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## SCHEDULES

### SCHEDULE 1

Section 6.

#### AUTHORISATIONS FOR PROCESSES: SUPPLEMENTARY PROVISIONS

##### PART I

##### GRANT OF AUTHORISATIONS

###### *Applications for authorisations*

- 1 [F1(1) An application to the enforcing authority for an authorisation must contain such information, and be made in such manner, as may be prescribed in regulations made by the Secretary of State.
- (2) An application to the enforcing authority for an authorisation must also, unless regulations made by the Secretary of State exempt applications of that class, be advertised in such manner as may be prescribed in regulations so made.
- (3) The enforcing authority may, by notice in writing to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the authority may require for the purpose of determining the application.
- (4) If a person fails to furnish any information required under sub-paragraph (3) above within the period specified thereunder the enforcing authority may refuse to proceed with the application.
- (5) Regulations under this paragraph may make different provision for different classes of applications.

###### **Textual Amendments**

- F1** Sch. 1 repealed (1.4.2015 for S.) by [Pollution Prevention and Control Act 1999 \(c. 24\), s. 7\(3\)](#), [Sch. 3](#); [S.S.I. 2015/74, art. 2\(2\)\(b\)](#)

###### **Modifications etc. (not altering text)**

- C1** Sch. 1 para. 1(2) excluded (E.W.) (1.4.1991) and (S.) (1.4.1992) by [S.I. 1991/507](#) regs. 6(1) and 7(4).

###### *Determination of applications*

- 2 (1) Subject to sub-paragraph (2) below, the enforcing authority shall give notice of any application for an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification.
- (2) The Secretary of State may, by regulations, exempt any class of application from the requirements of this paragraph or exclude any class of information contained in

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applications for authorisations from those requirements, in all cases or as respects specified classes only of persons to be consulted.

- (3) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.
- (4) For the purposes of sub-paragraph (1) above—
- (a) persons are prescribed to be consulted on any description of application for an authorisation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;
  - (b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;
- and the “specified period for notification” is the period specified in the regulations or in the direction.
- (5) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.
- (6) Subject to sub-paragraph (7) below, the period allowed for making representations is—
- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (1) above, and
  - (b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of paragraph 1(2) above.
- (7) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (6)(a) or (b) above, such other period as he considers appropriate.

**Modifications etc. (not altering text)**

- C2** Sch. 1 para. 2 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by [S.I. 1991/507](#) reg. 6(1)  
**C3** Sch. 1 para. 2(1) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by [S.I. 1991/507](#) reg. 7(2)

- 3 (1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.
- (2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.
- (3) Where an application for an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—
- (a) cause a local inquiry to be held in relation to the application; or
  - (b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;
- and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is

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made to be heard with respect to the application by the applicant or [<sup>F2</sup>the enforcing authority] concerned.

- (4) Subsections (2) to (5) of section 250 of the <sup>M1</sup>Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the <sup>M2</sup>Local Government (Scotland) Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to inquiries in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.
- (5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation.

#### Extent Information

**E1** See s. 164(4)(5)

#### Textual Amendments

**F2** Words in Sch. 1 Pt. I para. 3(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

#### Marginal Citations

**M1** 1972 c. 70.

**M2** 1973 c. 65.

- 4 The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.
- 5 (1) Except in a case where an application has been referred to the Secretary of State under paragraph 3 above and subject to sub-paragraph (3) below, the enforcing authority shall determine an application for an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.
- (2) If the enforcing authority fails to determine an application for an authorisation within the period allowed by or under this paragraph the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.
- (3) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (1) above such other period as he considers appropriate and different periods may be substituted for different classes of application.

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**Modifications etc. (not altering text)**

- C4 Sch. 1 para. 5(1) modified (1.4.1991 for E.W. and 1.4.1992 for S.) by *S.I. 1991/513*, **arts. 2(1)** and 3(1)(3)(5)(6).

## PART II

### VARIATION OF AUTHORISATIONS

#### *Variations by the enforcing authority*

- 6 (1) [<sup>F3</sup>Except as provided by sub-paragraph (1A) below,] The requirements of this paragraph apply where an enforcing authority has decided to vary an authorisation under section 10 and is of the opinion that any action to be taken by the holder of the authorisation in consequence of the variation will involve a substantial change in the manner in which the process is being carried on.
- [<sup>F4</sup>(1A) The requirements of this paragraph shall not apply in relation to any variations of an authorisation which an enforcing authority has decided to make in consequence of representations made in accordance with this paragraph and which are specified by way of variation of a variation notice by a further notice under section 10(3A) of this Act.]
- (2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of the action to be taken by the holder of the authorisation to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder shall advertise the action in the manner prescribed in regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, exempt any class of variation from all or any of the requirements of this paragraph or exclude any class of information relating to action to be taken by holders of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.
- (4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in taking its decision.
- (5) For the purposes of sub-paragraph (2) above—
- (a) persons are prescribed to be consulted on any description of variation if they are persons specified for the purposes of variations of that description in regulations made by the Secretary of State;
  - (b) persons are directed to be consulted on any particular variation if the Secretary of State specifies them in a direction given to the enforcing authority;
- and the “specified period for notification” is the period specified in the regulations or in the direction.
- (6) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in taking its decision.

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- (7) Subject to sub-paragraph (8) below, the period allowed for making representations is—
- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice was given under sub-paragraph (2) above, and
  - (b) in the case of other persons, the period of twenty-eight days beginning with the date of the advertisement under sub-paragraph (2) above.
- (8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

#### Textual Amendments

- F3** Words in Sch. 1 Pt. I para. 6(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.
- F4** Sch. 1 Pt. I para. 6(1A) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

#### Modifications etc. (not altering text)

- C5** Sch. 1 para. 6 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, **reg. 6(1)**.
- C6** Sch. 1 para. 6(2) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by S.I. 1991/507, **reg. 7(2)(4)**.

#### *Applications for variation*

- 7 (1) The requirements of this paragraph apply where an application is made to an enforcing authority under section 11(4) for the variation of an authorisation.
- (2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of any such application for a variation of an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder of the authorisation shall advertise the application in the manner prescribed in regulations made by the Secretary of State.
- (3) The Secretary of State may, by regulations, exempt any class of application from all or any of the requirements of this paragraph or exclude any class of information furnished with applications for variations of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.
- (4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.
- (5) For the purposes of sub-paragraph (2) above—
- (a) persons are prescribed to be consulted on any description of application for a variation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;
  - (b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;

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and the “specified period for notification” is the period specified in the regulations or in the direction.

- (6) Any representation made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.
- (7) Subject to sub-paragraph (8) below, the period allowed for making representations is—
- (a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (2) above; and
  - (b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of sub-paragraph (2) above.
- (8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

**Modifications etc. (not altering text)**

**C7** Sch. 1 para. 7 excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by [S.I. 1991/507, reg. 6\(1\)](#)

**C8** Sch. 1 para. 7(2) excluded (1.4.1991 for E.W. and 1.4.1992 for S.) by [S.I. 1991/507, reg. 7\(2\)\(4\)](#)

*<sup>F5</sup> Call in of applications for variation*

**Textual Amendments**

**F5** Sch. 1 Pt. 1 paras. 8-10 and cross heading inserted (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 93\(5\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art.3](#).

