelve months.

(3) In this paragraph—

(a) "animal by-product" has the same meaning as in regulation 2(1)(a) of Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**d**);

(b) "collection centre" has the same meaning as in paragraph 18 of Annex I to that Regulation.

(**a**) 1991 c. 59.
(**b**) S.I. 2005/2347.
(**c**) S.I. 2006/1293 (W.127).
(**d**) OJ No. L 273, 10.10.2002, p1.

Crushing, grinding or size reduction of bricks, tiles or concrete

24.—(1) Storage at the place where crushing is carried on of any waste bricks, tiles or concrete which is intended to be crushed if—

(a) the total quantity of such waste stored at that place at any time does not exceed 20,000 tonnes; and

(b) where the crushing is carried on otherwise than at the place where such waste is produced, the crushing is carried on with a view to the recovery or reuse of the waste.

(2) In this paragraph, "crushing" means crushing, grinding or other size reduction under an environmental permit to the extent it is an activity within paragraph (a) of Part B of Section 3.5 of Part 2 of Schedule 1.

Waterway dredging

25.—(1) Deposit of waste arising from dredging inland waters, or from clearing plant matter from inland waters, if—

(a) the waste is deposited along the bank or towpath of—

(i) the waters where the dredging or clearing takes place by the establishment or undertaking producing it, or

(ii) any inland waters so as to result in benefit to agriculture or ecological improvement;

(b) the total amount of waste so deposited on any day does not exceed 50 tonnes for each metre of the bank or towpath along which it is deposited; and

(c) the waste is not deposited in a container or lagoon.

(2) Treatment by screening or dewatering of such waste—

(a) on the bank or towpath of the waters where either the dredging or clearing takes place or the waste is to be so deposited, prior to the deposit;

(b) on the bank or towpath of the waters where the dredging or clearing takes place, or at a place where the waste is to be spread, prior to its being spread as an exempt waste operation falling within paragraph 7(1) or 7(2); or

(c) in the case of waste from dredging, on the bank or towpath of the waters where the dredging takes place, or at a place where the waste is to be spread, prior to its being spread as an exempt waste operation falling within paragraph 9(1).

Recovery or disposal as part of the production process

26.—(1) Recovery or disposal of waste, at the place where it is produced, as an integral part of the process that produces it, except for final disposal by deposit in or on land.

(2) Storage, at the place where it is produced, of waste which is intended to be so recovered or disposed of.

Baling, compacting, crushing, shredding or pulverising

27.—(1) Baling, compacting, crushing, shredding or pulverising waste at the place where it is produced.

(2) Storage, at the place where it is produced, of waste which is to be submitted to such an operation.

Spreading ash

28.—(1) Mixing ash from the incineration of pig or poultry carcases at its place of production with manure for use in land treatment specified in sub-paragraph (2).

(2) Treatment of land used for agriculture with agricultural waste at the place of production where such treatment results in benefit to agriculture or ecological improvement if—

(a) the waste consists of ash from the incineration of pig or poultry carcases or such ash mixed with manure from an exempt waste operation falling within in sub-paragraph (1);

(b) the land is at least—

(i) 10 metres from a watercourse, and

(ii) 50 metres from a spring, well or borehole;

(c) at the start of the treatment and at any time during the treatment—

(i) the land has not been frozen for 12 or more hours during the preceding 24 hours, and

(ii) the land is not waterlogged, flooded or snow-covered;

(d) the activity is carried out in accordance with any requirement imposed by an action plan under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998(**a**);

(**a**) S.I. 1998/1202, amended by S.I. 2002/1614, 2003/1852 (W.202).

(e) where the waste consists only of ash from the incineration of pig or poultry carcases, the waste is incorporated into the soil as soon as possible;

(f) the total quantity of ash incorporated into the soil does not exceed 150 kilogrammes per hectare in any period of 12 months; and

(g) the total quantity of nitrogen added to the soil as a result of the treatment does not exceed 250 kilogrammes per hectare in any period of 12 months.

(3) Secure storage of not more than 100 tonnes of waste intended to be used for such treatment.

Disposal by burning at the place of production

29.—(1) Burning waste at the place where it is produced by the person producing it in any of the following plant with a capacity of less than 50kg per hour—

(a) an excluded plant within section 5.1 of Part 2 of Schedule 1;

(b) any other incinerator not being used to incinerate clinical waste, sewage sludge, sewage screenings or municipal waste.

(2) Secure storage at that place of that waste if it is intended to submit it to such burning.

Burning waste in the open

30.—(1) Burning waste on land in the open if—

(a) the waste consists of plant tissue;

(b) it is agricultural waste or the waste is produced on—

(i) land which is operational land of a railway, a light railway, a tramway, an internal drainage board or the Agency,

(ii) land which is a forest, woodland, a park, a garden, a verge, a landscaped area, a sports ground, a recreation ground, a churchyard or a cemetery, or

(iii) other land as a result of demolition work;

(c) it is burned on the land where it is produced;

(d) the total quantity burned in any period of 24 hours does not exceed 10 tonnes; and

(e) the waste is burned by the establishment or undertaking producing it.

(2) Storing of such waste pending such burning, on the land where it is to be burned.

(3) Incorporation into soil of ash from cereal straw or cereal stubble burned as an exempt waste operation falling within sub-paragraph (1) if—

(a) the incorporation is on the land where the ash was produced; and

(b) the ash is incorporated in accordance with paragraph 10 of Schedule 2 to the Crop Residues (Burning) Regulations 1993(**a**).

(4) In this paragraph "operational land", in relation to an internal drainage board, means land which is held for the purpose of carrying out its functions as an internal drainage board.

Waste from railway sanitary conveniences or sinks

31. Discharging waste onto the track of a railway from a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on the railway if the discharge in question does not exceed 25 litres.

Waste from sanitary conveniences with removable receptacles

32. Burial on premises of waste arising from the use on those premises of a sanitary convenience which is equipped with a removable receptacle if the total amount buried in any period of 12 months does not exceed 5 cubic metres.

Peatworking

33. Keeping or depositing waste consisting of excavated materials arising from peatworking at the place where that operation takes place if the waste kept or deposited is produced by the establishment or undertaking carrying on the operation.

Railway ballast

34. Keeping or depositing on land spent ballast at the place where it is produced if—

(a) the land is operational land of a railway, a light railway or a tramway;

(**a**) S.I. 1993/1366.

(b) the total amount kept or deposited at that place does not exceed 10 tonnes for each metre of track from which the ballast derives; and

(c) the waste kept or deposited is produced by the establishment or undertaking carrying on the operation.

Waste from prospecting

35.—(1) Depositing waste consisting of excavated material from a borehole or other excavation made for the purpose of mineral exploration if—

(a) it is deposited in or on land at the place where it is excavated;

(b) the total quantity of waste so deposited over any period of 24 months does not exceed 45,000 cubic metres per hectare; and

(c) the drilling of the borehole or the making of any other excavation is development for which planning permission has been granted by article 3 of, and Class A or B of Part 22 of Schedule 2 to, the Town and Country Planning (General Permitted Development) Order 1995(**a**) and the conditions subject to which the development is permitted are observed.

(2) Expressions used in this paragraph which are also used in the Town and Country Planning (General Permitted Development) Order 1995 have the same meaning as in that Order.

Spreading dredgings

36.—(1) Treating land used for agriculture with agricultural waste where such treatment results in benefit to agriculture or ecological improvement if—

(a) the waste consists of dredged spoil (other than those containing dangerous substances) from farm ditches;

(b) the operation is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998; and

(c) the total quantity of waste used per hectare does not exceed 150 tonnes per hectare in any period of 12 months.

(2) Secure storage of not more than 200 tonnes of waste intended to be used for such treatment.

The deposit of agricultural waste consisting of plant tissue at the place of production

37.—(1) Depositing agricultural waste consisting of plant tissue at the place of production if—

(a) there is no more than 250 tonnes in any one deposit;

(b) the deposit is made on land which is at least—

(i) 10 metres from a watercourse, and

(ii) 50 metres from a spring, well or borehole;

(c) the deposit is not immediately adjacent to any other deposit made in carrying on an exempt waste operation falling within this paragraph;

(d) at the time the deposit is made the land—

(i) has not been frozen for 12 hours or more during the preceding 24 hours, and

(ii) is not waterlogged, flooded or snow-covered;

(e) the deposit is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998; and

(f) the deposit is carried out in accordance with any requirements specified under a notice served under article 32 of the Plant Health (England) Order 2005(**b**) or article 32 of the Plant Health (Wales) Order 2006(**c**).

Samples of waste

38. Depositing or storing samples of waste, including samples of waste which is hazardous waste, at any place where they are being or are to be tested or analysed, if the samples do not exceed 10 tonnes and are taken—

(a) in the exercise of any power under—

(i) the Radioactive Substances Act 1993(**d**),

(**a**) S.I. 1995/418, amended by S.I. 1999/293, 1999/1783, 2003/956, 2004/3156 (W. 273), 2006/1282, 2006/1386 (W. 136), and by the Utilities Act 2000 (c. 27), section 76(7); there are other amending instruments but none is relevant.
(**b**) S.I. 2005/2530, to which there are amendments not relevant to this instrument.
(**c**) S.I. 2006/1643 (W.158).
(**d**) 1993 c. 12.

(ii) the Control of Pollution Act 1974(**a**),

(iii) the 1990 Act,

(iv) the 1991 Act, or

(v) the Water Industry Act 1991(**b**);

(b) by or on behalf of the holder of an environmental permit;

(c) by or on behalf of a person carrying on in relation to the waste—

(i) an operation described in this Part, or

(ii) an excluded waste operation;

(d) by or on behalf of the owner or occupier of the land from which the samples are taken;

(e) by or on behalf of any person to whom section 34(1) of the 1990 Act(**c**) applies in connection with his duties under that section; or

(f) for the purposes of research.

Storage of medicines and medical, nursing or veterinary waste

39.—(1) Storing in secure containers at a pharmacy, pending its recovery there or elsewhere, medicines included in **18 01 08*, 18 01 09, 20 01 31*** or **20 01 32** or hypodermic syringes included in **18 01 01** or **18 01 03*,** which have been returned to the pharmacy from households or by individuals if—

(a) the total quantity of such waste at the pharmacy does not exceed 5 cubic metres at any time;

(b) any medicine or hypodermic syringe so returned to the pharmacy is not stored there for longer than 6 months; and

(c) the medicines and hypodermic syringes are stored separately.

(2) Storing in secure containers at the premises of a medical, nursing or veterinary practice waste of a kind described in sub-paragraph (3) produced in carrying on that practice if—

(a) the total quantity of that waste at the premises does not at any time exceed 5 cubic metres; and

(b) no such waste is stored at those premises for longer than three months.

(3) The kinds of waste referred to in sub-paragraph (2) are—

(a) hypodermic syringes and sharps included in **18 01 01, 18 01 03*, 18 02 01** or **18 02 02*;**

(b) body parts and organs included in **18 01 02;**

(c) general healthcare waste (other than hypodermic syringes and sharps) included in **18 01 03*, 18 01 04, 18 02 02*** or **18 02 03;**

(d) chemicals not consisting of or containing dangerous substances included in **18 01 07** or **18 02 06;** and

(e) medicines included in **18 01 08*, 18 01 09, 18 02 07*, 18 02 08, 20 01 31*** or **20 01 32.**

Repair or refurbishment of WEEE

40.—(1) Subject to sub-paragraph (6), carrying on, at any secure place in respect of WEEE of a kind described in the Table in sub-paragraph (2), the treatment operations of repair or refurbishment or both if—

(a) the operation is carried on with a view to the reuse of the WEEE for its original purpose;

(b) the best available treatment, recovery and recycling techniques are used when carrying on the operation;

(c) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the treatment limit specified in relation to that kind of WEEE in that Table; and

(d) the technical requirements specified in Annex III of the WEEE Directive are met.

(2) The Table referred to in sub-paragraph (1) is set out below.

Kind of Waste	*Storage Limits*	*Treatment Limits*
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 13)	80 cubic metres	5 tonnes per day
20 01 36 (WEEE other than those mentioned in 20 01 21, 20 01 23 and 20 01 35)	80 cubic metres	5 tonnes per day

(**a**) 1974 c. 40.
(**b**) 1991 c. 56.
(**c**) Section 34(1) was amended by S.I. 2000/1973 and is amended by these Regulations.

(3) Subject to sub-paragraph (6), carrying on, at any secure place in respect of WEEE that is hazardous waste of a kind described in the Table in sub-paragraph (4), the treatment operations of repair or refurbishment or both, but not including the degassing and capture of ozone depleting substances, if—

(a) the operation is carried on with a view to the reuse of the WEEE for its original purpose;

(b) best available treatment, recovery and recycling techniques are used when carrying on the operation;

(c) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the treatment limit specified in relation to that kind of WEEE in that Table;

(d) the technical requirements specified in Annex III of the WEEE Directive are met; and

(e) the other requirements specified in relation to that kind of WEEE in that Table are met.

(4) The Table referred to in sub-paragraph (3) is set out below.

Kind of Waste	*Storage Limits*	*Treatment Limits*	*Other Requirements*
16 02 11* (WEEE containing chlorofluorocarbons, HCFC, HFC) and **20 01 23*** (WEEE containing chlorofluorocarbons)	80 cubic metres	5 tonnes per day	Stored and treated in a manner that will prevent the release of the CFCs, HCFCs or HFCs
Televisions and computer monitors containing cathode ray tubes falling within **16 02 13*** (WEEE containing hazardous components other than those mentioned in 16 02 09 to 16 02 12) and **20 01 35*** (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	5 tonnes per day	

(5) Subject to sub-paragraph (6), secure storage at the place where the operation is carried on of any WEEE of a kind described in the Tables in sub-paragraph (2) or (4) intended to be submitted to repair or refurbishment or both if—

(a) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the storage limit specified in relation to that kind of WEEE in those Tables;

(b) the technical requirements specified in Annex III of the WEEE Directive are met;

(c) the other requirements specified in relation to that kind of WEEE in the Table in sub-paragraph (4) are met;

(d) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered; and

(e) no WEEE is stored at that place for more than 12 months.

(6) An operation does not fall within sub-paragraph (1), (3) or (5) at a place unless the person responsible for the management of that place has established administrative arrangements to ensure that—

(a) WEEE accepted at that place is of kind described in the Table in sub-paragraph (2) or the Table in sub-paragraph (4), as the case may be; and

(b) no waste is accepted at that place in such a quantity as would cause there to be a breach of any of the conditions of the exemption.

(7) For the purposes of this paragraph, the storage and treatment limits specified in the Tables in sub-paragraphs (2) and (4) are overall limits that apply to all waste falling within the 6 digit code or codes specified in those Tables.

Secure storage of WEEE

41.—(1) Secure storage at any place of WEEE of a kind described in the Table in sub-paragraph (2) if—

(a) the WEEE is stored for the purpose of its recovery elsewhere;

(b) the total quantity of any particular kind of WEEE stored at the site at any time does not exceed the storage limit specified in relation to that kind of WEEE in that Table;

(c) the total duration that any particular kind of WEEE is stored for does not exceed the duration limits specified in relation to that kind of WEEE in that Table;

(d) the type of containment specified in relation to that kind of WEEE in that Table are met; and

(e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.

(2) The Table referred to in sub-paragraph (1) is set out below.

Kind of Waste	*Maximum Quantity*	*Maximum Duration*	*Type of Containment*
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 12)	80 cubic metres	3 months	impermeable surface; weatherproof coating of stored WEEE
20 01 36 (WEEE other than those mentioned in 20 01 21, 20 01 23 and 20 01 35)	80 cubic metres	3 months	impermeable surface; weatherproof coating of stored WEEE

(3) Secure storage at any place of WEEE of a kind described in the Table in sub-paragraph (4) if—

(a) the WEEE is stored for the purpose of its recovery elsewhere;

(b) the total quantity of any particular WEEE stored at the site at any time does not exceed the storage limit specified in relation to that kind of WEEE in that Table;

(c) the total duration that any particular kind of WEEE is stored for does not exceed the duration limits specified in relation to that kind of WEEE in that Table;

(d) the type of containment and other requirements specified in relation to that kind of WEEE in that Table are met; and

(e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.

(4) The Table referred to in sub-paragraph (3) is set out below.

Kind of Waste	*Maximum quantity*	*Maximum duration*	*Type of containment*	*Other Requirements*
16 02 11* (WEEE containing chlorofluorocarbons, HCFC, HFC) and **20 01 23*** (WEEE containing chlorofluorocarbons)	80 cubic metres	3 months	impermeable surface; weatherproof covering of stored WEEE	stored in a manner that will prevent the release of the CFC, HCFC and HFC; the number of units in any stack must not exceed 2; the overall height of any stack must not exceed 3.5m
16 02 13* (WEEE containing hazardous components other than those mentioned in 16 02 09 to 16 02 12) and **20 01 35*** (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	3 months	impermeable surface; weatherproof covering of stored WEEE	
20 01 21* (fluorescent tubes and other mercury-containing waste)	50 cubic metres	3 months	appropriate secure containers; weatherproof covering	stored in such a way that the glass is not broken

(5) For the purposes of sub-paragraphs (1) and (3), the operation of storage must be taken to include the incidental sorting of waste of that kind.

