

SCHEDULE 1

Regulation 3

MODIFICATIONS OF PART II OF THE ACT

In relation to discharges by an islands council in its area the provisions of Part II of the Act shall have effect subject to the following modifications:–

- (1) section 34 shall apply as if–
 - (a) for sub-sections (1) and (2) there were substituted the following sub-sections:–

“(1) An application to the Secretary of State for consent in pursuance of this section for discharges of any effluent or other matter shall be accompanied by a map showing the location of every discharge in relation to which consent is sought and shall be accompanied or supplemented by all such other information as the Secretary of State may reasonably require; and the Secretary of State may if he thinks fit treat an application for consent for discharges at two or more places as separate applications for consent for discharges at each of those places.

(2) The Secretary of State may give the consent applied for, either unconditionally or subject to conditions, or may refuse it.”;
 - (b) in subsection (3) for the words preceding “an instrument” there were substituted the words “If it appears to the Secretary of State that an islands council has, without his consent, caused or permitted matter to be discharged in its area in contravention of section 32(1) of the Act and that a similar contravention by that council is likely, the Secretary of State may, if he thinks fit, serve on that council” and for the word “its” (where it second appears) there were substituted the word “his”;
 - (c) in subsection (4) for the word “authority” (where it first appears and in paragraph (f)) there were substituted the words “Secretary of State”, for the word “its” were substituted the word “his” and for the words “the authority” (where it second appears) there were substituted the word “he”.
 - (d) for subsection (5) there were substituted the following subsection:–

“(5) Before determining any such application for consent, the Secretary of State–

 - (a) may, if he thinks fit; or
 - (b) shall, if he has received representations in response to a notice which the council was required by section 36(1)(a) of this Act to publish and if a request to be heard is made to him by the council within ten weeks after the publication of the notice in the Edinburgh Gazette in accordance with the said section 36(1)(a),

cause a local inquiry to be held in respect of the application in pursuance of section 96 of this Act or afford the council and any person who made such representations an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.”;
- (2) section 35 shall be omitted;
- (3) section 36 shall apply as if–
 - (a) in subsection (1)–
 - (i) for the words preceding paragraph (a) there were substituted the words “Where the Secretary of State receives an application for consent from an islands council in pursuance of section 34 of this Act or serves an instrument on an islands council in pursuance of subsection (3) of that section, the council shall be under a duty–”;
 - (ii) in paragraph (a)(ii) for the word “authority” (in both places where it appears) there were substituted the word “council”; and
 - (iii) paragraphs (b) and (c) were omitted;

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- (b) in subsection (2) the words “local authority” means a regional or district council, and” were omitted;
- (c) for subsections (3), (4), (5), (6) and (7) there were substituted the following subsections:–
 - “(3) The Secretary of State shall consider any written representations relating to the application or instrument which are made to him by any person within the period of six weeks beginning with the date on which the notice of the application or instrument is published in the Edinburgh Gazette.
 - (4) An islands council shall be entitled to disregard the provisions of subsection (1) of this section if the Secretary of State so directs.
 - (5) The Secretary of State shall inform any person who has made written representations to him about an application by an islands council of his determination.”;
- (4) section 37 shall apply as if–
 - (a) in subsection (1)–
 - (i) for the words preceding “by a notice” there were substituted the words “The Secretary of State shall review from time to time any consent given under section 34 of this Act and the conditions, if any, to which the consent is subject and may,”; and
 - (ii) for the word “person” there were substituted the word “council”;
 - (b) in subsection (2)–
 - (i) the words “Subject to the following section,” were omitted; and
 - (ii) for all the words following “or otherwise,” there were substituted the words “by notice at any time do anything mentioned in subsection (1) above.”;
- (5) sections 38 and 39 shall be omitted;
- (6) section 40 shall apply as if–
 - (a) subsections (1), (2) and (3) were omitted;
 - (b) in subsection (4)–
 - (i) for the words “a river purification authority” and “the authority” (where they first appear) there were substituted the words “the Secretary of State” and for the words “the authority” (wherever they otherwise appear) there were substituted the word “he”; and
 - (ii) paragraph (c) were omitted; and
 - (c) subsection (5) were omitted;
- (7) section 42 shall apply as if–
 - (a) in subsections (1) and (2)–
 - (i) for the words “a person who” there were substituted the words “an islands council which”;
 - (ii) for the words “that person” there were substituted the words “that council”; and
 - (b) in subsection (1) for the words “a river purification authority” there were substituted the words “the Secretary of State”; and
- (8) section 53 shall be omitted.