- <sup>F68</sup> (1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for the variation of an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.
- (2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.
- (3) Where an application for the variation of an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—
- (a) cause a local inquiry to be held in relation to the application; or
  - (b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;
- and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is made to be heard with respect to the application by the applicant or the enforcing authority concerned.
- (4) Subsections (2) to (5) of section 250 of the <sup>M3</sup>Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the <sup>M4</sup>Local Government (Scotland)

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Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to local inquiries or other hearings in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.

- (5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation by means of the variation notice.

#### Textual Amendments

- F6** Sch. 1 Pt. I paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

#### Marginal Citations

- M3** 1972 c. 70.  
**M4** 1973 c. 65.

- <sup>F79</sup> The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for the variation of an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.

#### Textual Amendments

- F7** Sch. 1 Pt. I paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

- <sup>F810</sup> (1) Except in a case where an application for the variation of an authorisation has been referred to the Secretary of State under paragraph 8 above and subject to sub-paragraph (3) below, the enforcing authority shall determine an application for the variation of an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.]]

#### Textual Amendments

- F8** Sch. 1 Pt. I paras. 8-10 and cross heading inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

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[<sup>F9</sup>SCHEDULE 2]

Section 32.

WASTE DISPOSAL AUTHORITIES AND COMPANIES

**Textual Amendments**

- F9** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)(k)** (with art. 6 (as amended by S.I. 2006/1002, art. 2)); S.I. 2006/768, **art. 2(a)(d)** (with art. 5 (as amended by S.I. 2006/2797, art. 11))

[<sup>F10</sup>PART I]

TRANSITION TO COMPANIES

**Textual Amendments**

- F10** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2** (with art. 5 (as amended by S.I. 2006/2797))

[<sup>F11</sup>Preliminary]

**Textual Amendments**

- F11** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2** (with art. 5 (as amended by S.I. 2006/2797))

1

[<sup>F12</sup>In this Part of this Schedule—

“authority” means an existing disposal authority as defined in section 32(1);

“company” means a waste disposal contractor formed under the <sup>M5</sup>Companies Act 1985 by a waste disposal authority as mentioned in section 30(5);

“direction” means a direction under section 32(2);

“joint company” means a company in which more than one authority holds securities;

“securities”, in relation to a company includes shares, debentures, bonds or other securities of the company, whether or not constituting a charge on the assets of the company; and

“the vesting date” means the date on which property, rights and liabilities vest in a company by virtue of a transfer scheme under paragraph 6 below.]

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#### Textual Amendments

**F12** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2](#) (with art. 5 (as amended by S.I. 2006/2797))

#### Marginal Citations

**M5** 1985 c. 6.

### *[<sup>F13</sup>Notice of direction]*

#### Textual Amendments

**F13** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2](#) (with art. 5 (as amended by S.I. 2006/2797))

- 2
- [<sup>F14</sup>(1) The Secretary of State, before giving any directions to any authority or constituent authority, shall give notice of his intention to do so to that authority.
- (2) A notice under this paragraph shall give a general indication of the provisions to be included in the direction, indicating in particular whether the proposed direction will require the formation of one or more than one company and the authority or authorities who are to form or control the company or companies and whether any existing disposal authority will be abolished.
- (3) A notice under this paragraph shall state that the authority to whom it is given is entitled, within a period specified in the notice, to make to the Secretary of State applications or representations with respect to the proposed direction under paragraph 3 below.]

#### Textual Amendments

**F14** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)\(k\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(a\)\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

### *[<sup>F15</sup>Applications for exemption from and representations about directions]*

#### Textual Amendments

**F15** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)\(k\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(a\)\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 3
- [<sup>F16</sup>(1) An authority which has been given notice under paragraph 2 above of a proposed direction may, within the period specified in the notice, make to the Secretary of

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State either an application under sub-paragraph (2) below or representations under sub-paragraph (3) below.

- (2) An authority may, under this sub-paragraph, apply to the Secretary of State requesting him not to make a direction in its case on the ground that the authority falls within any of paragraphs (a), (b), (c) or (d) of section 32(3).
- (3) An authority may, under this sub-paragraph, make representations to the Secretary of State requesting him to make, in the direction, other provision than that proposed in the notice.
- (4) It shall be the duty of the Secretary of State to consider any application duly made under sub-paragraph (2) above and to notify the authority of his decision.
- (5) It shall be the duty of the Secretary of State to consider any representations duly made under sub-paragraph (3) above before he gives a direction.]

**Textual Amendments**

**F16** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)(k)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(a)(d)** (with art. 5 (as amended by S.I. 2006/2797))

*[<sup>F17</sup>Directions]*

**Textual Amendments**

**F17** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)(k)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(a)(d)** (with art. 5 (as amended by S.I. 2006/2797))

- 4
- [<sup>F18</sup>(1) A direction may require the authority or authorities to whom it is given to form or participate in forming one or more than one company or to form or participate in forming one or more than one joint company and it shall specify the date before which the company or companies is or are to be formed.
- (2) Where a direction is to require a joint company to be formed the direction may be given to such of the authorities as the Secretary of State considers appropriate (the “representative authority”).
  - (3) Where a direction is given to an authority as the representative authority it shall be the duty of that representative authority to consult the other authorities concerned before forming a company in accordance with the direction.
  - (4) The Secretary of State may exercise his powers to vary or revoke a direction and give a further direction at any time before the vesting date, whether before or after a company has been formed in accordance with the direction or previous direction, as the case may be.]

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#### Textual Amendments

**F18** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

### *[<sup>F19</sup>Formation and status of companies]*

#### Textual Amendments

**F19** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 5
- [<sup>F20</sup>(1) An authority which has been directed to form a company shall do so by forming it under the <sup>M6</sup>Companies Act 1985 as a company which—
- (a) is limited by shares, and
  - (b) is a wholly-owned subsidiary of the authority or authorities forming it;
- and it shall do so before such date as the Secretary of State specifies in the direction.
- (2) The authority shall so exercise its control of the company as to secure that, at some time before the vesting date, the conditions specified in section 68(6)(a) to (h) of the <sup>M7</sup>Local Government and Housing Act 1989 (conditions for “arm’s length companies”) apply in relation to the company and shall, at some time before the vesting date, resolve that the company shall be an arm’s length company for the purposes of Part V of that Act.
- (3) In this paragraph “wholly-owned subsidiary”, in relation to a company and an authority, is to be construed in accordance with section 736 of the Companies Act 1985.]