(6) For the purposes of this paragraph, the storage and treatment limits specified in the Tables in sub-paragraphs (2) and (4) are overall limits that apply to all waste falling within the 6 digit code or codes specified in those Tables.

Crushing waste discharge lamps

42.—(1) Crushing waste discharge lamps (including fluorescent tubes which are hazardous waste within category 20 01 21*) for the purposes of volume reduction prior to collection , where the material is intended for recovery or reuse if—

(a) the operation is carried on in equipment designed for the purpose of volume reduction prior to collection;

(b) the operation is carried on solely for that purpose;

(c) the mercury concentration in emissions does not exceed 50 microgrammes/cubic metre; and

(d) the total quantity of lamps processed in any period of 24 hours does not exceed 3 tonnes.

(2) Secure storage of such lamps prior to crushing, or after crushing but prior to collection, if—

(a) the lamps are stored under weatherproof covering; and

(b) after crushing, the lamps are stored in a secure container.

Glass Manufacture and Production

43.—(1) Storage, at the place where the activity is carried out, of any waste glass which is intended to be used as part of the activity if—

(a) the total quantity of waste glass used as part of the activity does not exceed 600,000 tonnes in any period of 12 months; and

(b) the activity is carried on under an environmental permit.

(2) In this paragraph "activity" means an activity within Part B of Section 3.3 of Part 2 of Schedule 1.

Heating metals and metal alloys for the purpose of removing grease, oil or any other non-metallic contaminant

44.—(1) Subject to sub-paragraph (2), heating iron, steel, ferrous-alloys, non-ferrous metal or non-ferrous metal alloys—

(a) in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts; and

(b) for the purpose of removing grease, oil or any other non-metallic contaminant.

(2) An operation does not fall within sub-paragraph (1) if—

(a) it is the removal by heat of plastic or rubber covering from scrap cable, or any asbestos contaminant;

(b) in the case of a process involving the heating of iron, steel or ferrous-alloys, that process is an activity described in Section 2.1 (other than paragraph (d) of Part B) of Part 2 of Schedule 1; or

(c) in the case of a process involving the heating of any non-ferrous metal or non-ferrous metal alloy, that process is an activity described in Part A(1) or A(2) of Section 2.2 of Part 2 of Schedule 1.

(3) Secure storage of waste intended to be submitted to such heating if the waste or, as the case may be, any container in which the waste is stored, is stored on an impermeable pavement which is provided with a sealed drainage system.

(4) In this paragraph—

"ferrous alloy" means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2 of Part 2 of Schedule 1;

"net rated thermal input" means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal;

"non-ferrous metal alloy" means an alloy which is not a ferrous alloy.

Recovery of scrap metal or the dismantling of waste motor vehicles

45.—(1) Subject to sub-paragraph (5), carrying on, at any secure place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles, in respect of a kind of waste specified in column 1 of the Table in sub-paragraph (2), any of the corresponding operations specified in column 2 of that Table in relation to that kind of waste if—

(a) the total quantity of any particular kind of waste so dealt with at that place does not in any period of seven days exceed the limit specified in relation to that kind of waste in column 3 of that Table;

(b) the operation is carried on with a view to the recovery of the waste (whether or not that recovery is to be by the person carrying on the operation listed in that Table);

(c) every part of that place upon which the operation is carried out is surfaced with an impermeable pavement provided with a sealed drainage system; and

(d) the plant or equipment used in carrying on the operation is maintained in reasonable working order.

(2) The Table referred to in sub-paragraph (1) is set out below.

Column 1 *Kind of Waste*	*Column 2* *Operations*	*Column 3* *Seven Day Limit*
Ferrous metals or ferrous alloys in metallic non-dispersible form (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	8,000 tonnes
The following non-ferrous metals, namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	400 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	300 tonnes
Depolluted motor vehicles	Dismantling, rebuilding, restoring or reconditioning	40 vehicles
Lead acid motor vehicle batteries included in **16 06 01*,** whether or not forming part of, or contained in, a motor vehicle	Sorting	20 tonnes

(3) Subject to sub-paragraph (5), storage, at any secure place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles, of waste of a kind specified in column 1 of the Table in sub-paragraph (4) if—

(a) the waste is to be submitted to any of the operations specified in the Table in sub-paragraph (2) in relation to that kind of waste, or to a recycling or reclamation operation authorised by an environmental permit;

(b) the total quantity of waste of that kind stored at that place does not exceed the maximum total quantity specified in column 2 of the Table in sub-paragraph (4) in relation to that kind of waste;

(c) no waste is stored at that place for a period exceeding 12 months;

(d) each kind of waste is either stored separately or is kept in separate containers, but in a case where a consignment consisting of more than one kind of waste is delivered to that place, it may be stored unseparated at that place pending sorting for a period not exceeding 2 months;

(e) in the case of waste which is liquid or consists of motor vehicle batteries, it is stored in a secure container;

(f) subject to paragraph (g), the waste or, as the case may be, any container in which it is stored, is stored on an impermeable pavement which is provided with a sealed drainage system;

(g) in the case of waste motor vehicles, they are, where appropriate, stored on an impermeable pavement; and

(h) the height of any pile or stack of waste does not exceed 5 metres.

(4) The Table referred to in sub-paragraph (3) is set out below.

Column 1 *Kind of waste*	*Column 2* *Maximum total quantity*
Ferrous metals or ferrous alloys in metallic non-dispersible form (but not turnings, shavings or chippings of those metals or alloys)	50,000 tonnes

Column 1 *Kind of waste*	*Column 2* *Maximum total quantity*
The following non-ferrous metals, namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys)	1,500 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories	1,000 tonnes
Motor vehicles, stored where appropriate on an impermeable pavement	1,000 vehicles
Lead acid motor vehicle batteries included in **16 06 01*,** whether or not forming part of, or contained in, a motor vehicle	40 tonnes

(5) An operation does not fall within sub-paragraph (1) or (3) at a place unless—

(a) the person responsible for the management of that place has established administrative arrangements to ensure that—

(i) waste accepted at that place is of a kind listed in the Table in sub-paragraph (2) or, as the case may be, the Table in sub-paragraph (4), and

(ii) no waste is accepted at that place in such a quantity as would cause there to be a breach of any of the terms and conditions of the exemption;

(b) that person carries out a monthly audit to confirm compliance with the terms and conditions of the exemption;

(c) the records referred to in Article 14 of the Waste Framework Directive are kept in such a form as to show, for each month, the total quantity of each kind of waste recovered during that month at that place;

(d) details of the total quantity of each kind of waste recovered at that place during the preceding 12 months are sent annually to the exemption registration authority with the charge referred to in paragraph (f);

(e) an up to date plan of that place containing the details referred to in paragraph 6(2)(b) of Schedule 2 is sent annually to the exemption registration authority with the annual charge referred to in paragraph (f) below; and

(f) the charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act(**a**) is paid in respect of that place to the exemption registration authority by the due date which must be ascertained in accordance with sub-paragraph (6).

(6) For the purposes of ascertaining the due date in any year for payment of the charge referred in paragraph (5)(f) in respect of any place the exemption registration authority must serve notice in accordance with sub-paragraph (7) on the establishment or undertaking from which notice has been received by the exemption registration authority under paragraph 3(1)(b) of Schedule 2 in respect of that place.

(7) A notice required by sub-paragraph (6) must be served not later than 1 month before the anniversary of the date when the notice, plan and charge referred to in paragraph 6 of Schedule 2 were received by the exemption registration authority in respect of that place and must specify—

(a) the amount of the payment due;

(b) the method of payment;

(c) the date of such anniversary;

(d) that payment is due on that date or, if later, upon the day falling 1 month after the date of the notice; and

(e) the effect of payment not being made by the date on which it is due,

and the due date for payment of the annual fee for that year by that establishment or undertaking in respect of that place is the date specified for payment in the notice.

(8) Temporary storage of waste (in this sub-paragraph referred to as the "non-scrap waste"), pending its collection, at a secure place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles if—

(a) the non-scrap waste is not of a kind described in the Table in sub-paragraph (4);

(b) the non-scrap waste was delivered to that place as part of a consignment of waste of which—

(**a**) Section 41 was amended by S.I. 2005/894, 2005/1806 (W. 138), 2006/937 and 2007/1711.

(i) at least 70 per cent by weight was waste consisting of waste motor vehicles, or

(ii) at least 95 per cent by weight was waste of any kind described in the Table in sub-paragraph (4) other than waste motor vehicles,

and is capable of being separated from that waste by sorting or hand dismantling;

(c) the non-scrap waste is stored at that place for no more than 3 months;

(d) where the non-scrap waste is liquid, it is stored in a secure container; and

(e) the non-scrap waste or, as the case may be, the container in which the non-scrap waste is stored, is stored on an impermeable pavement which is provided with a sealed drainage system.

(9) In this paragraph—

"depolluted", in relation to waste motor vehicles, means subjected to all of the operations described in paragraph 3 of Annex I of the End-of-Life Vehicles Directive;

"shearing" means the cold cutting of metal by purpose-made shears;

"waste motor vehicle" has the meaning given in paragraph 2(1) of Schedule 11.

Burning plant tissue waste and wood at a dock

46.—(1) Subject to sub-paragraph (3), burning at a dock of waste consisting of—

(a) plant tissue waste; or

(b) wood of any kind used to wedge or support parts of cargo, including packing material, spacers and pallets,

pursuant to a notice given under article 32 of the Plant Health (England) Order 2005(**a**) or article 32 of the Plant Health (Wales) Order 2006(**b**), if the waste is burned on a hardstanding, within a secure location at the dock where it was unloaded.

(2) Subject to sub-paragraph (3), storage at the dock where it was unloaded of waste intended to be so burned.

(3) An operation does not fall within this paragraph unless the total quantity of waste stored or burned, in any period of 24 hours, does not exceed 15 tonnes.

Treating land by the spreading of agricultural waste

47.—(1) Treating land used for agriculture with agricultural waste where such treatment results in benefit to agriculture or ecological improvement if—

(a) the waste is liquid milk;

(b) the land is at least—

(i) 10 metres from a watercourse, and

(ii) 50 metres from a spring, well or borehole;

(c) before the treatment the waste is diluted with not less than an equal quantity of water or slurry;

(d) at the time the treatment begins—

(i) the land has not been frozen for 12 hours or more during the preceding 24 hours, and

(ii) the land is not waterlogged, flooded or snow-covered;

(e) the operation is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998(**c**);

(f) the land is treated at a rate of no greater than 50 cubic metres of the diluted waste per hectare per 24 hours;

(g) in any period of 4 weeks the land is treated only once; and

(h) the quantity of total nitrogen added to the soil as a result of the treatment does not exceed 250 kilogrammes per hectare in any period of twelve months.

(2) Secure storage or dilution of waste intended to be used for such treatment.

Pet burial

48. Burial of a dead domestic pet in the garden of a domestic property where the pet lived unless—

(a) the dead domestic pet may prove hazardous to anyone who may come into contact with it; or

(b) the burial is carried out by an establishment or undertaking and the pet did not die at the property.

(**a**) S.I. 2005/2530, to which there are amendments not relevant to this instrument.
(**b**) S.I. 2006/1643 (W.158).
(**c**) S.I. 1998/1202, amended by S.I. 2002/2614, 2003/1852 (W. 202).

PART 2

Other operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions

Temporary storage of ships' garbage or tank washings

49.—(1) Temporary storage of waste consisting of garbage, including any such waste which is hazardous waste, at reception facilities provided within a harbour area in accordance with the 2003 Regulations where such storage is incidental to the collection or transport of the waste if—

(a) the amount of garbage so stored does not at any time exceed 20 cubic metres for each ship from which garbage has been landed; and

(b) no garbage is so stored for more than 7 days.

(2) Temporary storage of waste consisting of tank washings, including any such waste which is hazardous waste, at reception facilities provided within a harbour area in accordance with the 2003 Regulations where such storage is incidental to the collection or transport of the waste if—

(a) the amount of tank washings consisting of dirty ballast so stored does not at any time exceed 30% of the total deadweight of the ships from which such washings have been landed; and

(b) the amount of tank washings consisting of waste mixtures containing oil so stored does not at any time exceed 1% of the total deadweight of the ships from which such washings have been landed.

(3) In this paragraph—

(a) "the 2003 Regulations" means the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003(**a**);

(b) "garbage" has the same meaning as "ship generated waste" in regulation 2 of the 2003 Regulations;

(c) "harbour area" has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987(**b**);

(d) "ship" means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and any structure which is a fixed or floating platform; and

(e) "tank washings" means waste residues from the tanks (other than the fuel tanks) or holds of a ship or waste arising from the cleaning of such tanks or holds.

Storing non-liquid waste pending its management elsewhere

50. Storing non-liquid waste at any place other than the premises where it is produced if—

(a) it is stored in a secure container, does not at any time exceed 50 cubic metres in total and is not kept for a period longer than 3 months;

(b) the person storing the waste is the owner of the container or has the consent of the owner;

(c) the place where it is stored is not a site designed or adapted for—

(i) the reception of waste with a view to its being disposed of or recovered elsewhere, or

(ii) the recovery of scrap metal or the dismantling of waste motor vehicles; and

(d) such storage is incidental to the collection or transport of the waste.

Temporary storage of scrap rails

51. Temporary storage of scrap rails on operational land of a railway, a light railway or a tramway if the total quantity of that waste in any one place does not at any time exceed 10 tonnes and the storage is incidental to the collection or transport of the scrap rails.

Temporary storage of waste on the site where it is produced

52.—(1) Temporary storage of waste, including WEEE, pending its collection, on the site where it is produced if—

(a) the storage is not at a place designed or adapted for the recovery of scrap metal or the dismantling of vehicles;

(b) in the case of vehicles, the storage complies with—

(i) the general requirements in Article 4 of the Waste Framework Directive, and

(ii) the relevant minimum technical requirements described in Annex I of the End-of-Life Vehicles Directive; and

(c) in the case of hazardous waste it is stored on the site for no more than 12 months, and—

(**a**) S.I. 2003/1809.

(**b**) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

(i) if liquid, it is stored in a secure container and the total volume of that waste does not at any time exceed 23,000 litres, and

(ii) in any other case, either it is stored in a secure container and the total volume of that waste does not at any time exceed 80 cubic metres, or it is stored in a secure place and the total volume of that waste does not at any time exceed 50 cubic metres.

(2) In this paragraph "vehicle" means a motor vehicle of any type that is waste.

SCHEDULE 4

Regulation 11

Application of these Regulations to the Crown

Crown application

1. Subject to paragraphs 2 to 4, these Regulations bind the Crown.

Contravention of these Regulations by the Crown

2.—(1) If the Crown contravenes a provision of these Regulations—

(a) it is not criminally liable under regulation 38; and

(b) no proceedings may be taken against it under regulation 42.

(2) But—

(a) on the application of a regulator, the High Court may declare a contravention of these Regulations by the Crown to be unlawful; and

(b) these Regulations apply to persons in the public service of the Crown as they apply to other persons.

Entry to Crown premises

3.—(1) If the appropriate authority considers that in the interests of national security particular powers of entry must not be used in relation to particular Crown premises it may certify that those powers must not be used in relation to those premises.

(2) In this paragraph—

"Crown premises" means premises held or used by or on behalf of the Crown;

"power of entry" means a power of entry exercisable under section 108 of the 1995 Act(**a**), in relation to a function under these Regulations.

Service on certain Crown operators

4.—(1) This paragraph applies in relation to a regulated facility operated or controlled by a person acting on behalf of—

(a) the Royal Household;

(b) the Duchy of Lancaster; or

(c) the Duke of Cornwall or other possessor of the Duchy of Cornwall.

(2) When serving or giving notices or notifications, or instituting proceedings, the following person must be treated as the operator—

(a) in relation to sub-paragraph (1)(a), the Keeper of the Privy Purse;

(b) in relation to sub-paragraph (1)(b), the person appointed by the Chancellor of the Duchy of Lancaster;

(c) in relation to sub-paragraph (1)(c), the person appointed by the Duke of Cornwall or other possessor of the Duchy of Cornwall.

(**a**) 1995 c. 25. Section 108 was amended by the Pollution Prevention and Control Act 1999, c. 24, section 6(2) and Schedule 3; S.I. 2000/1973, the Anti-social Behaviour Act 2003, c.38, section 55(6) and (8); and the Clean Neighbourhoods and Environment Act 2005, c. 16, section 53.

SCHEDULE 5

Regulations 13(2), 15(3), 20(4), 21(2) and 25(3)

Environmental permits

PART 1

Grant, variation, transfer and surrender of environmental permits

Interpretation

1.—(1) In this Part—

"application" means an application—

(a) for the grant of an environmental permit under regulation 13(1),

(b) by an operator under regulation 20(1), for the variation of an environmental permit,

(c) for the transfer, in whole or in part, of an environmental permit under regulation 21(1), or

(d) for the surrender, in whole or in part, of an environmental permit under regulation 25(2);

"applicant" means—

(a) in the case of an application to transfer an environmental permit in whole or in part, the operator and the proposed transferee,

(b) in every other case, the operator;

"confidential information" has the meaning given in regulation 45;

"proposed transferee" means the person to whom an operator proposes to transfer an environmental permit in whole or in part;

"public consultee" means a person who in the regulator's opinion is affected by, is likely to be affected by, or has an interest in, an application;

"regulator initiated variation" means the variation of an environmental permit on the initiative of the regulator under regulation 20(1).