#### Textual Amendments

**F20** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

#### Marginal Citations

**M6** 1985 c. 6.  
**M7** 1989 c. 42.

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[<sup>F21</sup>Transfer schemes]

**Textual Amendments**

**F21** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 6
- [<sup>F22</sup>(1) Where an authority has formed a company or companies in pursuance of a direction, the authority shall, before such date as the Secretary of State may specify in a direction given to the authority under this sub-paragraph, submit to the Secretary of State a scheme providing for the transfer to the company or companies of any property, rights or liabilities of that or that and any other authority, or of any subsidiary of its or theirs, which appear to be appropriate to transfer as representing the relevant part of the undertaking of that authority or of that authority and the other authorities.
- (2) In preparing a scheme in pursuance of sub-paragraph (1) above the authority shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the scheme (and in particular any advice as to the description of property, rights and liabilities which it is in his view appropriate to transfer to the company).
- (3) A scheme under this paragraph shall not come into force until it has been approved by the Secretary of State and the date on which it is to come into force shall be such date as the Secretary of State may, either in giving his approval or subsequently, specify in writing to the authority; and the Secretary of State may approve a scheme either without modifications or with such modifications as he thinks fit after consulting the authority who submitted the scheme.
- (4) If it appears to the Secretary of State that a scheme submitted under sub-paragraph (1) above does not accord with any advice given by him, he may do one or other of the following things, as he thinks fit, namely—
- (a) approve the scheme under sub-paragraph (3) above with modifications; or
  - (b) after consulting the authority who submitted the scheme, substitute for it a scheme of his own, to come into force on such date as may be specified in the scheme.
- (5) In the case of a scheme for the transfer to a company or joint company of the relevant part of the undertaking of two or more authorities, the representative authority shall consult the other authority or authorities before submitting the scheme under sub-paragraph (1) above; and the Secretary of State shall not approve the scheme (whether with or without modifications), or substitute a scheme of his own unless—
- (a) he has given that other authority or (as the case may be) those other authorities an opportunity of making, within such time as he may allow for the purpose, written representations with respect to the scheme; and
  - (b) he has considered any such representations made to him within that time.
- (6) The Secretary of State shall not specify the date on which the scheme is to come into force without consulting the authority which submitted the scheme and, where the scheme was submitted by a representative authority, the other authorities concerned.

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- (7) On the coming into force of a scheme under this paragraph the property, rights and liabilities affected by the scheme shall be transferred and vest in accordance with the scheme.
- (8) As a consequence of the vesting by virtue of the scheme of property, rights and liabilities of an authority in a company, that company shall issue to the authority such securities of the company as are specified in the transfer scheme.]

#### Textual Amendments

**F22** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

*[<sup>F23</sup>Transfer schemes: supplementary provisions]*

#### Textual Amendments

**F23** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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*[<sup>F24</sup>A scheme under paragraph 6 above may define the property, rights and liabilities to be transferred by the scheme—*

- (a) by specifying the property, rights and liabilities in question; or
- (b) by referring to all the property, rights and liabilities comprised in any specified part of the undertaking or undertakings to be transferred; or
- (c) partly in the one way and partly in the other;

*and may make such supplemental, incidental and consequential provision as the authority making the scheme considers appropriate.]*

#### Textual Amendments

**F24** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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*[<sup>F25</sup>(1) The provisions of this paragraph apply to the transfer to a company of the property, rights and liabilities representing the relevant part of an authority's undertaking.*

- (2) Any property, rights or liabilities held or subsisting partly for the purpose of the relevant part of the authority's undertaking and partly for the purpose of another part shall, where the nature of the property, rights or liabilities permits, be divided or apportioned between the authority and the company in such proportions as may be appropriate; and where any estate or interest in land falls to be so divided, any rent payable under a lease in respect of that estate or interest, and any rent charged on that estate or interest, shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only one part of the estate or interest

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and the other part is payable in respect of, or charged on, only the other part of the estate or interest.

- (3) Any property, rights or liabilities held or subsisting as mentioned in sub-paragraph (2) above the nature of which does not permit their division or apportionment as so mentioned shall be transferred to the company or retained by the authority according to which of them appear at the vesting date likely to make use of the property, or, as the case may be, to be affected by the right or liability, to the greater extent, subject to such arrangements for the protection of the other of them as may be agreed between them.
- (4) It shall be the duty of the authority and the company, before or after the vesting date, so far as practicable to enter into such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the company or retained by the authority and as will—
  - (a) afford to the authority and the company as against one another such rights and safeguards as they may require for the proper discharge of the authority's functions and the proper carrying on of the company's undertaking; and
  - (b) make, as from such date (not being earlier than the vesting date) as may be specified in that agreement or instrument, such clarifications and modifications of the division of the authority's undertaking as will best serve the proper discharge of the authority's functions and the proper carrying on of the company's undertaking.
- (5) Any such agreement shall provide so far as it is expedient—
  - (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;
  - (b) for the granting of indemnities in connection with the severance of leases and other matters;
  - (c) for responsibility for complying with any statutory requirements as respects matters to be registered and any licences, authorisations or permissions which need to be obtained.
- (6) If the authority or the company represents to the Secretary of State, or if it appears to him without such a representation, that it is unlikely in the case of any matter on which agreement is required under sub-paragraph (4) above that such agreement will be reached, the Secretary of State may, whether before or after the vesting date, give a direction determining the manner in which the property, rights or liabilities in question are to be divided between the authority and the company, and may include in the direction any provision which might have been included in an agreement under that sub-paragraph; and any property, rights or liabilities required by the direction to be transferred to the company shall be regarded as having been transferred to, and by virtue of the transfer scheme vested in, the company accordingly.]

#### **Textual Amendments**

**F25** [Sch. 2](#) repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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*[<sup>F26</sup>Tax and company provisions]*

**Textual Amendments**

**F26** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 9
- <sup>F27</sup>(1) Any shares in a company which are issued as a consequence of the vesting by a transfer scheme of property, rights and liabilities in the company shall—
- (a) be issued as fully paid; and
  - (b) treated for the purposes of the application of the <sup>M8</sup>Companies Act 1985 in relation to that company as if they had been paid up by virtue of the payment to the company of their nominal value in cash.
- (2) For the purposes of Chapter I of Part II of the <sup>M9</sup>Capital Allowances Act 1990 (capital allowance in respect of machinery and plant) property which is vested in a company by virtue of a transfer scheme shall be treated as if—
- (a) it had been acquired by the company on the transfer date for the purposes for which it is used by the company on and after that date; and
  - (b) capital expenditure of an amount equal to the price which the property would have fetched if sold in the open market had been incurred on that date by the company on the acquisition of the property for the purposes mentioned in paragraph (a) above.]

**Textual Amendments**

**F27** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

**Marginal Citations**

**M8** 1985 c. 6.  
**M9** 1990 c. 1.

*[<sup>F28</sup>Benefit of certain planning permission]*

**Textual Amendments**

**F28** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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- <sup>F29</sup>(1) This paragraph applies in relation to planning permission deemed to have been granted to the authority under regulation 4 of the <sup>M10</sup>Town and Country Planning General Regulations 1976 (deemed planning permission for development by local authorities) which subsists at the vesting date.

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- (2) Any planning permission to which this paragraph applies which authorises the use of land by the authority for the treatment, keeping or disposal of waste shall, on the transfer of the land to the company by the scheme, enure for the benefit of the land.]

**Textual Amendments**

**F29** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(d)** (with art. 5 (as amended by S.I. 2006/2797))

**Marginal Citations**

**M10** [S.I.1976/1419](#).

*[<sup>F30</sup>Right to production of documents of title]*

**Textual Amendments**

**F30** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(d)** (with art. 5 (as amended by S.I. 2006/2797))

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[<sup>F31</sup>Where on any transfer by virtue of a transfer scheme the authority is entitled to retain possession of any documents relating to the title to, or to the management of, any land or other property transferred to the company, the authority shall be deemed to have given to the company an acknowledgement in writing of the right of the company to production of that document and to delivery of copies thereof; and, in England and Wales, section 64 of the <sup>M11</sup>Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgement did not contain any such expression of contrary intention as is mentioned in that section.]

**Textual Amendments**

**F31** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(d)** (with art. 5 (as amended by S.I. 2006/2797))

**Marginal Citations**

**M11** [1925 c. 20](#).

*[<sup>F32</sup>Proof of title by certificate]*

**Textual Amendments**

**F32** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(d)** (with art. 5 (as amended by S.I. 2006/2797))

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- 12 [F33(1) A joint certificate by or on behalf of the authority and the company that any property specified in the certificate, or any such interest in or right over any such property as may be specified in the certificate, is by virtue of the transfer scheme for the time being vested in the authority or in the company shall be conclusive evidence for all purposes of that fact.
- (2) If on the expiration of one month after a request from the authority or the company for the preparation of such a joint certificate the authority and the company have failed to agree on the terms of the certificate, they shall refer the matter to the Secretary of State and issue the certificate in such terms as the Secretary of State may direct.]

#### Textual Amendments

**F33** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

#### [F34 Construction of agreements]

#### Textual Amendments

**F34** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 13 [F35] Where any of the rights or liabilities transferred by a transfer scheme are rights or liabilities under an agreement to which the authority was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities thereunder could be assigned by the authority, that agreement shall have effect on and after the vesting date as if—
- the company had been a party to the agreement; and
  - for any reference (however worded and whether express or implied) to the authority there were substituted a reference, as respects anything falling to be done on or after the vesting date, to the company; and
  - any reference (however worded and whether express or implied) to any officer or servant of the authority were, as respects anything falling to be done on or after the vesting date, a reference to such person as the company may appoint or, in default of appointment, to the officer or servant of the company who corresponds as nearly as may be to that officer or servant of the authority; and
  - where the agreement refers to property, rights or liabilities which fall to be apportioned or divided between the authority and the company, as if the agreement constituted two separate agreements separately enforceable by and against the authority and the company respectively as regards the part of the property, rights and liabilities retained by the authority or, as the case may be, the part of the property, rights and liabilities vesting in the company and not as regards the other part;
- and sub-paragraph (d) above shall apply in particular to the covenants, stipulations and conditions of any lease by or to the authority.]

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#### Textual Amendments

**F35** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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[<sup>F36</sup>Without prejudice to the generality of the provisions of paragraph 13 above, the company and any other person shall, as from the vesting date, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing any right or liability transferred to and vested in the company by a transfer scheme as he would have had if that right or liability had at all times been a right or liability of the company, and any legal proceedings or applications to any authority pending on the vesting date by or against the authority, in so far as they relate to any property, right or liability transferred to the company by the scheme, or to any agreement to any such property, right or liability, shall be continued by or against the company to the exclusion of the authority.]

#### Textual Amendments

**F36** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

*[<sup>F37</sup>Third parties affected by vesting provisions]*

#### Textual Amendments

**F37** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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[<sup>F38</sup>(1) Without prejudice to the provisions of paragraphs 13 and 14 above, any transaction effected between the authority and the company in pursuance of paragraph 8(4) above or of a direction under paragraph 8(6) above shall be binding on all other persons, and notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.

(2) It shall be the duty of the authority and the company, if they effect any transaction in pursuance of paragraph 8(4) above or of a direction under paragraph 8(6) above, to notify any person who has rights or liabilities which thereby become enforceable as to part by or against the authority and as to part by or against the company; and if such a person applies to the Secretary of State and satisfies him that the transaction operated unfairly against him the Secretary of State may give such directions to the authority and the company as appear to him to be appropriate for varying the transaction.

(3) If in consequence of a transfer by a transfer scheme or of anything done in pursuance of paragraphs 8 to 14 above the rights or liabilities of any person other than the

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authority which were enforceable against or by the authority become enforceable as to part against or by the authority and as to part against or by the company, and the value of any property or interest of that person is thereby diminished, such compensation as may be just shall be paid to that person by the authority, the company or both, and any dispute as to whether and if so how much compensation is payable, or as to the person by whom it shall be paid, shall be referred to, and determined by, the Lands Tribunal.]

#### Textual Amendments

**F38** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

*[<sup>F39</sup>Transfer of staff]*

#### Textual Amendments

**F39** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 16 <sup>F40</sup>(1) The <sup>M12</sup>Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply in relation to the relevant employees of an authority in accordance with subparagraph (2) below.
- (2) For the purposes of the application of those Regulations in relation to any of the relevant employees of an authority, the relevant part of the undertaking of the authority shall (whether or not it would otherwise be so regarded) be regarded—
- as a part of an undertaking within the meaning of those Regulations which is transferred from the authority to the company on the vesting date, and
  - as being so transferred by a transfer to which those Regulations apply and which is completed on that date.
- (3) Where a person is, in pursuance of section 32, to cease to be employed by an authority and to become employed by a company, none of the agreed redundancy procedures applicable to persons employed by waste disposal authorities shall apply to him.
- (4) For the purposes of this paragraph persons are “relevant employees” of an authority if they are to become, in pursuance of section 32, employees of a company to which the relevant part of the undertaking of the authority is to be transferred.]

#### Textual Amendments

**F40** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

#### Marginal Citations

**M12** [S.I.1981/1794](#)

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*[<sup>F41</sup>Information for purposes of transfer scheme]*

**Textual Amendments**

**F41** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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<sup>F42</sup>(1) The Secretary of State may, by directions, prescribe descriptions of information which are to be furnished for purposes connected with the transfer by authorities to companies of the relevant part of the undertakings of authorities.

(2) It shall be the duty of <sup>F43</sup>. . . a waste disposal authority, on being requested to do so by a written notice served on it by the Secretary of State, to furnish to the Secretary of State such information of a description prescribed under sub-paragraph (1) above as may be specified in the notice.]

**Textual Amendments**

**F42** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

**F43** Words in Sch. 2 para. 17(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 94, [Sch.24](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art.3](#).

**[<sup>F44</sup>PART II]**

PROVISIONS REGULATING WASTE DISPOSAL AUTHORITIES AND COMPANIES

**Textual Amendments**

**F44** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

*[<sup>F45</sup>Terms of waste disposal contracts]*

**Textual Amendments**

**F45** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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<sup>F46</sup>A waste disposal authority shall, in determining the terms and conditions of any contract which the authority proposes to enter into for the keeping, treatment or disposal of waste, so frame the terms and conditions as to avoid undue

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discrimination in favour of one description of waste disposal contractor as against other descriptions of waste disposal contractors.]