Making an application

2.—(1) An application must—

(a) be made by the applicant on the form provided by the regulator; and

(b) include the information specified on the form.

(2) Every application must be accompanied by any fee prescribed in a charging scheme made by the regulator under section 41 of the 1995 Act(**a**) or by the appropriate authority under regulation 65.

Withdrawing an application

3.—(1) A duly-made application may be withdrawn by the applicant before it is determined.

(2) If an application is withdrawn the applicant is not entitled to the return of any fee which accompanied it.

Further information in respect of a duly-made application

4.—(1) If the regulator considers that it requires further information to determine a duly-made application, it may serve a notice on the applicant specifying the further information and the period within which it must be provided.

(2) If the applicant fails to provide the further information in accordance with the notice, the regulator may serve a further notice on the applicant stating that the application is deemed to be withdrawn, upon which the application is deemed to be withdrawn.

(3) If an application is deemed to be withdrawn, the applicant is not entitled to the return of any fee which accompanied it.

Public participation: scope

5.—(1) Paragraph 6 applies to every application for the grant of an environmental permit except an application in relation to—

(a) mobile plant; or

(b) a standard facility, unless the facility is a Part A installation.

(2) Paragraph 6 applies to every application to vary an environmental permit if—

(a) it would entail a substantial change; or

(**a**) Section 41 was amended by S.I. 2005/894, 2005/1806 (W. 138), 2006/937 and 2007/1711.

(b) the regulator determines that the paragraph should apply.

(3) Paragraph 8 applies to every regulator initiated variation if—

(a) it would entail a substantial change; or

(b) the regulator determines that the paragraph should apply.

(4) But, paragraphs 6 and 8 do not apply to the extent that the application or regulator initiated variation relates to—

(a) the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts;

(b) dry cleaning;

(c) the unloading of petrol into stationary storage tanks at a service station if it is an activity within paragraph (d) of Part B of Section 1.2 of Part 2 of Schedule 1; or

(d) any motor vehicle refuelling activity within paragraph (e) or (f) of Part B of Section 1.2 of Part 2 of Schedule 1.

(5) In this paragraph—

"change in operation" means a change in the nature or functioning, or an extension, of an installation, which may have consequences for the environment;

"co-incineration plant" has the meaning given in Section 5.1 of Part 2 of Schedule 1;

"dry cleaning" has the meaning given in Part B of Section 7 of Part 2 of Schedule 1;

"incineration plant" has the meaning given in Section 5.1 of Part 2 of Schedule 1;

"substantial change" means a change in operation of an installation which in the regulator's opinion may have significant negative effects on human beings or the environment and includes—

(a) in relation to a Part A installation, a change in operation which in itself meets the thresholds, if any, set out in Part 2 of Schedule 1, and

(b) in relation to an incineration plant or co-incineration plant for non-hazardous waste, a change in operation which would involve the incineration or co-incineration of hazardous waste.

(6) When assessing whether a change in operation of a Part B installation has significant effects on the environment, the regulator must consider only its emissions to air.

Public participation in relation to certain applications

6.—(1) Subject to sub-paragraphs (2) and (3), if this paragraph applies the regulator must, within the consultation communication period,—

(a) take the steps it considers appropriate to inform the public consultees of the application and the place and times its public register can be inspected free of charge;

(b) invite the public consultees to make representations on the application; and

(c) specify to the public consultees the address to which and the period within which representations must be made.

(2) The regulator must not inform the public consultees of information which is to be excluded from a public register in the interests of national security unless the appropriate authority directs that it must do so.

(3) The regulator must not inform the public consultees of information which is to be excluded from a public register because it is confidential information, unless the public consultee is—

(a) a public authority and the information is necessary for the exercise of its functions; or

(b) a sewerage undertaker and the information relates to the release of any substance into a sewer vested that undertaker.

Calculation of the consultation communication period

7.—(1) In paragraph 6 "the consultation communication period" means a period of 30 working days starting on the day the regulator receives a duly-made application.

(2) But if—

(a) a determination in relation to national security or confidentiality is to be made under regulation 47 or 50; or

(b) the regulator gives notice under regulation 49(1) that it considers information in an application may be confidential information,

"the consultation communication period" means a period of 30 working days starting on the determination date, or on the day the applicant gives notice of consent under regulation 49(2), as the case may be.

(3) In sub-paragraph (2), "determination date" means—

(a) the date of a determination under regulation 47(3) or 47(7);

(b) if the regulator determines under regulation 51 that the information must be excluded from the public register, the date of the determination; or

(c) if the regulator determines otherwise under that regulation—

(i) if an appeal is brought, the date of determination or withdrawal of that appeal, or

(ii) if no appeal is brought, the date on which the period for bringing an appeal expires.

Public participation in relation to regulator initiated variations

8.—(1) If this paragraph applies, the regulator must notify the operator—

(a) that the public participation procedures in sub-paragraph (2) apply;

(b) of the variation it proposes to the environmental permit; and

(c) of any fee prescribed in respect of this paragraph in a charging scheme made by the regulator under section 41 of the 1995 Act or by the appropriate authority under regulation 65.

(2) The regulator must—

(a) take the steps it considers appropriate to inform the public consultees of the proposed variation;

(b) invite the operator and the public consultees to make representations on the proposed variation; and

(c) specify to the operator and the public consultees the address to which and the period within which representations must be made.

Consultation: conditions mentioned in regulation 15(1)

9.—(1) This paragraph applies if the regulator proposes to include a condition mentioned in regulation 15(1) in an environmental permit.

(2) If this paragraph applies, the regulator must serve a notice which complies with sub-paragraph (3) on every person appearing to it to fall within sub-paragraph (4).

(3) The notice must specify—

(a) the proposed condition;

(b) the works or other things which the condition would require; and

(c) the address to which and the period within which representations must be made (which period must not expire less than 20 working days after the day the notice is served).

(4) A person falls within this sub-paragraph if—

(a) he is the owner, lessee or occupier of land; and

(b) regulation 15(2) would require him to grant the rights mentioned there if the proposed condition were included in the environmental permit.

(5) In sub-paragraph (4)(a), "owner" means the person who—

(a) is receiving the rack-rent of the land, whether on his own account or as agent or trustee for another person; or

(b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession.

Consultation with other member States

10.—(1) This paragraph applies if—

(a) an appropriate authority is aware that a relevant application or regulator initiated variation is likely to have significant negative effects on the environment of another member State; or

(b) another member State requests information about a relevant application or regulator initiated variation.

(2) As soon as is reasonably practicable the appropriate authority must—

(a) send the particulars of the application or variation to that member State to serve as the basis for bilateral consultations of the type referred to in Article 17 of the IPPC Directive;

(b) inform that member State of the relevant matters; and

(c) notify the applicant or the operator, as the case may be, and the regulator that it has complied with paragraphs (b) and (c).

(3) If a regulator receives notification under sub-paragraph (2)(c), it must not determine the application or make a regulator initiated variation until the appropriate authority has—

(a) notified it that the bilateral consultations have been completed; and

(b) sent it any representations made by the member State.

(4) In this paragraph—

"member State" includes Iceland, Liechtenstein and Norway;

"relevant application" means an application in relation to an installation carrying on an activity listed in Annex I of the IPPC Directive—

(a) for the grant of an environmental permit, or

(b) to vary an environmental permit;

"relevant matter" means a matter in paragraph 1 of Annex V of the IPPC Directive ignoring any matter in paragraph 1(f) of that Annex.

Duty to consider representations

11. Before it determines an application or makes a regulator initiated variation, the regulator must consider any representation—

(a) made pursuant to paragraph 6(1)(b), 8(2)(b) or 9(3)(c); or

(b) sent to it under paragraph 10(3)(b).

Duty to determine an application

12.—(1) The regulator must grant or refuse a duly-made application.

(2) Except in the case of an application to surrender an environmental permit in whole, the regulator may grant an application subject to such conditions as it sees fit.

(3) But—

(a) variations of an environmental permit in relation to the grant of an application for variation, transfer in whole or in part, or partial surrender must be in consequence of the variation, transfer or partial surrender, as the case may be; and

(b) if granting an application for partial transfer, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.

Identity and competence of the operator

13.—(1) The regulator must refuse an application for the grant of an environmental permit or the transfer in whole or in part of an environmental permit if it considers that the requirements in sub-paragraph (2) will not be satisfied.

(2) The requirements are that the applicant, in the case of the grant of a permit, or the proposed transferee, in the case of the transfer of a permit in whole or in part, must—

(a) be the operator of the regulated facility; and

(b) operate the facility in accordance with the environmental permit.

Surrender applications

14. The regulator must accept an application to surrender an environmental permit in whole or in part under regulation 25(2) if it is satisfied that the necessary measures have been taken—

(a) to avoid a pollution risk resulting from the operation of the regulated facility; and

(b) to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation.

Time limits for determination

15.—(1) If—

(a) the regulator has not determined an application within the relevant period; and

(b) the applicant serves a notice on the regulator which refers to this paragraph,

the application is deemed to have been refused on the day on which the notice is served.

(2) In sub-paragraph (1) "the relevant period" means a period, calculated in accordance with paragraph 16, of—

(a) in the case of an application to transfer an environmental permit in whole or in part, 2 months;

(b) in a case where paragraph 6 applies, 4 months; or

(c) in any other case, 3 months,

or in any case, a longer period than the period in paragraph (a), (b) or (c), if it is agreed by the regulator and the applicant.

Calculation of the relevant period

16.—(1) This paragraph provides for the calculation of a period referred to in paragraph 15(2).

(2) The period starts—

(a) on the day the regulator receives a duly-made application; or

(b) if paragraph 10 applies, on the day the appropriate authority complies with paragraph 10(3).

(3) In calculating the period the following periods must be ignored—

(a) a period from the service of a notice requiring further information under paragraph 4(1) to the receipt by the regulator of that information;

(b) a period for representations mentioned in paragraph 9(3)(c) to the extent that it does not overlap with a period for representations mentioned in paragraph 6(1)(c);

(c) a period during which national security or confidentiality is being considered in relation to the application, that is to say—

(i) any period during which a determination under regulation 47(3), 47(7) or 50 is being considered (including any appeal), or

(ii) a period of 15 working days after the service of a notice under regulation 49(1); and

(d) if the regulator informs the public in relation to a draft decision in accordance with paragraph 1(d) of Annex V to the IPPC Directive, a period of 20 working days.

Notification of a determination or decision

17.—(1) As soon as is reasonably practicable after it determines an application or decides to make a regulator initiated variation, the regulator must comply with sub-paragraph (2).

(2) The regulator must—

(a) notify the applicant or operator, as the case may be, of—

(i) its determination or decision,

(ii) the rights of appeal the applicant or operator has under regulation 31, and

(iii) the requirements relating to the exercise of those rights in paragraphs 2 and 3 of Schedule 6; and

(b) if paragraph 10 applies, notify the appropriate authority of the determination or decision.

(3) In this paragraph, "determination" and "decision" include the reasons for the determination or decision.

Date of effect of certain determinations and decisions

18.—(1) This paragraph applies to—

(a) a determination by which the regulator grants an application which—

(i) varies an environmental permit in consequence of an application for variation, transfer in whole or in part, or partial surrender, or

(ii) grants a new environmental permit in consequence of an application for partial transfer; and

(b) a decision to make a regulator initiated variation.

(2) The determination or decision must specify any variation and the date it is to take effect.

(3) If the regulator grants an application for the transfer of an environmental permit in whole or in part, the determination must specify the date agreed between the regulator and the applicant that the transfer is to take effect.

Form of certain determinations and decisions: consolidation of permits

19.—(1) This paragraph applies to every determination and decision to which paragraph 18 applies.

(2) A determination or decision may comprise—

(a) a consolidated permit reflecting the variations; and

(b) a notice specifying the variations included in that consolidated permit.

(3) Only the variations specified are subject to the right of appeal in regulation 31(1)(b).

PART 2

Compensation in relation to conditions affecting certain interests in land

Interpretation

20. In this Part—

"grantor" means a person who grants the operator rights pursuant to regulation 15(2);

"relevant interest" means an interest in land out of which rights have been granted pursuant to regulation 15(2);

"rights" means the rights granted by the grantor.

Entitlement to compensation

21. A grantor is entitled to be paid compensation under this Part by the operator.

Loss and damage for which compensation is payable

22. Subject to paragraph 25(3) and 25(5)(b), compensation is payable for loss and damage of the following descriptions—

(a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;

(b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;

(c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—

(i) is attributable to the grant of the rights or the exercise of them,

(ii) does not consist of depreciation in the value of that interest, and

(iii) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily—

(aa) under the Acquisition of Land Act 1981(**a**), and

(bb) in pursuance of a notice to treat served on the date on which the rights were granted;

(d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which—

(i) is not a relevant interest, and

(ii) results from the grant of the rights or the exercise of them;

(e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

Date when entitlement to compensation arises

23.—(1) An entitlement to compensation under this Part arises on the date of the grant of the rights.

(2) But if an appeal against the conditions of the environmental permit which rendered the grant of rights necessary is refused, the entitlement to compensation arises on the date the appeal is finally determined.

Application for compensation

24.—(1) An application for compensation under this Part must be made by the grantor—

(a) within 12 months of the date on which the entitlement to compensation arises; or

(b) within 6 months of the date on which the rights are first exercised.

(2) An application must be—

(a) made in writing;

(b) made to the operator to whom the rights were granted; and

(c) delivered at or sent by pre-paid post to the last known address for correspondence of that operator.

(3) The application must contain, or be accompanied by—

(a) a copy of the grant of rights in respect of which the grantor's entitlement arises and any plans attached to that grant;

(b) a description of the exact nature of any interest in land in respect of which compensation is applied for;

(c) a statement of the amount of compensation applied for—

(i) distinguishing the amounts applied for under each of paragraphs 22(a) to 22(e), and

(ii) showing how the amount applied for under each paragraph has been calculated; and

(d) if the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 23(2), a copy of the notice of the final determination of the appeal.

Assessment of the amount to be paid by way of compensation

25.—(1) The amount to be paid by way of compensation under this Part must be assessed in accordance with this paragraph.

(**a**) 1981 c. 67.

(2) The rules set out in section 5 of the Land Compensation Act 1961(**a**) have effect for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land, so far as applicable and subject to any necessary modifications.

(3) No account is to be taken of any enhancement of the value of an interest in land by reason of any building erected, work done, or improvement or alteration made on land in which the grantor is, or was at the time of erection, doing or making, directly or indirectly concerned if the erection of the building, the doing of the work, the making of the improvement or the alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of a loss under paragraph 22(e), expenditure incurred in the preparation of plans or on other similar preparatory matters must be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

(a) the compensation must be assessed as if the interest were not subject to the mortgage; and

(b) no compensation is payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation must include an amount equal to the grantor's reasonable valuation and legal expenses.

Payment of compensation

26.—(1) Compensation in respect of an interest which is subject to a mortgage must be paid—

(a) to the mortgagee; or

(b) if there is more than one mortgagee, to the first mortgagee,

and must, in either case, be applied by him as if it were proceeds of sale.

(2) Amounts of compensation determined under this Part are payable—

(a) where the operator and the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;

(b) where the operator and the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment;

(c) in any other case, subject to any direction of the Lands Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been finally determined.

(3) Any question of the application of paragraph 25(3) or dispute as to the amount of compensation must be referred to and determined by the Lands Tribunal.

(4) In relation to the determination of such a question, sections 2 and 4 of the Land Compensation Act 1961(**b**) apply as if—

(a) the reference in section 2(1) of that Act to section 1 of that Act were a reference to sub-paragraph (3) of this paragraph; and

(b) references in section 4 of that Act to the acquiring authority were references to the operator.

Interest payable on compensation

27.—(1) Compensation payable under this Part carries interest at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 from the date specified in sub-paragraph (2) to payment.

(2) The date is—

(a) in the case of compensation payable under paragraph 22(a) or 22(b), the date of depreciation;

(b) in the case of compensation payable under paragraph 22(c), 22(d) or 22(e), the date on which the loss is sustained, the damage is done, or the injurious affection occurs, as the case may be;

(c) in the case of compensation payable under paragraph 25(6), the date on which the expenses become payable.

(3) If it appears to a person that he may become liable to pay to another compensation under this Schedule or interest under this paragraph he may, if the other person requests him in writing to do so, make one or more payments on account of such compensation or interest.

(4) If, after a payment has been made by a person under sub-paragraph (3)—

(a) it is agreed or determined that he is not liable to pay compensation or interest; or

(b) by reason of any agreement or determination, a payment under that sub-paragraph is shown to be excessive,

the payment or excess, as the case may be, is recoverable by that person.

(**a**) 1961 c. 33. Section 5 was amended by the Planning and Compensation Act 1991 (c. 34), sections 70 and 84, and Schedules 15 and 19.

(**b**) Section 2 was amended by the Local Government, Planning and Land Act 1980 (c. 65), section 193 and Schedule 33.