#### Textual Amendments

**F46** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 19 [F47(1) A waste disposal authority shall have regard to the desirability of including in any contract which the authority proposes to enter into for the keeping, treatment or disposal of waste terms or conditions designed to—
- (a) minimize pollution of the environment or harm to human health due to the disposal or treatment of the waste under the contract; and
  - (b) maximize the recycling of waste under the contract.
- (2) A waste disposal authority shall be entitled—
- (a) to invite tenders for any such contract, and
  - (b) to accept or refuse to accept any tender for such a contract and accordingly to enter or not to enter into a contract,
- by reference to acceptance or refusal of acceptance by persons tendering for the contract of any terms or conditions included in the draft contract in pursuance of subparagraph (1) above.]

#### Textual Amendments

**F47** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

*[F48 Procedure for putting waste disposal contracts out to tender]*

#### Textual Amendments

**F48** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

- 20 [F49(1) A waste disposal authority which proposes to enter into a contract for the keeping, treatment or disposal of controlled waste shall comply with the following requirements before making the contract and if it does not any contract which is made shall be void.
- (2) The authority shall publish, in at least two publications circulating among waste disposal contractors, a notice containing—
- (a) a brief description of the contract work;
  - (b) a statement that during a specified period any person may inspect a detailed specification of the contract work free of charge at a specified place and time;

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- (c) a statement that during that period any person will be supplied with a copy of the detailed specification on request and on payment of the specified charge;
- (d) a statement that any person who wishes to submit a tender for the contract must notify the authority of his wish within a specified period; and
- (e) a statement that the authority intend to invite tenders for the contract, in accordance with sub-paragraph (4) below.

(3) The authority shall—

- (a) ensure that the periods, place and time and the charge specified in the notice are such as are reasonable;
- (b) make the detailed specification available for inspection in accordance with the notice; and
- (c) make copies of the detailed specification available for supply in accordance with the notice.

(4) If any persons notified the authority, in accordance with the notice, of their wish to submit tenders for the contract, the authority shall—

- (a) if more than four persons did so, invite at least four of them to tender for the contract;
- (b) if less than four persons did so, invite each of them to tender for the contract.

(5) In this paragraph—

“the contract work”, in relation to a contract for the keeping, treatment or disposal of waste, means the work comprising the services involved in the keeping, treatment or disposal of the waste under the contract; and

“specified” means specified in the notice under sub-paragraph (2) above.]

#### Textual Amendments

**F49** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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[<sup>F50</sup>A waste disposal authority, in taking any of the following decisions, namely—

- (a) who to invite to tender for the contract under paragraph 20(4)(a) above, and
- (b) who to enter into the contract with,

shall disregard the fact that any waste disposal contractor tendering for the contract is, or is not, controlled by the authority.]

#### Textual Amendments

**F50** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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### *[<sup>F51</sup>Variation of waste disposal contracts]*

#### **Textual Amendments**

**F51** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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<sup>F52</sup>Where a waste disposal authority has entered into a contract with a waste disposal contractor under the authority's control, paragraph 18 above shall, with the necessary modifications, apply on any proposed variation of the contract during the subsistence of that control, in relation to the terms and conditions that would result from the variation as it applies to the original contract.]

#### **Textual Amendments**

**F52** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

### *[<sup>F53</sup>Avoidance of restrictions on transfer of securities of companies]*

#### **Textual Amendments**

**F53** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(g\)](#) (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, [art. 2\(d\)](#) (with art. 5 (as amended by S.I. 2006/2797))

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<sup>F54</sup>(1) Subject to sub-paragraph (3) below, any provision to which this paragraph applies shall be void in so far as it operates—

- (a) to preclude the holder of any securities of a waste disposal contractor from disposing of those securities; or
- (b) to require the holder of any such securities to dispose, or offer to dispose, of those securities to particular persons or to particular classes of persons; or
- (c) to preclude the holder of any securities from disposing of those securities except—
  - (i) at a particular time or at particular times; or
  - (ii) on the fulfilment of particular conditions or in other particular circumstances.

(2) This paragraph applies to any provision relating to any securities of a waste disposal contractor which is controlled by a waste disposal authority or to which the authority has transferred the relevant part of its undertaking and contained in—

- (a) the memorandum or articles of association of the company or any other instrument purporting to regulate to any extent the respective rights and liabilities of the members of the company;
- (b) any resolution of the company; or

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- (c) any instrument issued by the company and embodying terms and conditions on which any such securities are to be held by persons for the time being holding them.

- (3) No provision shall be void by reason of its operating as mentioned in subparagraph (1) above if the Secretary of State has given his approval in writing to that provision.]

#### Textual Amendments

**F54** Sch. 2 repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 47, 107, 108, **Sch. 5 Pt. 4**; S.I. 2005/2896, **art. 3(g)** (with art. 6 (as amended by S.I. 2006/1002)); S.I. 2006/768, **art. 2(d)** (with art. 5 (as amended by S.I. 2006/2797))

### <sup>F55</sup>SCHEDULE 2A

#### Textual Amendments

**F55** Sch. 2A repealed (S.) (23.3.2007) by [The National Waste Management Plan for Scotland Regulations 2007 \(S.S.I. 2007/251\)](#), **reg. 8(1)(a)**; and omitted (E.W.) (29.3.2011) by virtue of [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), reg. 1(2), **Sch. 4 para. 3(9)** (with regs. 2, 47(2))

### [<sup>F56</sup>SCHEDULE 2AA

#### WASTE REDUCTION SCHEMES

#### Textual Amendments

**F56** Sch. 2AA inserted (prospectively in accordance with ss. 72-75 of the amending Act) (E.W.) by [Climate Change Act 2008 \(c. 27\)](#), ss. 71, 100, **Sch. 5 para. 1** and which amending provisions repealed (never in force) (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), ss. 47, 240(1)(e), **Sch. 25 Pt. 8**

#### *Introductory*

- 1 (1) The purpose of a waste reduction scheme is to provide a financial incentive—
- (a) to produce less domestic waste, and
  - (b) to recycle more of what is produced,
- and accordingly to reduce the amount of residual domestic waste.
- (2) A waste reduction scheme—
- (a) may cover the whole or any part of the area of a waste collection authority, and

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- (b) may apply to all domestic premises, to domestic premises other than those of a specified description or to specified descriptions of domestic premises.

*Conditions for making waste reduction scheme*

- 2 (1) A waste collection authority may make a waste reduction scheme only if—
  - (a) a good recycling service is available to the occupiers of premises to which the scheme applies,
  - (b) the scheme takes account of the needs of groups who might be unduly disadvantaged by it, and
  - (c) the authority has a strategy for preventing, minimising or otherwise dealing with the unauthorised deposit or disposal of waste.
- (2) In sub-paragraph (1)(a) above—
  - (a) a “recycling service” means arrangements for the collection of recyclable domestic waste from premises separately from other waste; and
  - (b) a “good” recycling service means a recycling service that meets the standards specified for the purposes of this definition in guidance issued by the Secretary of State.
- (3) The Secretary of State may by order amend sub-paragraphs (1) and (2) above.

*Incentive under waste reduction scheme*

- 3 (1) A waste reduction scheme must provide for a financial incentive that the authority considers will be effective to achieve the purpose of the scheme.
- (2) The scheme may provide for the incentive to be provided—
  - (a) by means of rebates from council tax or by other payments, or
  - (b) by means of charges under paragraph 4,or by any combination of those means.