SCHEDULE 6

Regulations 31(5) and 62(5)

Appeals to the appropriate authority

Interpretation

1. In this Schedule—

"appeal" means an appeal to the appropriate authority;

"appointed person" means the person appointed under paragraph 5;

"determination" includes the reasons for the determination.

Making an appeal

2.—(1) A person who wants to make an appeal must—

(a) send the appropriate authority written notice of the appeal and the documents specified in sub-paragraph (2); and

(b) at the same time send the regulator copies of the notice and documents.

(2) The documents are—

(a) a statement of the grounds of appeal;

(b) a copy of any relevant application;

(c) a copy of any relevant environmental permit;

(d) a copy of any relevant correspondence between the appellant and the regulator;

(e) a copy of any decision or notice which is the subject matter of the appeal; and

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or dealt with by way of written representations.

(3) An appellant may withdraw an appeal by notifying the appropriate authority in writing and must send a copy of that notification to the regulator.

Time limit for making an appeal

3.—(1) A notice of appeal must be given—

(a) in relation to an appeal against a revocation notice, before the notice takes effect;

(b) in relation to the withdrawal of a duly-made application under paragraph 4(2) of Schedule 5, not later than 15 working days from the date of the notice served under that paragraph;

(c) in relation to a variation notification, a suspension notice, an enforcement notice or a landfill closure notice, not later than 2 months from the date of the notification or notice;

(d) in any other case not later than 6 months from the date of the decision or deemed decision.

(2) The appropriate authority may in a particular case allow notice of appeal to be given after the periods mentioned in sub-paragraph (1)(b) or (c) have expired.

(3) In this paragraph "variation notification" means notification of a decision to vary an environmental permit given under paragraph 17(2) of Schedule 5.

Notice to affected and interested persons

4.—(1) The regulator must, within 10 working days of receipt of a copy of a notice of appeal, give notice of it to any person who in the regulator's opinion is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal.

(2) A notice must include—

(a) a description of the subject matter of the appeal; and

(b) a statement that representations in writing may be made to the appropriate authority within a period of 15 working days beginning with the date of the notice.

(3) The regulator must notify the appropriate authority of the persons to whom, and the date on which, such a notice was sent, within 10 working days of sending it.

(4) The regulator must give notice of the withdrawal of an appeal to every person given such a notice.

Hearing before an appointed person

5.—(1) Before determining an appeal the appropriate authority may give the appellant and the regulator an opportunity of appearing before and being heard by a person appointed by him, and must do so in a case where a request is duly-made by the appellant or the regulator to be so heard.

(2) If the appointed person so decides, a hearing may be held wholly or to any extent in private.

(3) The persons entitled to be heard at a hearing are—

(a) the appellant;

(b) the regulator; and

(c) a person who has made representations to the regulator in respect of the subject matter of the appeal within the period mentioned in paragraph 4(2)(b).

(4) The appointed person may permit other persons to be heard and such permission must not be unreasonably withheld.

(5) After the hearing, the appointed person must make a report in writing to the appropriate authority which must include—

(a) his conclusions; and

(b) either his recommendations or his reasons for not making recommendations.

(6) Subsections (2) to (5) of section 250 of the Local Government Act 1972(**a**) apply to hearings held under this paragraph by an appointed person as they apply to inquiries caused to be held under that section by a Minister with the following modifications—

(a) the substitution in subsection (2) for the reference to the person appointed to hold the inquiry with a reference to the appointed person;

(b) the substitution in subsection (4) for the references to the Minister causing the inquiry to be held with references to the appropriate authority;

(c) the substitution of the reference in that subsection to a local authority with a reference to the regulator;

(d) the substitution in subsection (5) for the reference to the Minister causing the inquiry to be held with a reference to the appropriate authority.

Notice of determination of an appeal

6.—(1) The appropriate authority must give notice to the appellant of its determination and provide him with a copy of the report mentioned in paragraph 5(5).

(2) At the same time the appropriate authority must send—

(a) a copy of the documents mentioned in sub-paragraph (1) to the regulator; and

(b) a copy of its determination to any person who made representations in respect of the subject matter of the appeal to the authority, or at any hearing.

Procedure following the quashing of a determination of an appropriate authority

7.—(1) If a determination is quashed in proceedings before a court, the appropriate authority—

(a) must send to the persons notified of its determination under paragraph 6 a statement of the matters in relation to which further representations are invited;

(b) must give those persons the opportunity of making written representations in respect of those matters within 20 working days of the date of the statement; and

(c) may, as it thinks fit, cause a hearing to be held or reopened.

(2) If a hearing is held or reopened under sub-paragraph (1)(c), paragraphs 5(2) to 5(6) apply as they apply to a hearing held under paragraph 5(1).

(3) Paragraph 6 applies to the re-determination of an appeal as it applies to the determination of that appeal.

SCHEDULE 7

Regulation 35(a)

Provision in relation to Part A installations and Part A mobile plant

Application

1. This Schedule applies in relation to every Part A installation and Part A mobile plant.

Interpretation

2. When interpreting the IPPC Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "installation" means "Part A installation or Part A mobile plant";

(**a**) 1972 c. 70. Section 250 was amended by the Criminal Justice Act 1982, c. 48, section 46; the Statute Law (Repeals) Act 1989, c. 43; and the Housing and Planning Act 1986, c. 63, section 49(2) and Schedule 12.

(c) "permit" means "environmental permit";

(d) the competent authority is the regulator.

Exercise of regulator's functions: general

3. The regulator must exercise its functions under these Regulations for the purpose of achieving a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land.

Applications for an environmental permit

4.—(1) The regulator must ensure that every application for an environmental permit includes the information specified in Article 6(1) of the IPPC Directive.

(2) But when interpreting Article 6(1), the regulator must ignore the fourth indent in the case of—

(a) Part A mobile plant; and

(b) any Part A installation which includes a SED activity or part of a SED activity (and any directly associated activity) which is not also an activity other than a SED activity (or a directly associated activity).

Exercise of relevant functions

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the IPPC Directive—

(a) Article 3, ignoring the words "provide that the competent authorities";

(b) Article 9(1) to 9(6);

(c) Article 10;

(d) Article 12;

(e) Article 14 second indent;

(f) Article 18(2).

(2) But when interpreting the IPPC Directive for the purposes of this paragraph, the regulator must—

(a) ignore the second and fourth paragraphs of Article 9(3);

(b) in the case of Part A mobile plant, in Article 9(4), ignore the words "its geographical location and the local environmental conditions";

(c) ignore the second paragraph of Article 9(5);

(d) ignore the second paragraph of Article 9(6); and

(e) in the case of Part A mobile plant, ignore Article 12.

Public participation

6.—(1) The regulator must exercise its functions under the public participation provisions in relation to Part A installations so as to meet the requirements of Article 15(1) of the IPPC Directive.

(2) In this paragraph, "public participation provisions" means regulations 26, 29 and 59, and paragraphs 6 and 8 of Schedule 5.

Review of environmental permits

7. The regulator must review an environmental permit if any of the circumstances in Article 13(2) of the IPPC Directive apply in relation to the Part A installation or Part A mobile plant it authorises.

Developments in best available techniques

8.—(1) The regulator must follow developments in best available techniques.

(2) In this paragraph, "best available techniques" has the meaning given in Article 2(11) of the IPPC Directive.

SCHEDULE 8

Regulation 35(b)

Provision in relation to Part B installations and Part B mobile plant

Application

1. This Schedule applies in relation to every Part B installation and Part B mobile plant.

Interpretation

2. When interpreting the IPPC Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "installation" means "Part B installation or Part B mobile plant";

(c) "permit" means "environmental permit";

(d) a reference to "emission limit values" must be read as a reference to those values which are relevant to air pollution;

(e) the competent authority is the regulator.

Exercise of regulator's functions: general

3. The regulator must exercise its functions under these Regulations for the purpose of preventing or, where that is not practicable, reducing emissions into the air.

Applications for an environmental permit

4.—(1) The regulator must ensure that every application for an environmental permit includes the information specified in Article 6(1) of the IPPC Directive.

(2) But, when interpreting Article 6(1), the regulator must—

(a) ignore the second, fourth and seventh indents;

(b) ignore the third and fifth indents to the extent that a Part B installation carries on dry cleaning;

(c) in the fifth indent, the reference to "each medium" must be read as a reference to "air";

(d) ignore the sixth indent to the extent that a Part B installation carries on the burning of waste oil in an appliance with a rated thermal input of less than 0.4 megawatts;

(e) in the eighth indent, read the reference to "Article 3" as a reference to "Article 3 (a) and (b)".

(3) In this paragraph "dry cleaning" has the meaning given in Part B of Section 7 of Part 2 of Schedule 1.

Exercise of relevant functions

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the IPPC Directive—

(a) Article 3 (a) and (b);

(b) Article 9(1) to (4);

(c) Article 10;

(d) Article 12;

(e) Article 18(2).

(2) But when interpreting the IPPC Directive for the purposes of this paragraph, the regulator must—

(a) in Article 3, ignore the words "provide that the competent authorities";

(b) in Article 9(1) read—

(i) the reference to "Article 3" as a reference to "Article 3 (a) and (b)", and

(ii) the words from "in order" to the end of the Article as "for the purpose of preventing or, where that is not practicable, reducing emissions into the air.";

(c) in Article 9(3), ignore the words "and their potential to transfer pollution from one medium to another (water, air and land)";

(d) in Article 9(4)—

(i) in the case of Part B mobile plant, ignore the words "its geographical location and the local environmental conditions", and

(ii) ignore the last sentence;

(e) in the case of Part B mobile plant, ignore Article 12;

(f) in Annex III, ignore the section headed "WATER".

Review of environmental permits

6. The regulator must review an environmental permit if any of the circumstances in Article 13(2) of the IPPC Directive apply in relation to the Part B installation or Part B mobile plant it authorises.

Developments in best available techniques

7.—(1) The regulator must follow developments in best available techniques.

(2) In this paragraph, "best available techniques" has the meaning given in Article 2(11) of the IPPC Directive, save that the reference to "Annex IV" in that Article must be read as a reference to "paragraphs 4 to 8 of Annex IV".

SCHEDULE 9

Regulation 35(c)

Provision in relation to waste operations

Application

1. This Schedule applies in relation to every waste operation.

Grant of an environmental permit: requirement for prior planning permission

2.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit in relation to a relevant waste operation if use of the site for carrying on that operation requires a planning permission and no such permission is in force.

(2) In this paragraph—

(a) "planning permission" means planning permission under the Town and Country Planning Act 1990(**a**) and includes—

(i) a certificate under section 191 of that Act(**b**), and

(ii) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section;

(b) "relevant waste operation" means—

(i) a waste operation that is carried on other than at an installation or mobile plant, or

(ii) a specified waste management activity.

(3) In sub-paragraph (2)(b), "specified waste management activity" means one of the following activities—

(a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;

(b) the disposal of waste falling within Section 5.3 of Part 2 of Schedule 1;

(c) the recovery of waste falling within Part A(1)(c)(i), (ii), (v) or (vii) of Section 5.4 of Part 2 of Schedule 1.

(4) But "specified waste management activity" does not include any activity specified in sub-paragraph (3)(b) or (c) if that activity—

(a) is carried on at the same installation as a Part A(1) activity not specified in sub-paragraph (3); and

(b) is not the activity which constitutes the primary purpose for operating the installation.

Exercise of relevant functions: all waste operations

3. The regulator must exercise its relevant functions—

(a) for the purposes of implementing Article 4 of the Waste Framework Directive; and

(b) so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the regulator on request.

Exercise of relevant functions: disposal of waste

4.—(1) The regulator must exercise its relevant functions in relation to disposal of waste—

(a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words "in cooperation with other Member States where this is necessary or advisable";

(b) for the purposes of implementing, so far as material, any waste management plan; and

(c) so as to ensure that the requirements in the second pragraph of Article 9(1) of the Waste Framework Directive are met.

(2) In this paragraph, "waste management plan" has the meaning given in Schedule 20.

(**a**) 1990 c. 8.

(**b**) Section 191 was substituted by the Planning and Compensation Act 1991 (c. 34), section 10(1).

SCHEDULE 10

Regulation 35(d)

Provision in relation to landfill

Application

1. This Schedule applies in relation to every landfill except—

(a) in relation to an operation mentioned in Article 3(2) of the Landfill Directive; or

(b) a landfill which finally ceased to accept waste for disposal before 16th July 2001.

Interpretation: general

2.—(1) In this Schedule—

(a) except where otherwise defined in Part 1 of these Regulations, an expression defined in the Landfill Directive has the meaning given in that Part;

(b) "the Decision" means Council Decision 2003/33/EC(**a**);

(c) "the Decision Annex" means the Annex to the Decision.

(2) When interpreting the Landfill Directive and the Decision for the purposes of this Schedule—

(a) an expression defined in Part 1 of these Regulations has the meaning given there;

(b) "landfill permit" means environmental permit;

(c) "nature protection zone" means any—

(i) site of special scientific interest within the meaning given by section 52 of the Wildlife and Countryside Act 1981(**b**), or

(ii) European site within the meaning given by regulation 10(1) of the Conservation (Natural Habitats, &c) Regulations 1994(**c**);

(d) "PAHs (polycyclic aromatic hydrocarbons)" means Napthalene, Acenaphthylene, Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Benzo(a)pyrene, Chrysene, Coronene, Dibenzo(a,h)anthracene, Fluorene, Fluoranthene, Indeno(1,2,3-c,d)pyrene, Phenanthrene and Pyrene;

(e) "permit" means environmental permit;

(f) "SIC code" means a code included in "The United Kingdom Standard Industrial Classification of Economic Activities 2003", published by the Office for National Statistics on 31st December 2002 and implemented on 1st January 2003(**d**);

(g) the competent authority is the regulator.

Applications for an environmental permit

3. The regulator must require that every application for an environmental permit includes the information specified in Article 7 of the Landfill Directive.

Inspection prior to operation

4. The regulator must inspect every landfill site so as to comply with the requirements in Article 8(c) of the Landfill Directive.

Exercise of relevant functions

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Landfill Directive—

(a) Article 4;

(b) Article 5(3) and 5(4);

(c) Article 6;

(d) Article 8;

(e) Article 9;

(f) Article 10;

(g) Article 11(1);

(**a**) OJ No. L11, 16.1.2003, p27.
(**b**) 1981 c. 69, the definition was inserted by the Countryside and Rights of Way Act 2000, section 75(1) and Schedule 9.
(**c**) S.I. 1994/2716, amended by S.I. 2000/192. There are other amending instruments but none is relevant.
(**d**) ISBN: 0116216417.

(h) Article 12;
(i) Article 13;
(j) Article 14.

(2) The regulator must exercise its relevant functions having regard to Article 1 of the Landfill Directive.

(3) The regulator must exercise its relevant functions so as to ensure compliance with the requirements imposed on the Member State by the following provisions of the Decision—

(a) Article 2;
(b) Article 3;
(c) Article 4.

Interpretation of the Landfill Directive for the exercise of relevant functions

6. When interpreting the Landfill Directive for the purposes of paragraph 5(1)—

(a) in Article 6(a), the words "This provision may not apply to" must be read as "This provision does not apply to";
(b) in Article 8(a)(iv), ignore the last sentence;
(c) the last sentence of paragraph 2 of Annex I must be read as "The above provisions do not apply to inert landfills."; and
(d) in paragraph 3(3) of Annex I, ignore the sentence immediately following the table headed "Leachate collection and bottom sealing".

Interpretation of the Decision Annex for the exercise of relevant functions: general

7. When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in points 1.1.1 and 1.2, the periods referred to as to be defined or determined by the Member State are in each case two years;
(b) point 1.1.2(b) must be read as requiring the SIC code of the process producing the waste to be part of the information referred to;
(c) in point 1.1.2(g), ignore the words "in case of mirror entries";
(d) ignore the third sentence of section 2;
(e) in points 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1 the table columns headed "L/S = 10 l/kg" must be used to determine limit values;
(f) in the table in point 2.1.2.2, the limit value for PAHs (polycyclic aromatic hydrocarbons) is set at 100 mg/kg;
(g) in point 2.2.3, the first reference to "gypsum-based materials" must be read as "gypsum-based and other high sulphate bearing materials";
(h) in point 2.3.3, the first reference to "suitable asbestos waste" must be read as "suitable materials"; and
(i) in the table in point 2.4.1, the limit values are subject to the qualification that the regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to three times higher than those listed for specified wastes accepted at a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria relating to physical stability and bearing capacity of granular waste

8. When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) in point 2.3.2, the criteria to ensure that granular waste will have sufficient physical stability and bearing capacity are that it has either—
  (i) if it is cohesive waste, a mean in situ shear strength of at least 50kPa, or
  (ii) if it is non-cohesive waste, an in situ bearing ratio of at least 5%;
(b) point 2.4.2 must be read as if, in addition to the criteria listed, it requires the satisfaction of the criteria in paragraph (a)(i) and (a)(ii).

Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria in relating to monolithic waste

9. When interpreting the Decision Annex for the purposes of paragraph 5(3)—

(a) point 2.3.1 must be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to stable, non-reactive monolithic hazardous waste and non-hazardous waste which is to be landfilled in the same cell with such waste—

(i) it meets either—

(aa) the limit values for leaching set out in the table in point 2.3.1, or

(bb) the limit values for leaching set out in the following table—

Component	*Symbol*	*mg/m2*
Arsenic	As	1.3
Barium	Ba	45
Cadmium	Cd	0.2
Total Chromium	Cr_{total}	5
Copper	Cu	45
Mercury	Hg	0.1
Molybdenum	Mo	7
Nickel	Ni	6
Lead	Pb	6
Antimony	Sb	0.3
Selenium	Se	0.4
Zinc	Zn	30
Chloride	Cl^-	10,000
Fluoride	F^-	60
Sulphate	SO_4^{2-}	10,000
Dissolved Organic Carbon	DOC	Must be evaluated

(ii) it meets the additional criteria set out in the following table—

Parameter	*Value*
pH of the eluate from the monolith or crushed monolith	Must be evaluated
Electrical conductivity (μ S.cm-1m-2) of the eluate from the monolith or crushed monolith	Must be evaluated
Acid Neutralisation Capacity (ANC) of the crushed monolith	Must be evaluated

(iii) it has a mean unconfined compressive strength of at least 1Mpa after 28 days curing;

(iv) it has either—

(aa) dimensions of greater than 40cm along each side, or

(bb) a depth and fracture spacing when hardened of greater than 40cm; and

(v) where the waste was subjected to treatment to render it monolithic, prior to such treatment it met the following limit values—

(aa) loss on ignition of 10%, or

(bb) total organic carbon of 6%;

(b) point 2.4.1 in the Decision Annex must be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to monolithic waste to be accepted at a landfill for hazardous waste—

(i) it complies with paragraphs (a)(ii) to (a)(v), and

(ii) it meets either—

(aa) the limit values for leaching set out in the table in point 2.4.1, or

(bb) the limit values for leaching set out in the following table—

Components	*Symbol*	*$mg/m^{2\,(1)}$*
Arsenic	As	20
Barium	Ba	150
Cadmium	Cd	1
Total Chromium	Cr_{total}	25
Copper	Cu	60
Mercury	Hg	0.4
Molybdenum	Mo	20
Nickel	Ni	15
Lead	Pb	20
Antimony	Sb	2.5
Selenium	Se	5
Zinc	Zn	100
Chloride	Cl^-	20,000
Fluoride	F^-	200

Components	*Symbol*	*mg/m²* [1]
Sulphate	SO_4^{2-}	20,000
Dissolved Organic Carbon	DOC	Must be evaluated

[1] The regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to three times higher for specified wastes accepted in a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

Closure of a landfill

10.—(1) The regulator must set out any reasoned decision under Article 13(a)(iii) of the Landfill Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure,—

(a) specify the steps the operator is required to take to initiate the procedure; and

(b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a landfill does not relieve the operator of liability under the conditions of the environmental permit.

Surrender applications

11. When determining an application to surrender an environmental permit in whole or in part in relation to a landfill the regulator must exercise its functions so as to ensure the operator complies with the requirements in Article 13(d) of the Landfill Directive.

SCHEDULE 11

Regulation 35(e)

Provision in relation to waste motor vehicles

Application

1. This Schedule applies in relation to waste motor vehicles.

Interpretation

2.—(1) In this Schedule—

"waste" means waste within the meaning of Article 1(a) of the Waste Framework Directive;

"waste motor vehicle" means a motor vehicle that is waste.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "end-of-life vehicle" means waste motor vehicle;

(c) "vehicle" means any motor vehicle;

(d) "waste" means waste within the meaning of Article 1(a) of the Waste Framework Directive.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) and (3) of the End-of-Life Vehicles Directive.

(2) When interpreting the End-of-Life Vehicles Directive for the purposes of this paragraph, "establishment or undertaking" must be read as "operator".

SCHEDULE 12

Regulation 35(f)

Provision in relation to waste electrical and electronic equipment

Application

1. This Schedule applies in relation to waste electrical and electronic equipment which is within the scope of the WEEE Directive by virtue of Article 2 of that Directive.

Interpretation

2.—(1) In this Schedule, "waste electrical and electronic equipment" has the meaning given in Article 3(b) of the WEEE Directive.

(2) When interpreting the WEEE Directive for the purposes of this Schedule—

(a) an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) "permit" means environmental permit;

(c) "waste" means waste within the meaning of Article 1(a) of the Waste Framework Directive.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 6(1) first paragraph, (3) and (4) of the WEEE Directive.

(2) But when interpreting the WEEE Directive for the purposes of this paragraph, ignore the following words in Article 6(4)—

(a) "or the registration referred to in paragraph 2"; and

(b) "and for the achievement of the recovery targets set out in Article 7".

SCHEDULE 13

Regulation 35(g)

Provision in relation to waste incineration

Application

1. This Schedule applies in relation to every waste incineration installation.

Interpretation

2.—(1) In this Schedule, "waste incineration installation" means that part of an installation or mobile plant in which any of the following activities is carried out—

(a) the incineration of waste falling within the following provisions of Section 5.1 of Part 2 of Schedule 1—

(i) sub-paragraphs (a) to (c) of Part A(1), or

(ii) sub-paragraphs (a) or (b) of Part A(2); or

(b) any other activity falling within Part 2 of Schedule 1 which is carried out in a co-incineration plant (as that term is defined in Section 5.1 of Part 2 of Schedule 1).

(2) When interpreting the Waste Incineration Directive for the purposes of this Schedule—

(a) an expression defined in Section 5.1 of Part 2 of Schedule 1 has the meaning given in that Section;

(b) except where also defined in Section 5.1 of Part 2 of Schedule 1, an expression defined in Part 1 of these Regulations has the meaning given that Part;

(c) "permit" means environmental permit;

(d) the competent authority is the regulator.

Applications for an environmental permit

3. The regulator must require that every application for an environmental permit includes the information specified in Article 4(2) of the Waste Incineration Directive.

Exercise of relevant functions

4.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Waste Incineration Directive—

(a) Article 4(3) to 4(5);

(b) Article 5;

(c) Article 6, except the last indent of 6(4);

(d) Article 7(1) to 7(4);

(e) Article 8(1) to 8(7);

(f) Article 9;

(g) Article 10;

(h) Article 11, except for 11(1) and 11(13);

(i) Article 12(2), to the extent that it relates to the provision of annual reports by the operator;

(j) Article 13.

(2) But when interpreting the Waste Incineration Directive for the purposes of this paragraph—

(a) in Article 6(4), ignore the words "Member States may lay down rules governing these authorisations" in both places they occur;

(b) in Article 11(1), ignore the words "either" and "or by general binding rules";

(c) Article 11(2)(c) must be read as if the words "and dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons" appeared after the word "furans"; and

(d) Annex V must be read as if every reference to an exemption which "may" be authorised by the competent authority was to an exemption which "must" be authorised by the competent authority.

SCHEDULE 14

Regulation 35(h)

Provision in relation to SED installations

Application

1. This Schedule applies in relation to every SED installation.

Interpretation

2.—(1) In this Schedule, "the Solvent Emissions Directive" means Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations(**a**).

(2) When interpreting the Solvent Emissions Directive for the purposes of this Schedule—

(a) an expression defined in Section 7 of Part 2 of Schedule 1 has the meaning given that Section;

(b) except where also defined in that Section or in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(c) "authorisation" means environmental permit;

(d) "emission" has the meaning given in the Solvent Emissions Directive;

(e) "installation" means SED installation;

(f) the competent authority is the regulator.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Solvent Emissions Directive—

(a) Article 4(4);

(b) Article 5, except for the last sentence of 5(3), and 5(13);

(c) Article 7(2);

(d) Article 8(1) to 8(4);

(e) Article 9;

(f) Article 10.

(2) When interpreting the Solvent Emissions Directive for the purposes of this paragraph—

(a) in Article 5(1), ignore the words "either" and "or by general binding rules";

(b) in Article 7(2), ignore the words "and during the formulation of general binding rules";

(c) in point 1 of Annex IIB, ignore the last sentence.

SCHEDULE 15

Regulation 35(i)

Provision in relation to certain combustion plants

Application

1. This Schedule applies in relation to every combustion plant to which the Large Combustion Plants Directive applies by virtue of Article 1 of that Directive.

(**a**) OJ No. L 85, 29.3.1999, p1, as last amended by Directive 2004/42/EC of the European Parliament and of the Council (OJ No. L 143, 30.4.2003, p87). There are two relevant corrigenda, OJ No. L 188, 21.7.1999, p54 and OJ No. L 240, 10.9.1999, p24.

Interpretation

2.—(1) In this Schedule—

"combustion plant" has the meaning given in Article 2(7) of the Large Combustion Plants Directive;

"existing plant" has the meaning given in Article 2(10) of the Large Combustion Plants Directive; and

"the Large Combustion Plants Directive" means Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants(**a**).

(2) When interpreting the Large Combustion Plants Directive for the purposes of this Schedule—

(a) except where also defined in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is—

(i) for the purposes of exercising a judgment of whether there is an overriding need to maintain energy supplies under Article 7(1) or 7(3) of the Large Combustion Plants Directive, the appropriate authority,

(ii) otherwise, the regulator;

(c) the national emission reduction plan referred to in Article 4(6) of the Large Combustion Plants Directive is the emission plan, as amended from time to time, published under regulation 4(1) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**b**);

(d) "emission" has the meaning given in the Large Combustion Plants Directive;

(e) "licence" means environmental permit;

(f) "permit" means environmental permit; and

(g) in Article 4(4), ignore the words "and from their inclusion in the national emission reduction plan".

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Large Combustion Plants Directive—

(a) Article 4(1), (2) and (4);

(b) Article 5(1);

(c) Article 6;

(d) Article 7, except the last sentence of 7(2) and the last sentence of 7(3);

(e) Article 8;

(f) Article 9;

(g) Article 10;

(h) Article 12;

(i) Article 13;

(j) Article 14(1), 14(2) and 14(4).

(2) The regulator must—

(a) exercise its relevant functions in relation to a regulated facility which—

(i) is an existing plant, and

(ii) elects to comply with the emission limit values established under Article 4(1) of the Large Combustion Plants Directive,

so as to ensure compliance with Article 4(3)(a) of that Directive; and

(b) exercise its relevant functions in relation to a regulated facility which is included in the national emission reduction plan referred to in Article 4(6) of the Large Combustion Plants Directive so as to ensure compliance with Article 4(3)(b) of that Directive, to the extent that such compliance is not ensured by the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**c**).

(3) The regulator must—

(a) immediately inform the appropriate authority of any suspension under Article 7(2) or derogation under Article 7(3) of the Large Combustion Plants Directive;

(**a**) OJ No. L 309, 27.11.2001, p1. There is a relevant corrigendum, OJ No. L 319, 23.11.2002, p30.
(**b**) S.I. 2007/2325.
(**c**) S.I. 2007/2325.

(b) immediately inform the appropriate authority if it considers a judgment of whether there is an overriding need to maintain energy supplies under Article 7(1) or 7(3) of the Large Combustion Plants Directive must be made; and

(c) exercise its relevant functions in relation to such a judgment in accordance with the decision of that authority.

SCHEDULE 16

Regulation 35(j)

Provision in relation to asbestos

Application

1. This Schedule applies in relation to every regulated facility.

Interpretation

2.—(1) In this Schedule, "the Asbestos Directive" means Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos(**a**).

(2) When interpreting the Asbestos Directive for the purposes of this Schedule—

(a) except where otherwise defined in this paragraph, an expression defined in Part 1 of these Regulations has the meaning given in that Part;

(b) the competent authority is the regulator;

(c) "waste" has the meaning given in the Asbestos Directive.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Asbestos Directive—

(a) Article 3;

(b) Article 4(1);

(c) Article 5;

(d) Article 6(1) and 6(2);

(e) Article 8.

(2) When interpreting the Asbestos Directive for the purposes of this paragraph, in Article 6(1), "regular intervals" means, for the purposes of a regulated facility to which Article 4 applies, intervals of not more than 6 months.

SCHEDULE 17

Regulation 35(k)

Provision in relation to titanium dioxide

Application

1. This Schedule applies in relation to every regulated facility which carries on the chlorine process or the sulphate process.

Interpretation

2.—(1) In this Schedule—

"the Titanium Dioxide Directive" means Council Directive 92/112/EEC on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry(**b**); and

"chlorine process" and "sulphate process" have the same meanings as they have in Article 2 of the Titanium Dioxide Directive.

(2) When interpreting the Titanium Dioxide Directive for the purposes of this Schedule, an expression defined in Part 1 of these Regulations has the meaning given in that Part.

(**a**) OJ No. L 85, 28.3.1987, p40, as last amended by Council Regulation (EC) No. 807/2003 (OJ No. L 122, 16.5.2003, p36).

(**b**) OJ No. L 409, 31.12.1992, p11.

Exercise of relevant functions

3. The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Titanium Dioxide Directive—

(a) Article 4;

(b) Article 6;

(c) Article 9;

(d) Article 10;

(e) Article 11.

SCHEDULE 18

Regulation 35(l)

Provision in relation to petrol vapour recovery

Application

1. This Schedule applies in relation to every activity within sub-paragraphs (c) and (d) of Part B of Section 1.2 of Chapter 1 of Part 2 of Schedule 1.

Interpretation

2. In this Schedule, "the Petrol Vapour Recovery Directive" means European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**a**).

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Petrol Vapour Recovery Directive—

(a) Article 3(1), first paragraph;

(b) Article 4(1), first and last paragraphs, and 4(3);

(c) Article 6(1), first paragraph.

(2) When interpreting the Petrol Vapour Recovery Directive for the purposes of this paragraph—

(a) in point 1 of Annex I, "special landscape areas which have been designated by national authority" includes the Broads, the New Forest and any National Park or Area of Outstanding Natural Beauty; and

(b) ignore points 2.3, 3.2 and 3.5 of Annex IV.

SCHEDULE 19

Regulation 46(1)

Public registers

Matters to be included in a public register

1.—(1) A public register must contain a copy of—

(a) every application—

(i) for the grant of an environmental permit,

(ii) to vary a environmental permit,

(iii) to transfer an environmental permit in whole or in part, or

(iv) to surrender an environmental permit in whole or in part;

(b) every notice requesting further information under paragraph 4(1) of Schedule 5,

(c) all representations made in respect of an application for an environmental permit or to vary an environmental permit;

(d) every environmental permit, variation, transfer in whole or in part, or surrender in whole or in part granted or made by the regulator;

(e) every determination or decision notified under paragraph 17(2)(a) of Schedule 5;

(f) every enforcement notice, revocation notice, suspension notice, landfill closure notice or notice withdrawing such a notice served by the regulator;

(**a**) OJ No. L 365, 31.12.1994, p24, as amended by Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p1).

(g) in relation to an appeal to an appropriate authority, every—
  (i) notice of appeal,
  (ii) document relating to the appeal,
  (iii) representation made in respect of the appeal, and
  (iv) determination of the authority, including any report accompanying that determination;
(h) all monitoring information obtained by the regulator—
  (i) as a result of its own monitoring,
  (ii) by virtue of any environmental permit condition, or
  (iii) under regulation 60;
(i) all other information given to the regulator in compliance with—
  (i) an environmental permit condition,
  (ii) an enforcement notice,
  (iii) a suspension notice,
  (iv) a landfill closure notice, or
  (v) regulation 60;
(j) every report published by the regulator relating to an assessment of the environmental consequences of the operation of an installation;
(k) every direction given to the regulator by an appropriate authority under these Regulations, other than a direction given under regulation 47.

(2) A public register must also contain—
(a) details of any conviction or formal caution for an offence under regulation 38 in respect of an environmental permit granted by the regulator or a failure to apply to the regulator for an environmental permit;
(b) a list identifying all waste incineration installations which—
  (i) have a capacity of less than 2 tonnes per hour, and
  (ii) are the subject of an environmental permit containing conditions which give effect to the Waste Incineration Directive; and
(c) details of—
  (i) all fees and charges paid to the local authority pursuant to a scheme under regulation 65, and
  (ii) the total expenditure of the authority in exercising its functions under these Regulations in respect of permits granted by the authority.

(3) The regulator may omit a representation referred to in sub-paragraph (1) from its public register at the request of the person making the representation, but it must then include in the public register a statement that a representation was made and was the subject of such a request.

(4) If the regulator omits monitoring information referred to in sub-paragraph (1) from its public register on the grounds that it is commercially or industrially confidential the regulator must include in the public register a statement indicating whether or not there has been compliance with any environmental permit condition related to that monitoring information and requiring compliance with emission limit values.

(5) In this paragraph, "waste incineration installation" has the meaning given in Schedule 13.

Information no longer relevant for public participation

2. A regulator is not required to keep in its public register information which is no longer relevant for the purposes of public participation required under these Regulations.