*Charges in respect of residual domestic waste*

- 4 (1) A waste reduction scheme may include provision for charging by reference to—
  - (a) the amount of residual domestic waste collected from premises,
  - (b) the size of receptacles used for the purposes of the collection of residual domestic waste from premises,
  - (c) the number of receptacles used for such purposes, or
  - (d) the frequency with which residual domestic waste is collected from premises,or by reference to any combination of those factors.
- (2) The scheme may, in particular, make provision for occupiers of premises—
  - (a) to be required (by notice under section 46) to place residual domestic waste for collection in receptacles of a specified kind,
  - (b) to be required (by such notice) to place such waste in receptacles that are identified by such means as may be specified, or
  - (c) to be required to do both,and for a charge to be made by the authority in respect of the receptacles, the means of identifying them or both.

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- (3) A charge under this paragraph in respect of a receptacle is in addition to any charge under section 46 in respect of the cost of providing the receptacle.
- (4) The amount of any charge under this paragraph need not be related to the authority's costs.
- (5) The scheme may make provision as to the person or persons by whom any charge is payable.
- (6) The scheme may—
  - (a) require any charge to be paid in advance on the basis of an estimate of the amount that is likely to be payable in respect of any premises; or
  - (b) require payments in respect of any charge to be made on account or by instalments.

*Charging: supplementary provisions*

- 5 (1) The Secretary of State may by order set a limit on the amount of the charge under paragraph 4 that may be imposed in respect of any premises in any financial year.
- (2) A failure to pay a charge under paragraph 4 does not affect the authority's duty under section 45(1)(a) (general duty to arrange for collection of household waste).
- (3) Section 45(3) (general prohibition on charging for collection of household waste) has effect subject to paragraph 4.

*Requirement of revenue neutrality*

- 6 (1) From year to year, and taking one year with another, the aggregate amount of charges under a waste reduction scheme must not exceed the aggregate amount of the rebates or other payments under the scheme.
- (2) The Secretary of State may by order amend sub-paragraph (1) above.
- (3) Any such order may make any amendments of paragraph 4(4) that appear to the Secretary of State to be necessary or expedient in consequence of, or in connection with, the amendment of sub-paragraph (1) above.

*Procedure for putting scheme in place*

- 7 (1) The authority must comply with the following requirements after making a waste reduction scheme and before it is brought into operation.
- (2) The authority must publish the scheme in such manner as it considers appropriate.
- (3) The authority must send to the occupier of any premises to which the scheme applies a notice setting out—
  - (a) the requirements applicable under the scheme in relation to the collection of domestic waste from premises to which the scheme applies;
  - (b) any rebates or other payments available under the scheme and the manner in which they are to be made; and
  - (c) any charges provided for by the scheme and the manner in which they are to be collected.

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### *Appeals*

- 8 A waste reduction scheme must contain provision enabling a person to appeal against any decision affecting, directly or indirectly, that person's entitlement to a rebate or other payment, or liability to pay a charge, under the scheme.

### *Separate account to be kept*

- 9 (1) A waste collection authority that operates a waste reduction scheme must keep a separate account of—
- (a) any rebates or other payments under the scheme, and
  - (b) any charges received by it under the scheme.
- (2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.
- (3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by sub-paragraph (2) above commits an offence.
- (4) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *Contributions by waste disposal authority*

- 10 (1) Where a waste collection authority that operates a waste reduction scheme is not also the waste disposal authority, the waste disposal authority may pay to the collection authority contributions of such amounts as the disposal authority may determine towards expenditure of the collection authority attributable to the scheme.
- (2) The collection authority must supply to the disposal authority such information as the disposal authority may reasonably require for the purpose of determining amounts under this paragraph.

### *Power to make provision as to administration etc*

- 11 (1) The Secretary of State may by regulations make provision as to—
- (a) the manner in which the amount of any rebate or other payment is to be determined, and any rebate or payment is to be given, and
  - (b) the manner in which—
    - (i) the amount of any charge is to be determined, and
    - (ii) any charge is to be collected or enforced.
- (2) The regulations may in particular provide—
- (a) for appeals against determinations or any failure to make a determination,
  - (b) for the appointment of persons or bodies to hear appeals, and
  - (c) for charges to be recoverable, if a county court so orders, as if they were payable under a county court order.
- (3) The regulations may include provision—
- (a) for integrating the administration of the scheme with the administration of council tax, and
  - (b) for that purpose modifying, to such extent as appears to the Secretary of State to be necessary or expedient, any of the enactments relating to council tax.

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In paragraph (b) “modifying” includes making additions, amendments or omissions.

- (4) The regulations may in particular provide—
- (a) for including material relating to the scheme in the notice containing the council tax demand,
  - (b) for applying to questions arising under the scheme the procedure for appeals about liability to council tax, and
  - (c) for applying to any liability under the scheme the procedures for the enforcement of liability for council tax.

*Use of information obtained for council tax purposes*

- 12 An authority may use for the purpose of administering a waste reduction scheme information it has obtained for the purpose of carrying out its functions under the enactments relating to council tax.

*Amendment or revocation of waste reduction scheme*

- 13 (1) An authority that has made a waste reduction scheme may amend or revoke the scheme.
- (2) After amending a scheme and before bringing the amendment into operation, the authority must—
- (a) publish the amended scheme in such manner as it thinks appropriate, and
  - (b) if the amendment affects any of the matters previously notified to occupiers, send to the occupier of any premises to which the scheme applies a notice setting out the effect of the amendment.
- (3) The amendment or revocation of a scheme does not affect any entitlement or liability under the scheme in respect of a period before the amendment or revocation takes effect.
- (4) The revocation of a scheme does not affect the duty of the authority to comply with paragraph 6(1).

*Guidance*

- 14 (1) The Secretary of State may issue guidance to waste collection authorities and waste disposal authorities as respects the exercise of their functions under this Schedule.
- (2) Any such guidance issued—
- (a) must be published in such manner as the Secretary of State considers appropriate, and
  - (b) may be amended or replaced by further guidance, or revoked.
- (3) In exercising their functions under this Schedule waste collection authorities and waste disposal authorities must have regard to any guidance in force under this paragraph.

*Interpretation*

- 15 (1) In this Schedule—
- “domestic premises” means—

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- (a) a building or self-contained part of a building which is used wholly for the purposes of living accommodation,
  - (b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 (c. 62)) that usually and for the time being is situated on a caravan site (within the meaning of that Act), or
  - (c) a moored vessel used wholly for the purposes of living accommodation;
- “domestic waste” means household waste from domestic premises;  
“enactment” includes an enactment contained in subordinate legislation;  
“recyclable waste” means waste that is capable of being recycled;  
“residual domestic waste” means domestic waste that is not—
- (a) waste meeting the conditions for collection by the authority as recyclable waste, or
  - (b) waste for which a charge may be made by virtue of regulations under section 45(3) (power to charge for collection of household waste in prescribed cases);
- “specified” means specified in the waste reduction scheme.

- (2) The Secretary of State may by order amend the definition of “domestic premises” in sub-paragraph (1).
- (3) References in this Schedule to recycling include re-using and composting.