Formal cautions

3. A regulator must remove details of any formal caution from its public register 5 years after the caution was given.

SCHEDULE 20

Regulation 68(3)

Further provision relating to waste

Interpretation: general

1. In this Schedule—
"authority" means—
(a) an appropriate authority,

(b) the Agency,

(c) a planning authority,

(d) a person appointed under section 114(1)(a) of the 1995 Act(**a**);

"local planning authority" has the same meaning as in the Town and Country Planning Act 1990(**b**);

"planning authority" means—

(a) a local planning authority,

(b) a joint committee constituted under section 29 of the Planning and Compulsory Purchase Act 2004(**c**),

(c) the person appointed under paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990(**d**),

(d) a government department in respect of its functions under the planning Acts, or

(e) the Secretary of State in respect of his functions under the planning Acts;

"plan making provisions" means—

(a) paragraph 5 of Schedule 4 to the 1994 Regulations,

(b) Part 2 of the Town and Country Planning Act 1990(**e**),

(c) section 44A of the 1990 Act(**f**),

(d) in England, Parts 1 and 2 and Schedule 8 of the Planning and Compulsory Purchase Act 2004, and

(e) in Wales—

(i) Part 6 of the Planning and Compulsory Purchase Act 2004,

(ii) article 3(3) of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005(**g**);

"the planning Acts" means—

(a) the Town and Country Planning Act 1990,

(b) the Planning (Listed Buildings and Conservation Areas) Act 1990(**h**),

(c) the Planning (Hazardous Substances) Act 1990(**i**),

(d) the Planning (Consequential Provisions) Act 1990(**j**), and

(e) the Planning and Compulsory Purchase Act 2004;

"planning permission" has the meaning given by section 336 of the Town and Country Planning Act 1990(**k**);

"pollution control authority" means an authority other than a planning authority;

"specified functions" has the meaning given in paragraph 2;

"waste management plan" means a plan or other expression of strategy or policy in relation to waste management made under the plan making provisions.

Interpretation: specified functions

2.—(1) In this Schedule, "specified functions" means—

(a) in the case of an appropriate authority, its functions—

(i) under Part II of the Food and Environment Protection Act 1985(**l**), and

(ii) in relation to the determination of appeals against decisions of the Environment Agency in the exercise of its specified functions;

(b) in the case of the Environment Agency, its functions in relation to—

(i) consents under Chapter II of Part III of the Water Resources Act 1991(**m**) for a discharge of waste in liquid form other then waste waters,

(ii) authorisations under regulation 18 of the Groundwater Regulations 1998(**n**), and

(iii) notices under regulation 19 of the Groundwater Regulations 1998;

(**a**) Section 114 was amended by the Water Act 2003, c. 37, sections 3(13), 8(7), 13(4) and 21(4), and by S.I. 2000/1973.
(**b**) 1990, c. 8.
(**c**) 2004, c. 5.
(**d**) Paragraph 1 was amended by the Planning and Compensation Act 1991 c.34, section 32.
(**e**) Part 2 is repealed by the Planning and Compulsory Purchase Act 2004, section 120 and Schedule 9, but is saved for certain purposes in England by S.I. 2004/2202 and in Wales by S.I. 2005/2847 (W.118).
(**f**) Section 44A was inserted by the Environment Act 1995, c.25, section 92(1).
(**g**) S.I. 2005/2847.
(**h**) 1990 c. 9.
(**i**) 1990 c. 10.
(**j**) 1990 c. 11.
(**k**) The definition of "planning permission" in section 336 was amended by the Planning and Compensation Act 1991, sections 32 and 84(6) and Schedules 7 and 19.
(**l**) 1985, c. 48.
(**m**) 1991, c. 57.
(**n**) S.I. 1998/2746.

(c) in the case of a person appointed under section 114(1)(a) of the 1995 Act, his functions in relation to the determination of appeals against decisions of the Environment Agency in the exercise of its specified functions;

(d) in the case of a planning authority—

(i) determining an application for planning permission or an appeal made under section 78 of the Town and Country Planning Act 1990(**a**) relating to such a determination,

(ii) deciding whether to take action under section 141(2) or (3) or 177(1)(a) or (b) of the Town and Country Planning Act 1990(**b**), or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990,

(iii) deciding whether to direct under section 90(1), (2) or (2A) of the Town and Country Planning Act 1990(**c**) that planning permission must be deemed to be granted,

(iv) deciding whether—

(aa) in making or confirming a discontinuance order, to include in the order any grant of planning permission, or

(bb) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission,

and for the purposes of this sub-paragraph, "discontinuance order" means an order under section 102 of the Town and Country Planning Act 1990 (including an order made under that section by virtue of section 104 of that Act), or under paragraph 1 of Schedule 9 to that Act (including an order made under that paragraph by virtue of paragraph 11 of that Schedule)(**d**),

(v) making a local development order under section 61A of the Town and Country Planning Act 1990(**e**), and

(vi) discharging functions under Part II of the Town and Country Planning Act 1990, under parts 1 and 2 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to England or under part 6 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to Wales.

(2) But a function which must be discharged by statutory instrument is not a specified function.

Exercise of specified functions: all waste operations

3.—(1) Every authority must exercise its specified functions in relation to waste operations—

(a) for the purposes of implementing Article 4 of the Waste Framework Directive; and

(b) when exercising a function under the plan making provisions, for the purposes of implementing Article 3(1) of the Waste Framework Directive.

(2) Every authority, other than a planning authority, must exercise its specified functions in relation to waste operations so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the authority on request.

Exercise of specified functions: disposal of waste

4.—(1) Every authority must exercise its specified functions in relation to disposal of waste—

(a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words "in cooperation with other Member States where this is necessary or advisable";

(b) for the purposes of implementing, so far as material, any waste management plan.

(2) Every pollution control authority must exercise its specified functions in relation to disposal of waste so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.

Periodic inspections

5. Every authority must make appropriate periodic inspections of every establishment or undertaking carrying on a waste operation in relation to which it is required to exercise its specified functions under paragraph 3 or 4.

(**a**) Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2) and the Planning and Compulsory Purchase Act 2004 (c. 5), sections 40(2)(e) and 43(2).

(**b**) Section 177 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7.

(**c**) Section 90(1) was amended by the Environment Act 1995, c. 25, section 78 and Schedule 10; Section 90(2A) was inserted by the Transport and Works Act 1992, c. 42, section 16(1).

(**d**) Section 102 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7; Section 102 and Paragraph 1 of Schedule 9 were amended by section 21 and Schedule 1 of that Act.

(**e**) Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40(1).

Requirements applying to planning authorities

6.—(1) Nothing in paragraph 3 or 4 requires a planning authority to deal with a matter which the relevant pollution control authority has power to deal with.

(2) A planning authority must not grant planning permission for a landfill unless it has taken the requirements of paragraph 1.1 of Annex 1 of the Landfill Directive into consideration.

SCHEDULE 21

Regulation 73

Consequential amendments

PART 1

Public General Acts

Public Health Act 1961

1. In section 34(5) of the Public Health Act 1961(**a**), omit the words "or waste deposited in accordance with a disposal licence in force under Part I of the Control of Pollution Act 1974".

Environmental Protection Act 1990

2. The Environmental Protection Act 1990(**b**) is amended (in relation to England and Wales) in accordance with paragraphs 3 to 18.

3.—(1) Section 29(**c**) is amended as follows.

(2) In subsection (9), omit the words ", subject to subsection (10) below,".

(3) Omit subsection (10).

(4) After subsection (11), add—

"(12) "The 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007.

(13) The following expressions have the same meaning as in the 2007 Regulations—

"environmental permit";

"exempt waste operation";

"waste operation".".

4.—(1) Section 33(**d**) is amended as follows.

(2) In subsection (1)—

(a) for "subsection (2) and (3) below" substitute "subsections (1A), (1B), (2) and (3) below";

(b) in paragraph (a), for "a waste management licence" substitute "an environmental permit", and for "the licence" substitute "the permit";

(c) for paragraph (b), substitute—

"(b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1)(a)) that—

(i) is carried out in or on any land, or by means of any mobile plant, and

(ii) is not carried out under and in accordance with an environmental permit.".

(3) After subsection (1), insert—

"(1A) Paragraphs (a) and (b) of subsection (1) above do not apply in relation to a waste operation that is an exempt waste operation.

(1B) Subsection (1) does not apply in relation to the carrying on of any of the following activities—

(a) the disposal of liquid waste under a consent under Chapter 2 of Part 3 of the Water Resources Act 1991;

(b) a waste operation which is or forms part of an operation which—

(i) is the subject of a licence under Part 2 of the Food and Environment Protection Act 1985; or

(ii) by virtue of an order under section 7 of that Act, does not require such a licence;

(**a**) 1961, c. 64. Section 34(5) was amended by the Control of Pollution Act 1974 (c. 40), section 108 and Schedule 3.
(**b**) 1990, c. 43.
(**c**) Section 29 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 51.
(**d**) Section 33 was amended by the Environment Act 1995 (c. 25) section 120 and Schedule 22, the Clean Neighbourhoods and Environment Act (c. 16), sections 40(1), 41(1), 107 and Schedule 5, and S.I. 2005/894 and 2006/937.

(c) the disposal of agricultural waste in or on land under an authorisation under regulation 18 of the Groundwater Regulations 1998.".

(4) In subsection (4) for "the controls imposed by waste management licences" substitute "the prohibitions in subsection (1)".

(5) In subsection (6) omit the words "or any condition of a waste management licence".

(6) After subsection (10), add—

"(11) For the purposes of subsection (1)(a) above, the deposit of waste in or on land includes any listed operation involving such a deposit.

(12) For the purposes of subsection (1)(c) above, treating, keeping or disposing of controlled waste includes submitting it to any listed operation.

(13) For the purposes of this section, a "listed operation" is an operation listed in Annex IIA or IIB of Directive 2006/12/EC of the European Parliament and of the Council on waste".

5. For section 33A(1)(**a**), substitute—

"(1) This section applies where a person is convicted of an offence—

(a) under section 33 above, in respect of a contravention of subsection (1) of that section;

(b) under regulation 38(1)(a) of the 2007 Regulations, in respect of a waste operation."

6. For section 33B(1)(**b**), substitute—

"(1) This section applies where a person is convicted of an offence—

(a) under section 33 above, in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste;

(b) under regulation 38(1)(a) of the 2007 Regulations, in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste."

7.—(1) For section 33C(1)(**c**), substitute—

"(1) This section applies where—

(a) subject to subsection (1A) below, a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste;

(b) a person is convicted of an offence under regulation 38(1)(a) of the 2007 Regulations in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste."

(2) In section 33C(7)(d), after "section 33 above," insert "or regulation 38(1)(a) or 38(1)(b) of the 2007 Regulations,".

8.—(1) Section 34(**d**) is amended as follows.

(2) For subsection (1)(aa) substitute—

"(aa) to prevent any contravention by any other person of regulation 12 of the 2007 Regulations or of a condition of an environmental permit;".

(3) In subsection (1)(c)(ii) for "or any condition of a permit granted under regulation 10 of those Regulations" substitute "or regulation 12 of the 2007 Regulations, or a contravention of a condition of an environmental permit,".

(4) For subsection (3)(b) substitute—

"(b) any person who is the holder of an environmental permit in relation to a waste operation;".

(5) After subsection (3)(b), insert—

"(ba) any person who is carrying on an exempt waste operation;".

9. In section 34B(**e**)—

(a) in subsection (2)(a) after "committed" insert ", or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations has been committed in relation to a waste operation";

(**a**) Section 33A was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 42(1).
(**b**) Section 33B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 43(1) and amended by S.I. 2006/937.
(**c**) Section 33C was inserted by the Clean Neighbourhoods Act 2005 (c. 16), section 44(1) and amended by S.I. 2006/937.
(**d**) Section 34 was amended by the Deregulation and Contracting Out Act 1994 (c. 40), section 33, and the Environment Act 1995 (c. 25), section 120 and Schedule 22, and by S.I. 1999/1820, 2000/1973, 2005/2900 and 2006/123.
(**e**) Section 34B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 46(1).

(b) in subsection (3)(a) before "and" insert "or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations is being or is about to be committed in relation to a waste operation,".

10. Omit sections 35 to 43.

11. In section 44(**a**)—

(a) in subsection (1)(a), omit "or";

(b) omit subsections (1)(b) and (2).

12. In section 44A(**b**), after subsection (8), insert—

"(8A) The Environment Agency shall publicise any direction given to it under subsection (6) above in such manner as it considers appropriate.".

13. In section 57(**c**)—

(a) in subsection (1) for "waste management licence or waste permit" substitute "environmental permit authorising a waste operation";

(b) omit subsection (7A).

14. In section 59(**d**)—

(a) in subsection (1) after "section 33(1) above" insert "or regulation 12 of the 2007 Regulations";

(b) in subsection (7) after "section 33(1) above" insert "or regulation 12 of the 2007 Regulations,".

15. In section 59ZA(2)(**e**) after the words "section 33(1) above" add "or regulation 12 of the 2007 Regulations,".

16. In section 59A(**f**), after subsection (3), insert—

"(4) A waste regulation authority shall publicise any direction given to it under subsection (1) above in such manner as it considers appropriate.".

17. Omit sections 64 to 66, 74 and 77.

18. In section 78YB(**g**)—

(a) for subsections (1) to (2C) substitute—

"(1) This Part shall not apply if and to the extent that—

(a) any significant harm, or pollution of controlled waters, by reason of which land would otherwise fall to be regarded as contaminated, is attributable to the operation of a regulated facility; and

(b) enforcement action may be taken in relation to that harm or pollution.";

(b) at the end, insert—

"(5) In this section—

"enforcement action" means action under regulation 36, 37 or 42 of the Environmental Permitting (England and Wales) Regulations 2007;

"regulated facility" has the meaning given in regulation 8 of those Regulations.".

Town and Country Planning Act 1990

19. In section 336(1) of the Town and Country Planning Act 1990(**h**), after the definition of "war damage", insert—

""waste" includes anything that is waste for the purposes of Directive 2006/12/EC of the European Parliament and of the Council on waste, and that is not excluded from the scope of that Directive by Article 2(1) of that Directive;".

Water Industry Act 1991

20.—(1) Section 138 of the Water Industry Act 1991(**i**) is amended as follows.

(2) In subsection (1A), for the words "any installation or plant or otherwise carrying on any activity", substitute "any Part A installation or Part A mobile plant or otherwise carrying on any Part A activity".

(**a**) Section 44 was amended by the Environment Act 1995 (c. 25), section 112 and Schedule 19.
(**b**) Section 44A was inserted by the Environment Act 1995 (c. 25), section 92(1).
(**c**) Section 57 was amended by S.I. 2005/3026.
(**d**) Section 59 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), sections 43(2) and 50(1).
(**e**) Section 59ZA was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 50(2).
(**f**) Section 59A was inserted by the Anti-Social Behaviour Act 2003, section 55(4).
(**g**) Section 78YB was inserted by the Environment Act 1995 (c. 25), section 57, and amended by the Water Act 2003 (c. 37), section 86 and S.I. 2000/1973.
(**h**) 1990, c. 8.
(**i**) 1991, c. 56. Section 138 was amended by S.I. 2000/1973.

(3) In subsection (1B)(a) for the words "regulations under section 2 of the Pollution Prevention and Control Act 1999" substitute "the Environmental Permitting (England and Wales) Regulations 2007 ("the 2007 Regulations")".

(4) After subsection (1B)(a), insert—

"(aa) the expressions "Part A activity", "Part A installation" and "Part A mobile plant" have the same meaning as in the 2007 Regulations;".

(5) In subsection (1B)(b) for the words from "granted" to the end, substitute "granted under the 2007 Regulations".

Water Resources Act 1991

21.—(1) The Water Resources Act 1991(**a**) is amended as follows.

(2) In sections 85(1), 91(2G)(a), 161(1), 161A(1) and 203(6)(b) omit the word "solid".

(3) After section 85(6) insert—

"(7) For the purposes of subsection (1) "waste", in the term "waste matter" includes anything that is waste for the purposes of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on Waste(**b**), and that is not excluded from the scope of that Directive by Article 2(1) of that Directive.".

(4) In section 88—

(a) omit subsection (1)(aa);

(b) for subsection (1)(c), substitute—

"(c) a permit granted under the Environmental Permitting (England and Wales) Regulations 2007, except insofar as it authorises a Part B activity within the meaning of those Regulations;";

(c) omit subsection (3);

(d) in subsection (4)—

(i) omit the definition of "disposal licence";

(ii) omit the definition of "waste management licence" and the word "and" immediately preceding it.

(5) In section 91, after subsection (8), insert—

"(9) In this section, "waste" has the meaning given in section 85(7).".

(6) In section 161B, for subsection (6), substitute—

"(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5), regulations by virtue of that subsection may—

(a) provide for the basis on which any amount to be paid by way of compensation under this section is to be assessed;

(b) without prejudice to the generality of paragraph (a) above, provide for compensation under this section to be payable in respect of—

(i) any effect of any rights being granted, or

(ii) any consequence of the exercise of any rights which have been granted;

(c) provide for the times at which any entitlement to compensation under this section is to arise or at which any such compensation is to become payable;

(d) provide for the persons or bodies by whom, and the manner in which, any dispute—

(i) as to whether any, and (if so) how much and when, compensation under this section is payable, or

(ii) as to the person to or by whom it shall be paid,

is to be determined;

(e) provide for when or how applications may be made for compensation under this section;

(f) without prejudice to the generality of paragraph (d) above, provide for when or how applications may be made for the determination of any such disputes as are mentioned in that paragraph;

(g) without prejudice to the generality of paragraphs (e) and (f) above, prescribe the form in which any such applications as are mentioned in those paragraphs are to be made;

(h) make provision similar to any provision made by paragraph 8 of Schedule 19;

(**a**) 1991, c. 57. Section 88(1) was amended by S.I. 2000/1973. Sections 91, 161 and 203 were amended by the Environment Act 1995 (c. 25) section 120 and Schedule 22. Section 161 was also amended by section 60 of that Act. Section 203 was also amended by the Water Act 2003 (c. 37), section 101 and Schedule 8. Sections 91(2G), 161A and 161B were inserted by the Environment Act 1995 (c. 25), section 120 and Schedule 22.

(**b**) OJ No. L 114, 27.4.2006, p9.

(i) make different provision for different cases, including different provision in relation to different persons or circumstances;

(j) include such incidental, supplemental, consequential or transitional provision as the Secretary of State considers appropriate.".

Clean Air Act 1993

22.—(1) Section 41A of the Clean Air Act 1993(**a**) is amended (in relation to England and Wales) as follows.

(2) After subsection (2)(b), insert—

"(c) in the case of an activity that is an exempt waste operation, the date of the entry on the register maintained under paragraph 4 of Schedule 2 to the 2007 Regulations of an establishment or undertaking in relation to that operation.";

(3) In subsection (3), after "subsection (2)" insert—

"—

"exempt waste operation" has the meaning given in the 2007 Regulations;".

(4) After subsection (3), insert—

"(4) In this section—

"activity" includes a waste operation within the meaning of the 2007 Regulations;

"the 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007.".

Environment Act 1995

23.—(1) The Environment Act 1995(**b**) is amended (in relation to England and Wales) as follows.

(2) In section 56(1), in the definition of "environmental licence"—

(a) omit paragraph (c);

(b) for paragraph (h) substitute—

"(h) registration of a person as a broker of controlled waste under any provision which gives effect in England and Wales to Article 12 of Directive 2006/12/EC of the European Parliament and of the Council on waste,";

(c) for paragraph (j) substitute—

"(j) registration under Schedule 2 to the Environmental Permitting (England and Wales) Regulations 2007 of an establishment or undertaking in relation to an operation which for the purposes of those Regulations is a notifiable exempt waste operation, or an exempt waste operation falling within paragraph 45(1) or 45(3) of Schedule 3 to those Regulations,".

(3) In Schedule 20, in paragraph 4(3), for paragraph (d) substitute—

"(d) regulation 53(1) of the Environmental Permitting (England and Wales) Regulations 2007,".

Goods Vehicles (Licensing of Operators) Act 1995

24.—(1) Schedule 2 to the Goods Vehicles (Licensing of Operators) Act 1995(**c**) is amended (in relation to England and Wales) as follows.

(2) After paragraph 5(i) insert—

"(ia) an offence under regulation 38(1)(a) or 38(1)(b) of the Environmental Permitting (England and Wales) Regulations 2007 committed in relation to a waste operation (within the meaning of those Regulations).".

Finance Act 1996

25.—(1) The Finance Act 1996(**d**) is amended (in relation to England and Wales) as follows.

(2) For section 43A(4)(h), (j) and (k) substitute—

"(h) an enforcement notice served under regulation 36 of the Environmental Permitting (England and Wales) Regulations 2007;

(**a**) 1993, c. 11. Section 41A was inserted by S.I. 2000/1973.

(**b**) 1995, c. 25. Section 56(1) was amended by the Pollution Prevention and Control Act 1999 (c. 24), section 6(1) and Schedule 2, and by S.I. 2000/1973, 2005/925, 2005/1728 and 2006/3289. Paragraph 4 of Schedule 20 was amended by S.I. 2000/1973.

(**c**) 1995, c. 23.

(**d**) 1996, c. 8. Section 43A was inserted by S.I. 1996/1529 and amended by S.I. 2000/1973 and 2005/3226.

(j) a suspension notice served under regulation 37 of those Regulations; or

(k) an order under regulation 44 of those Regulations.".

Pollution Prevention and Control Act 1999

26. Omit section 4 of the Pollution Prevention and Control Act 1999(**a**).

Finance Act 2000

27.—(1) The Finance Act 2000(**b**) is amended (in relation to England and Wales) as follows.

(2) In the table in paragraph 51 of Schedule 6—

(a) for the italic cross-heading "Installations regulated under the Pollution Prevention and Control (England and Wales) Regulations 2000 (SI 2000/1973)" substitute "Installations regulated under the Environmental Permitting (England and Wales) Regulations 2007";

(b) for entry 5(1) substitute "In this entry "the Schedule" means Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2007.";

(c) for entry 5(2)(a) substitute ""Part A installation" has the meaning given in regulation 3(2) of the Environmental Permitting (England and Wales) Regulations 2007;";

(d) in entries 5(2)(b), (c) and (d), for "Part 1 of the Schedule" substitute "Part 2 of the Schedule";

(e) for entry 5(2)(c)(iii) substitute "paragraph 1 of the Interpretation and application of Part A(1) of Section 5.4;".

PART 2

Subordinate legislation

The Regulations as to Cremation (1930)

28.—(1) The definitions in the Regulations as to Cremation (1930)(**c**) are amended (in relation to England and Wales) as follows.

(2) For the words "Schedule 1 to the Pollution Prevention and Control (England and Wales) Regulations 2000, substitute "Part 2 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2007".

(3) For the definition of "Permit", substitute—

""Permit" means an environmental permit granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2007.".

The Deposits in the Sea (Exemptions) Order 1985

29. In article 4(2) of the Deposits in the Sea (Exemptions) Order 1985(**d**) for the words "regulation 1(3) of the Waste Management Licensing Regulations 1994", substitute (in relation to England and Wales) "regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2007".

The Radioactive Substances (Hospitals) Exemption Order 1990

30. For the definition of "site licence" in article 2(1) of the Radioactive Substances (Hospitals) Exemptions Order 1990(**e**), substitute (in relation to England and Wales)—

""site licence" means an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007;".

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

31.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**f**) are amended (in relation to England and Wales) as follows.

(2) In regulation 6—

(a) in paragraph 1(g) for "a waste management licence or a disposal licence" substitute "an environmental permit in respect of a waste operation under the Environmental Permitting (England and Wales) Regulations 2007" and for "the licence" substitute "the permit";

(**a**) 1999, c. 24.
(**b**) 2000, c. 17. Paragraph 51 of Schedule 6 was amended by S.I. 2001/1139, 2006/1848.
(**c**) S.I. 1930/1016; relevant amending instruments are S.I. 2000/58, 2006/92.
(**d**) S.I. 1985/1699, amended by S.I. 1994/1056. There are other amending instruments but none is relevant.
(**e**) S.I. 1990/2512, amended by S.I. 2000/1973. There are other amending instruments but none is relevant.
(**f**) S.I. 1991/1624, amended by S.I. 2000/1973. There are other amending instruments but none is relevant.

(b) in paragraph (4) omit the definitions of "waste management licence" and "disposal licence".

(3) To the end of the list in Schedule 1 add "the Environmental Permitting (England and Wales) Regulations 2007.".

The Environmental Protection (Duty of Care) Regulations 1991

32.—(1) The Environmental Protection (Duty of Care) Regulations 1991(**a**) are amended (in relation to England and Wales) as follows.

(2) In regulation 1(2), after the definition of "the 1990 Act", insert—

""the 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007".

(3) For the table in regulation 2(2), substitute—

"TABLE

Category of person	*Additional information*
A waste collection authority for the purposes of Part II of the 1990 Act	
The holder of an environmental permit in respect of a waste operation under the 2007 Regulations, excluding the holder of such a permit in respect of a Part A activity or Part B activity which is not a specified waste management activity within the meaning of paragraph 2 of Schedule 9 to those Regulations	If the waste is to be kept, treated or disposed of by that person, the relevant permit number and the name of the permitting regulator.
A person carrying on an exempt waste operation under the 2007 Regulations	
A person carrying on an operation to which section 33(1)(a) and (b) of the 1990 Act does not apply by virtue of regulation 68(1) of the 2007 Regulations	
A person registered as a carrier of controlled waste under Regulations made under section 2 of the Control of Pollution (Amendment) Act 1989	The name of the waste regulation authority with whom he is registered and his registration number
A person who is not required to be so registered by virtue of Regulations made under section 1(3) of that Act"	

The Controlled Waste Regulations 1992

33.—(1) The Controlled Waste Regulations 1992(**b**) are amended (in relation to England and Wales) as follows.

(2) In regulation 1(2), for the definition of "Directive waste", substitute—

""Directive waste" has the meaning given to the term "waste" in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2007;".

(3) In paragraph 18 of Schedule 3, for the definition of "tank washings", substitute—

""tank washings" has the meaning given in paragraph 49(3)(e) of Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2007;".

(**a**) S.I. 1991/2839; relevant amending instruments are S.I. 1996/972, 2000/1973, 2002/1559, 2005/894, 2005/895, 2005/1806 (W. 138), 2005/1820 (W. 148).
(**b**) S.I. 1992/588; relevant amending instruments are S.I. 1994/1056, 1996/972.

The Waste Management Licensing Regulations 1994

34.—(1) The Waste Management Licensing Regulations 1994(**a**) are amended (in relation to England and Wales) as follows.

(2) For regulation 1(3) substitute—

"(3) In these Regulations—

"the 1990 Act" means the Environmental Protection Act 1990;

"agricultural waste" means waste from premises used for agriculture;

"the Directive" means Directive 2006/12/EC on waste;

"Directive waste" means anything that is waste for the purposes of the Directive and is not excluded from the scope of the Directive by Article 2(1) of the Directive;

"disposal" has the same meaning as in the Directive;

"recovery" has the same meaning as in the Directive;

"waste" means Directive waste;

"waste regulation authority", "waste disposal authority" and "waste collection authority" have the meaning given in the 1990 Act."

(3) Omit regulations 1(4) and 2 to 19.

(4) For regulation 20(2), substitute—

"(2) Paragraph (1) does not apply in relation to an arrangement under which an establishment or undertaking will itself carry out the disposal or recovery of the waste and either—

(a) it is authorised to carry out the disposal or recovery of the waste by an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007, a consent under Chapter II of Part III of the Water Resources Act 1991 or a licence under Part II of the Food and Environment Protection Act 1985; or

(b) the recovery of the waste is covered by—

(i) an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2007 or any other operation exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990 under those Regulations; or

(ii) article 3 of the Deposits in the Sea (Exemptions) Order 1985.".

(5) Omit Schedules 1 to 3.

(6) Amend Schedule 4 as follows—

(a) for paragraph 1, substitute—

"**1.** In this Schedule—

"licensing authority" has the meaning given by section 24(1) of the Food and Environment Protection Act 1985;

"permit" means an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007, a licence under Part II of the Food and Environment Protection Act 1985 or a consent under Chapter II of Part III of the Water Resources Act 1991.";

(b) omit paragraphs 2 to 4, 6 to 11, 13(2) to (5) and 14;

(7) In paragraph 1 of Schedule 5, at the end of the definition of "relevant offence", insert—

"or under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007".

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

35.—(1) The Conservation (Natural Habitats &c.) Regulations 1994(**b**) are amended (in relation to England and Wales) as follows.

(2) Omit regulations 83 and 84.

(3) In regulation 84A—

(a) for the cross heading, substitute—

"Environmental permits under the Environmental Permitting (England and Wales) Regulations 2007".

(b) in paragraph (1), for "a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000", substitute "an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007".

(**a**) S.I. 1994/1056 , amended by S.I. 1995/288, 1995/1950, 1996/593, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2002/674, 2002/1087 (W. 114), 2002/1559, 2002/2980, 2003/595, 2003/780 (W. 91), 2003/2635, 2004/70 (W. 6), 2004/3276, 2005/894, 2005/1728, 2005/1806 (W. 138), 2005/2900, 2006/937, 2006/3315, 2007/1156, 2007/2596.

(**b**) S.I. 1994/2716, amended by S.I. 2000/1973 and 2007/1843. There are other amending instruments but none is relevant.

The Waste Management Licensing (Amendment etc.) Regulations 1995

36. Omit regulations 3 and 4 of the Waste Management Licensing (Amendment etc.) Regulations 1995(**a**) (in relation to England and Wales).

The Landfill Tax Regulations 1996

37.—(1) The Landfill Tax Regulations 1996(**b**) are amended (in relation to England and Wales) as follows.

(2) In regulation 33(4), for sub-paragraphs (h), (i) and (j) substitute—

"(h) an enforcement notice served under regulation 36 of the Environmental Permitting (England and Wales) Regulations 2007;

(i) a suspension notice served under regulation 37 of those Regulations; or

(j) an order under regulation 44 of those Regulations.".

(3) In regulation 38(5), omit sub-paragraph (ac)(ii).

The Waste Management Licensing (Amendment) Regulations 1998

38. In the Waste Management Licensing (Amendment) Regulations 1998(**c**), omit paragraphs (2) and (3) of regulation 2 (in relation to England and Wales).

The Groundwater Regulations 1998

39.—(1) The Groundwater Regulations 1998(**d**) are amended (in relation to England and Wales) as follows.

(2) In regulation 1(3), in the definition of "authorisation", for sub-paragraphs (e) and (f) substitute—

"(e) an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007, except to the extent that it authorises the operation of a Part B activity within the meaning of those Regulations;".

(3) In regulation 3, for "the Pollution Prevention and Control (England and Wales) Regulations 2000", substitute "the Environmental Permitting (England and Wales) Regulations 2007".

The Water Protection Zone (River Dee Catchment) Designation Order 1999

40.—(1) The Water Protection Zone (River Dee Catchment) Designation Order 1999(**e**) is amended as follows.

(2) In article 2—

(a) in the definition of "catchment control site", for the words from "a site used for carrying on a prescribed process" to the end, substitute—

"the site of a regulated facility within the meaning of the Environmental Permitting (England and Wales) Regulations 2007";

(b) in the definition of "controlled substance", omit sub-paragraph (i).

The Control of Pollution (Oil Storage) (England) Regulations 2001.

41. In regulation 2(2)(a) of the Control of Pollution (Oil Storage)(England) Regulations 2001(**f**), for "regulation 1(3) of the Waste Management Licensing Regulations 1994", substitute "regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2007".

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002

42. In regulation 3(3)(e) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002(**g**), for "the Waste Management Licensing Regulations 1994", substitute (in relation to England and Wales) "the Environmental Permitting (England and Wales) Regulations 2007".

The End-of-Life Vehicles Regulations 2003

43.—(1) The End-of-Life Vehicles Regulations 2003(**h**) are amended (in relation to England and Wales) as follows.

(**a**) S.I. 1995/288, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 1996/1527; relevant amendments are S.I. 2000/1973, 2002/1.
(**c**) S.I. 1998/606.
(**d**) S.I. 1998/2746, amended by S.I. 2000/1973, 2006/937.
(**e**) S.I. 1999/915.
(**f**) S.I. 2001/2954.
(**g**) S.I. 2002/1689; relevant amending instruments are S.I. 2005/894, 2005/1806 (W. 138).
(**h**) S.I. 2003/2635, to which there are amendments not relevant to these Regulations.

(2) In regulation 2, for the definition of "authorised treatment facility", substitute—

""authorised treatment facility" means any establishment or undertaking carrying out treatment operations which holds an environmental permit authorising those operations granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2007.".

(3) In regulation 3—

(a) omit paragraph (2);

(b) for paragraph (4), substitute—

"(4) These Regulations do not apply to three-wheel motor vehicles.".

(4) Omit Part VII and Schedule 5.

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

44.—(1) Schedule 2 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(**a**) is amended as follows.

(2) Omit paragraphs 13, 23 and 24.

(3) At the end of the Schedule add—

"28. The Environmental Permitting (England and Wales) Regulations 2007.".

The Hazardous Waste (England and Wales) Regulations 2005

45.—(1) The Hazardous Waste (England and Wales) Regulations 2005(**b**) are amended as follows.

(2) In regulation 2(1), for sub-paragraph (a) substitute—

"(a) "the Waste Directive" means Council Directive 2006/12/EC on waste; and".

(3) In regulation 5(1)—

(a) omit the definitions of "the 1994 Regulations" and "waste management licence";

(b) after the definition of "the 1996 Regulations", insert—

""the 2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007;";

(c) after the definition of "emergency services", insert—

""environmental permit" has the meaning given in regulation 13(1) of the 2007 Regulations;";

(d) for the definition of "registered exemption", substitute—

""registered exemption" means an activity set out in Part 1 of Schedule 3 to the 2007 Regulations which is registered with the exemption registration authority in accordance with those Regulations;";

(e) for the definition of "waste permit", substitute—

""waste permit" means an environmental permit, a licence under Part II of the Food and Environment Protection Act 1985 or a consent under Chapter II of Part III of the Water Resources Act 1991.".

(4) In regulation 22(2), for "a waste management licence" substitute "an environmental permit".

(5) In regulation 26(4)(d), for "paragraph 13 of Schedule 4 to the 1994 Regulations" substitute "regulation 34(2) of the 2007 Regulations".

(6) In regulation 42(6)(a), for all the words after "waste permit" substitute "or is entitled to carry on a registered exemption in respect of the recovery or disposal of the waste; and".

(7) In Part E of the consignment note in Schedule 4 omit "waste management licence/".

The Hazardous Waste (Wales) Regulations 2005

46.—(1) The Hazardous Waste (Wales) Regulations 2005(**c**) are amended as follows.