#### *Orders and regulations*

- 16 (1) An order under paragraph 2(3), 6(2) or 15(2) is subject to affirmative resolution procedure.
- (2) Section 161(3) (negative resolution procedure: orders) applies in relation to an order under paragraph 5(1), subject as follows.
- (3) An order under that paragraph is subject to affirmative resolution procedure if—
  - (a) it is the first order to be made under that paragraph, or
  - (b) it increases the limit for the time being set by an order under that paragraph by more than is necessary to reflect changes in the value of money since that limit was set.
- (4) Section 161(2) (negative resolution procedure: regulations) applies in relation to regulations under paragraph 11, subject as follows.
- (5) Regulations under that paragraph are subject to affirmative resolution procedure if they modify an enactment contained in an Act of Parliament.
- (6) Where an order or regulations are subject to “affirmative resolution procedure” the Secretary of State must not make the order or regulations unless a draft of the statutory instrument containing them has been laid before and approved by resolution of each House of Parliament.]

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## [<sup>F57</sup>]<sup>F58</sup>SCHEDULE 2B

### CATEGORIES OF WASTE

#### Textual Amendments

**F57** Sch. 2B inserted (1.1.2005 for S. and 15.5.2006 for E.W.) by 1995 c. 25, ss. 120(1), 125(3), Sch. 22 para.95 (with ss. 7(6), 115, 117); S.S.I. 2004/541, art. 2; S.I. 2006/934, art. 2

**F58** Sch. 2B omitted (E.W.) (29.3.2011) by virtue of The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), reg. 1(2), Sch. 4 para. 3(9) (with regs. 2, 47(2))

- 1 Production or consumption residues not otherwise specified below.
- 2 Off-specification products.
- 3 Products whose date for appropriate use has expired.
- 4 Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc, contaminated as a result of the mishap.
- 5 Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers, etc.).
- 6 Unusable parts (e.g. reject batteries, exhausted catalysts, etc.).
- 7 Substances which no longer perform satisfactorily (e.g. contaminated solvents, exhausted tempering salts, etc.).
- 8 Residues of industrial processes (e.g. slags, still bottoms, etc.).
- 9 Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.).
- 10 Machining or finishing residues (e.g. lathe turnings, mill scales, etc.).
- 11 Residues from raw materials extraction and processing (e.g. mining residues, oil field slops, etc.).
- 12 Adulterated materials (e.g. oils contaminated with PCBs, etc.).
- 13 Any materials, substances or products whose use has been banned by law.
- 14 Products for which the holder has no further use (e.g. agricultural, household, office, commercial and shop discards, etc.).
- 15 Contaminated materials, substances or products resulting from remedial action with respect to land.
- 16 Any materials, substances or products which are not contained in the above categories.]]

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## SCHEDULE 3

Section 81.

### STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS

#### *Appeals to magistrates' court*

- 1 (1) This paragraph applies in relation to appeals under section 80(3) against an abatement notice to a magistrates' court.
- (2) An appeal to which this paragraph applies shall be by way of complaint for an order and the <sup>M13</sup>Magistrates' Courts Act 1980 shall apply to the proceedings.
- (3) An appeal against any decision of a magistrates' court in pursuance of an appeal to which this paragraph applies shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given.
- (4) The Secretary of State may make regulations as to appeals to which this paragraph applies and the regulations may in particular—
- include provisions comparable to those in section 290 of the <sup>M14</sup>Public Health Act 1936 (appeals against notices requiring the execution of works);
  - prescribe the cases in which an abatement notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;
  - prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;
  - prescribe the cases in which the appellant may claim that an abatement notice should have been served on some other person and prescribe the procedure to be followed in those cases.

#### Marginal Citations

**M13** 1980 c. 43.

**M14** 1936 c. 49.

#### *Appeals to Sheriff*

- [<sup>F59</sup>1A (1) This paragraph applies in relation to appeals to the sheriff under section 80(3) against an abatement notice.
- (2) An appeal to which this paragraph applies shall be by way of a summary application.
- (3) The Secretary of State may make regulations as to appeals to which this paragraph applies and the regulations may in particular include or prescribe any of the matters referred to in sub-paragraphs (4)(a) to (d) of paragraph 1 above.]

#### Textual Amendments

**F59** Sch. 3 para. 1A inserted (1.4.1996) by 1995 c. 25, s. 107, Sch. 17 para.7(a) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

*Status: Point in time view as at 13/03/2019.*

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*Powers of entry etc*

- 2 (1) Subject to sub-paragraph (2) below, any person authorised by a local authority may, on production (if so required) of his authority, enter any premises at any reasonable time—
- (a) for the purpose of ascertaining whether or not a statutory nuisance exists; or
  - (b) for the purpose of taking any action, or executing any work, authorised or required by Part III.
- (2) Admission by virtue of sub-paragraph (1) above to any premises used wholly or mainly for residential purposes shall not except in an emergency be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of emergency, or that an application for admission would defeat the object of the entry; and
  - (b) that there is reasonable ground for entry into the premises for the purpose for which entry is required,
- the justice may by warrant under his hand authorise the local authority by any authorised person to enter the premises, if need be by force.
- (4) An authorised person entering any premises by virtue of sub-paragraph (1) or a warrant under sub-paragraph (3) above may—
- (a) take with him such other persons and such equipment as may be necessary;
  - (b) carry out such inspections, measurements and tests as he considers necessary for the discharge of any of the local authority's functions under Part III; and
  - (c) take away such samples or articles as he considers necessary for that purpose.
- (5) On leaving any unoccupied premises which he has entered by virtue of sub-paragraph (1) above or a warrant under sub-paragraph (3) above the authorised person shall leave them as effectually secured against trespassers as he found them.
- (6) A warrant issued in pursuance of sub-paragraph (3) above shall continue in force until the purpose for which the entry is required has been satisfied.
- (7) Any reference in this paragraph to an emergency is a reference to a case where the person requiring entry has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that immediate entry is necessary to verify the existence of those circumstances or to ascertain their cause and to effect a remedy.
- [<sup>F60</sup>(8) In the application of this paragraph to Scotland, a reference to a justice of the peace or to a justice includes a reference to the sheriff.]