(2) In regulation 2(1), for sub-paragraph (a) substitute—

""the Waste Directive" ("*y Gyfarwyddeb Wastraff*") means Council Directive 2006/12/EC on waste; and".

(3) In regulation 5(1)—

(a) omit the definitions of "the 1994 Regulations" and "waste management licence";

(b) after the definition of "the 1996 Regulations", insert—

(**a**) S.I. 2003/3242, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2005/894, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2005/1806 (W. 138), to which there are amendments not relevant to these Regulations.

""the 2007 Regulations" ("*Rheoliadau 2007*") means the Environmental Permitting (England and Wales) Regulations 2007;";

(c) after the definition of "emergency services", insert—

""environmental permit" ("*trwydded amgylcheddol*") has the meaning given in the 2007 Regulations;";

(d) for the definition of "registered exemption", substitute—

""registered exemption" ("*esemptiad cofrestredig*") means an activity set out in Part 1 of Schedule 3 to the 2007 Regulations which is registered with the exemption registration authority in accordance with those Regulations;";

(e) for the definition of "waste permit", substitute—

""waste permit" ("*trwydded gwastraff*") means an environmental permit under the 2007 Regulations, a licence under Part II of the Food and Environment Protection Act 1985 or a consent under Chapter II of Part III of the Water Resources Act 1991.".

(4) In regulation 22(2), for "a waste management licence" substitute "an environmental permit".

(5) In regulation 26(4)(d), for "paragraph 13 of Schedule 4 to the 1994 Regulations" substitute "regulation 34(2) of the 2007 Regulations".

(6) In regulation 42(6)(a), for all the words after "waste permit" substitute "or is entitled to carry on a registered exemption in respect of the recovery or disposal of the waste; and".

(7) In Part E of the consignment note in Schedule 4 delete "waste management licence/".

The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005

47. In regulation 3(4) of the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005(**a**), in the definition of "SED Activity", for "Part 1 of Schedule 1 of the Pollution Prevention and Control (England and Wales) Regulations 2000", substitute (in relation to England and Wales) "Part 2 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2007".

The Greenhouse Gas Emissions Trading Scheme Regulations 2005

48. In regulation 8(3)(b) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005(**b**), for paragraph (i) substitute (in relation to England and Wales)—

"(i) the Environmental Permitting (England and Wales) Regulations 2007;".

The Contaminated Land (England) Regulations 2006

49. For regulation 2(4) of the Contaminated Land (England) Regulations 2006(**c**), substitute—

"(4) In paragraph (1)(e), "Part A(1) installation" and Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2007, and "permit" has the same meaning as "environmental permit" in those Regulations".

The Contaminated Land (Wales) Regulations 2006

50. For regulation 2(4) of the Contaminated Land (Wales) Regulations 2006(**d**), substitute—

"(4) In paragraph (1)(e), "Part A(1) installation" and Part A(1) mobile plant" have the same meanings as in the Environmental Permitting (England and Wales) Regulations 2007, and "permit" has the same meaning as "environmental permit" in those Regulations".

The Waste Electrical and Electronic Equipment Regulations 2006

51.—(1) In regulation 2(1) of the Waste Electrical and Electronic Equipment Regulations 2006(**e**), the definition of "relevant authorisation" is amended (in relation to England and Wales) as follows.

(2) In paragraph (a), for the words "a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000", substitute "a permit granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2007".

(3) Omit paragraphs (b) and (c).

(**a**) S.I. 2005/2773.
(**b**) S.I. 2005/925, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2006/1380.
(**d**) S.I. 2006/2989 (W. 278).
(**e**) S.I. 2006/3289.

(4) For paragraph (d), substitute—

"(d) an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2007 or any other operation exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990 under those Regulations;".

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007

52.—(1) In regulation 2(1) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**a**), the definition of "relevant authorisation" is amended (in relation to England and Wales) as follows.

(2) In paragraph (a), for the words "a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000", substitute "a permit granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2007".

(3) Omit paragraphs (b) and (c).

(4) For paragraph (d), substitute—

"(d) an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2007 or any other operation exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990 under those Regulations;".

The Waste Management (Miscellaneous Provisions) (England and Wales) Regulations 2007

53. In the Waste Management (Miscellaneous Provisions) (England and Wales) Regulations 2007(**b**), omit regulations 2 to 5.

The Transfrontier Shipment of Waste Regulations 2007

54. For regulation 16 of the Transfrontier Shipment of Waste Regulations 2007(**c**), substitute (in relation to England and Wales)—

"Environmental Permitting (England and Wales) Regulations 2007

16. The definition of "waste management plan" in paragraph 1 of Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2007 has effect as if the reference in that paragraph to a plan made under the plan-making provisions included a reference to a waste management plan made under this Part.".

The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007

55.—(1) The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**d**) are amended (in relation to England and Wales) as follows.

(2) For regulation 3(1)(a), substitute—

"(a) as regards England and Wales, a large combustion plant in respect of which the environmental permit under the Environmental Permitting (England and Wales) Regulations 2007 contains a NERP provision;".

(3) In paragraph 1 of Schedule 1, in the definition of "cumulative in-year mass emissions", for sub-paragraph (a), substitute—

"(a) of a participating plant in England or Wales, to the Agency in accordance with the conditions of the environmental permit under the Environmental Permitting (England and Wales) Regulations 2007;".

SCHEDULE 22

Regulation 74(1)

Revocations

Regulations revoked	*References*	*Extent of revocation*
The Environmental Protection (Prescribed Processes and Substances) Regulations 1991	S.I. 1991/472	The Regulations insofar as they apply in England and Wales

(**a**) S.I. 2007/871.
(**b**) S.I. 2007/1156.
(**c**) S.I. 2007/1711.
(**d**) S.I. 2007/2325.

Regulations revoked	*References*	*Extent of revocation*
The Environmental Protection (Applications, Appeals and Registers) Regulations 1991	S.I. 1991/507	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1992	S.I. 1992/614	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1993	S.I. 1993/1749	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances) (Amendment) (No.2) Regulations 1993	S.I. 1993/2405	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances Etc) (Amendment) Regulations 1994	S.I. 1994/1271	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances Etc) (Amendment) (No.2) Regulations 1994	S.I. 1994/1329	The Regulations insofar as they apply in England and Wales
The Waste Management Licensing (Amendment No. 2) Regulations 1995	S.I. 1995/1950	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1995	S.I. 1995/3247	The Regulations insofar as they apply in England and Wales
The Waste Management Regulations	S.I. 1996/634	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Applications, Appeals and Registers) (Amendment) Regulations 1996	S.I. 1996/667	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Applications, Appeals and Registers) (Amendment) (No.2) Regulations 1996	S.I. 1996/979	The Regulations insofar as they apply in England and Wales
The Waste Management Licensing (Amendment) Regulations 1996	S.I. 1996/1279	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances Etc) (Amendment) (Petrol Vapour Recovery) Regulations 1996	S.I. 1996/2678	The Regulations insofar as they apply in England and Wales
The Waste Management Licensing (Amendment) Regulations 1997	S.I. 1997/2203	The Regulations insofar as they apply in England and Wales
The Environmental Protection (Prescribed Processes and Substances) (Amendment) (Hazardous Waste Incineration) Regulations 1998	S.I. 1998/767	The Regulations insofar as they apply in England and Wales

Regulations revoked	*References*	*Extent of revocation*
The Waste Management Licences (Consultation and Compensation) Regulations 1999	S.I. 1999/481	The Regulations insofar as they apply in England and Wales
The Pollution Prevention and Control (England and Wales) Regulations 2000	S.I. 2000/1973	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2001	S.I. 2001/503	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2002	S.I. 2002/275	The whole Regulations
The Waste Management Licensing (Amendment) (England) Regulations 2002	S.I. 2002/674	The whole Regulations
The Waste Management Licensing (Amendment) (Wales) Regulations 2002	S.I. 2002/1087 (W.114)	The whole Regulations
The Landfill (England and Wales) Regulations 2002	S.I. 2002/1559	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) (No. 2) Regulations 2002	S.I. 2002/1702	The whole Regulations
The Large Combustion Plants (England and Wales) Regulations 2002	S.I. 2002/2688	The whole Regulations
The Waste Incineration (England and Wales) Regulations 2002	S.I. 2002/2980	The whole Regulations
The Waste Management Licensing (Amendment) (England) Regulations 2003	S.I. 2003/595	The whole Regulations
The Waste Management Licensing (Amendment) (Wales) Regulations 2003	S.I. 2003/780 (W.91)	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2003	S.I. 2003/1699	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) (No. 2) Regulations 2003	S.I. 2003/3296	The whole Regulations
The Waste Management Licensing (Amendment) (Wales) Regulations 2004	S.I. 2004/70 (W. 6)	The whole Regulations
The Solvent Emissions (England and Wales) Regulations 2004	S.I. 2004/107	The whole Regulations
The Pollution Prevention and Control (Unauthorised Part B Processes) (England and Wales) Regulations 2004	S.I. 2004/434	The whole Regulations
The Landfill (England and Wales) (Amendment) Regulations 2004	S.I. 2004/1375	The whole Regulations

Regulations revoked	*References*	*Extent of revocation*
The Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004	S.I. 2004/3276	The whole Regulations
The Pollution Prevention and Control (Public Participation) (England and Wales) Regulations 2005	S.I. 2005/1448	The whole Regulations
The Landfill (England and Wales) (Amendment) Regulations 2005	S.I. 2005/1640	The whole Regulations
The Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations 2005	S.I. 2005/1728	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) (England) Regulations 2006	S.I. 2006/2311	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Wales) Regulations 2006	S.I. 2006/2802 (W. 241)	The whole Regulations
The Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006	S.I. 2006/3315	The whole Regulations
The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2007	S.I. 2007/713	The whole Regulations
The Pet Cemeteries (England and Wales) Regulations 2007	S.I. 2007/2596	The whole Regulations

SCHEDULE 23

Regulation 74(2)

Repeals

Chapter	*Short title*	*Extent of repeal*
1961 c. 64	The Public Health Act 1961	In section 34(5), the words "or waste deposited in accordance with a disposal licence in force under Part I of the Control of Pollution Act 1974".
1974 c. 40	The Control of Pollution Act 1974	Paragraph 18 of Schedule 3.
1990 c. 43	The Environmental Protection Act 1990	In section 29(9) the words ", subject to subsection (10) below,". Section 29(10). In section 33(6) the words "or any condition of a waste management licence". Sections 35 to 43. In section 44(1)(a), the word "or". Section 44(1)(b) and (2). Section 57(7A). Sections 64 to 66. Section 74. Section 77.

Chapter	*Short title*	*Extent of repeal*
1991 c. 57	The Water Resources Act 1991	In sections 85(1), 91(2G)(a), 161(1), 161A(1) and 203(6)(b), the word "solid". Section 88(1)(aa). Section 88(3). In section 88(4), the definitions of "disposal licence" and "waste management licence", and the word "and" immediately preceding the latter.
1995 c. 25	The Environment Act 1995	Section 56(1)(c). In section 114(2)(a)(iii), the references to sections 43 and 66(5) of the Environmental Protection Act 1990. Section 114(2)(a)(vii). In paragraph 4(3)(b) of Schedule 20, the reference to section 66(5) of the Environmental Protection Act 1990. Paragraphs 66 to 74 of Schedule 22. Paragraphs 76, 77, 82 and 83 of Schedule 22.
1996 c. 8	The Finance Act 1996	Section 43C(3)(b).
1999 c. 24	The Pollution Prevention and Control Act 1999	Section 4. Paragraph 5 of Schedule 2.
2000 c. 37	The Countryside and Rights of Way Act 2000	Paragraph 8 of Schedule 10.
2006 c. 16	The Natural Environment and Rural Communities Act 2006	Paragraph 116 of Schedule 11.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the system of waste management licensing in Part II of the Environmental Protection Act 1990 (c. 43) and the Waste Management Licensing Regulations 1994 (S.I. 1994/1056, as amended), and the system of permitting in the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973, as amended), with a new system of environmental permitting in England and Wales.

They transpose provisions of the following Directives which impose obligations either required to be delivered through permits or capable of being delivered through permits:

— Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos, as amended (OJ No. L 85, 28.3.1987, p40);

— Council Directive 92/112/EEC on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry (OJ No. L 409, 31.12.1992, p11);

— European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations, as amended (OJ No. L 365, 31.12.1994, p24);

— Council Directive 96/61/EC concerning integrated pollution prevention and control, as amended (OJ No. L 257, 10.10.1996, p26);

— Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, as amended (OJ No. L 85, 29.3.1999, p1);

— Council Directive 1999/31/EC on the landfill of waste, as amended (OJ No. L 182, 16.7.1999, p1);

— Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles, as amended (OJ No. L 269, 21.10.2000, p34);

— Directive 2000/76/EC of the European Parliament and of the Council on the incineration of waste, (OJ No. L 145, 28.12.2000);

— Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ No. L 309, 27.11.2001, p1);

— Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), as amended (OJ No. L 37, 13.2.2003, p24);

— Directive 2006/12/EC of the European Parliament and of the Council on waste (OJ No. L 114, 27.4.2006, p9).

Scope

Regulation 8 defines the term "regulated facility" and regulation 12 requires every regulated facility to operate under the authority of an environmental permit.

"Regulated facility" includes every installation and mobile plant. Those terms are defined by regulations 2(1) and 3, and by Schedule 1, which contains detailed descriptions of activities which must be authorised by a permit in order to operate. Schedule 1 also categorises those activities as "Part A(1)", "Part A(2)" and "Part B". These categories are used in regulation 32 to designate the regulator.

"Regulated facility" also includes every waste mobile plant and waste operation not otherwise included. Those terms are defined, respectively, in regulations 8 and 2(1).

"Regulated facility" does not include any "excluded waste operation" or "exempt waste operation", and operators carrying these on do not therefore require an environmental permit.

"Excluded waste operation" is defined in regulation 4 and covers waste operations which are authorised by other specified regulatory systems.

"Exempt waste operation" is defined in regulation 5. Schedule 2 contains procedure in relation to exempt waste operations, including registration requirements. A waste operation cannot be an exempt waste operation unless it falls within a description in Schedule 3.

Procedure

Part 2 and Schedules 5 and 6 provide procedure in relation to environmental permits.

Regulations 13 (grant of a permit), 20 (variation of a permit), 21 (transfer of a permit) and 25 (surrender of a permit), with Part 1 of Schedule 5, regulate permit applications. Regulation 20 also provides for variation of a permit on the initiative of the regulator. Regulation 24 allows certain permits to be surrendered by notification.

Regulation 15 and Part 2 of Schedule 5 provide for compensation where a permit condition requires interference with the property rights of a person other than the operator.

Regulation 17 allows more than one regulated facility on the same site, or with the same operator, to be authorised by the same permit in some circumstances; regulation 18 allows the consolidation of separate permits.

Regulations 22 and 23 provide for the revocation of a permit on the initiative of the regulator.

Regulations 26-30 provide for the preparation of standard rules applying to a description of regulated facility, which may be incorporated into a permit at the request of an operator.

Regulation 31 and Schedule 6 provide for appeals.

Duties of the regulator

Part 3 and Schedules 7 to 18 provide for the discharge of functions by the regulator in relation to permits.

Regulation 32 sets the regulator for different categories of regulated facility and regulation 33 allows for change of regulator at the direction of the Secretary of State or the Welsh Ministers.

Regulation 34 requires the regulator to review permits from time to time and to inspect regulated facilities.

Regulation 35 and Schedules 7 to 18 require the regulator to exercise its functions so as to comply with the duties set out in those Schedules. Each Schedule requires the regulator to ensure compliance with one of the Directives set out above when exercising its functions in relation to a regulated facility falling within the Schedule's scope.

Enforcement, powers and functions

Part 4 contains enforcement-related provision.

Regulations 36 and 37 provide, respectively, for enforcement notices (requiring compliance with a permit) and suspension notices (suspending the authorisation of a regulated facility).

Regulation 38 contains offences and regulation 40 provides for a defence. Regulation 39 sets the penalties on conviction.

Part 5 and Schedule 19 makes provision for public registers to be kept by the regulator, including information which may be kept off the register in the interests of national security or because it is confidential in nature.

Part 6 confers powers on the regulator, Secretary of State and Welsh Ministers and imposes duties on the regulator. The Part includes power for the regulator to prevent or remedy pollution and to recover associated costs from the operator (regulation 57), a requirement on the Environment Agency to publish a public participation statement (regulation 59), and power for the Secretary of State or Welsh Ministers to make schemes setting fees and charges in relation to local authority functions under the Regulations (regulation 65; the Environment Agency has a power to make such schemes in relation to its functions under section 41 of the Environment Act 1995 (c.25)).

Miscellaneous provisions

Part 7 and Schedules 20 to 23 contain miscellaneous and transitional provision, savings, consequential amendments, revocations and repeals.

The Part includes provision requiring public authorities to deliver obligations under the Waste Framework Directive (2006/12/EC, cited above) when making decisions on specified authorisations other than environmental permits, including planning permissions (regulation 68 and Schedule 20).

Regulatory impact assessment

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Environment Regulation Policy Division, Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL, and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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E1397 10/2007 171397 19585