**Textual Amendments**

**F60** Sch. 3 para. 2(8) added (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para. 7(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

*Status: Point in time view as at 13/03/2019.*

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#### Modifications etc. (not altering text)

- C9** Sch. 3 para. 2 applied (with modifications) (S.) (26.1.2009) by Water Services etc. (Scotland) Act 2005 (asp 3), s. 26(10A) (as inserted by Public Health etc. (Scotland) Act 2008 (asp 5), s. 115(3) (with s. 127); S.S.I. 2009/9, art. 2(a), Sch. 1)

- [<sup>F61</sup>2A (1) Any person authorised by a local authority may on production (if so required) of his authority—
- (a) enter or open a vehicle, machinery or equipment, if necessary by force, or
  - (b) remove a vehicle, machinery or equipment from a street [<sup>F62</sup>or, in Scotland, road]] to a secure place,
- for the purpose of taking any action, or executing any work, authorised by or required under Part III in relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by the vehicle, machinery or equipment.
- (2) On leaving any unattended vehicle, machinery or equipment that he has entered or opened under sub-paragraph (1) above, the authorised person shall (subject to sub-paragraph (3) below) leave it secured against interference or theft in such manner and as effectually as he found it.
- (3) If the authorised person is unable to comply with sub-paragraph (2) above, he shall for the purpose of securing the unattended vehicle, machinery or equipment either—
- (a) immobilise it by such means as he considers expedient, or
  - (b) remove it from the street to a secure place.
- (4) In carrying out any function under sub-paragraph (1), (2) or (3) above, the authorised person shall not cause more damage than is necessary.
- (5) Before a vehicle, machinery or equipment is entered, opened or removed under sub-paragraph (1) above, the local authority shall notify the police of the intention to take action under that sub-paragraph.
- (6) After a vehicle, machinery or equipment has been removed under sub-paragraph (1) or (3) above, the local authority shall notify the police of its removal and current location.
- (7) Notification under sub-paragraph (5) or (6) above may be given to the police at any police station in the local authority's area or, in the case of the Temples, at any police station of the City of London Police.
- (8) For the purposes of section 81(4) above, any expenses reasonably incurred by a local authority under sub-paragraph (2) or (3) above shall be treated as incurred by the authority under section 81(3) above in abating or preventing the recurrence of the statutory nuisance in question.

#### Textual Amendments

- F61** Sch. 3 para. 2A inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 4(5), 12(1)
- F62** Words in Sch. 3 para. 2A(1)(b) inserted (1.4.1996) by 1995 c. 25, s. 107, Sch. 17 para. 7(c) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

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### *Offences relating to entry*

- 3 (1) A person who wilfully obstructs any person acting in the exercise of any powers conferred by paragraph 2 [<sup>F63</sup>or 2A] above shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (2) If a person discloses any information relating to any trade secret obtained in the exercise of any powers conferred by paragraph 2 above he shall, unless the disclosure was made in the performance of his duty or with the consent of the person having the right to disclose the information, be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Textual Amendments**

**F63** Words in [Sch. 3 para. 3\(1\)](#) inserted (E.W.) (5.1.1994) by [1993 c. 40, ss. 4\(6\), 12\(1\)](#)

#### **Modifications etc. (not altering text)**

**C10** [Sch. 3 para. 3](#) applied (with modifications) (S.) (26.1.2009) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\), s. 26\(10A\)](#) (as inserted by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\), s. 115\(3\)](#) (with s. 127); [S.S.I. 2009/9, art. 2\(a\), Sch. 1](#))

### *Default powers*

- 4 (1) This paragraph applies to the following function of a local authority, that is to say its duty under section 79 to cause its area to be inspected to detect any statutory nuisance which ought to be dealt with under section 80 [<sup>F64</sup>or sections 80 and 80A] and its powers under paragraph 2 [<sup>F64</sup>or 2A] above.
- (2) If the Secretary of State is satisfied that any local authority has failed, in any respect, to discharge the function to which this paragraph applies which it ought to have discharged, he may make an order declaring the authority to be in default.
- (3) An order made under sub-paragraph (2) above which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (“the defaulting authority”) to perform the function specified in the order and may specify the manner in which and the time or times within which the function is to be performed by the authority.
- (4) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself the function of the authority specified in the order.
- (5) Where the function of a defaulting authority is transferred under sub-paragraph (4) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing the function shall on demand be paid to him by the defaulting authority.
- (6) Any expenses required to be paid by a defaulting authority under sub-paragraph (5) above shall be defrayed by the authority in like manner, and shall be debited to the like account, as if the function had not been transferred and the expenses had been incurred by the authority in performing them.
- (7) The Secretary of State may by order vary or revoke any order previously made by him under this paragraph.

*Status: Point in time view as at 13/03/2019.*

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(8) Any order under this paragraph may include such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.

[<sup>F65</sup>(9) This paragraph does not apply to Scotland.]

#### Textual Amendments

**F64** Words in [Sch. 3 para. 4\(1\)](#) inserted (E.W.) (5.1.1994) by [1993 c. 40, ss. 4\(7\)\(a\)\(b\)](#), [12\(1\)](#)

**F65** [Sch. 3 para. 4\(9\)](#) added (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 7\(d\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1996/186, art.3](#).

#### *Protection from personal liability*

5 Nothing done by, or by a member of, a local authority or by any officer of or other person authorised by a local authority shall, if done in good faith for the purpose of executing Part III, subject them or any of them personally to any action, liability, claim or demand whatsoever <sup>F66</sup>....

#### Textual Amendments

**F66** Words in [Sch. 3 para. 5](#) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), [s. 49\(1\)](#), [Sch. 12 para. 26](#); [S.I. 2015/841, art. 3\(x\)](#)

#### Modifications etc. (not altering text)

**C11** [Sch. 3 para. 5](#) applied (with modifications) (S.) (26.1.2009) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), [s. 26\(10A\)](#) (as inserted by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), [s. 115\(3\)](#) (with [s. 127](#))); [S.S.I. 2009/9, art. 2\(a\)](#), [Sch. 1](#)

#### *Statement of right of appeal in notices*

6 Where an appeal against a notice served by a local authority lies to a magistrates' court [<sup>F67</sup>or, in Scotland, the sheriff] by virtue of section 80, it shall be the duty of the authority to include in such a notice a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.

#### Textual Amendments

**F67** Words in [Sch. 3 para. 6](#) inserted (1.4.1996) by [1995 c. 25, s. 107, Sch. 17 para. 7\(e\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1996/186, art.3](#).

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## [<sup>F68</sup>SCHEDULE 3A

### FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND

#### Textual Amendments

**F68** Sch. 3A inserted (E.W.) (6.4.2006 for E. and 15.3.2007 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 23\(2\), 108; S.I. 2006/795, art. 2\(3\), Sch. 2; S.I. 2006/2797, art. 4\(j\)](#)

#### *Offence of unauthorised distribution*

- 1 (1) A person commits an offence if he distributes any free printed matter without the consent of a principal litter authority on any land which is designated by the authority under this Schedule, where the person knows that the land is so designated.
- (2) A person commits an offence if he causes another person to distribute any free printed matter without the consent of a principal litter authority on any land designated by the authority under this Schedule.
- (3) A person is not guilty of an offence under sub-paragraph (2) if he took reasonable steps to ensure that the distribution did not occur on any land designated under this Schedule.
- (4) Nothing in this paragraph applies to the distribution of printed matter—
- (a) by or on behalf of a charity <sup>F69</sup>..., where the printed matter relates to or is intended for the benefit of the charity;
  - (b) where the distribution is for political purposes or for the purposes of a religion or belief.
- (5) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) For the purposes of this Schedule—
- (a) to “distribute” printed matter means to give it out to, or offer or make it available to, members of the public and includes placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;
  - (b) printed matter is “free” if it is distributed without charge to the persons to whom it is distributed.
- (7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).

#### Textual Amendments

**F69** Words in Sch. 3A para. 1(4)(a) omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of [The Charities \(Pre-consolidation Amendments\) Order 2011 \(S.I. 2011/1396\), art. 1, Sch. paras. 37\(1\)\(2\)\(e\)](#)

*Status: Point in time view as at 13/03/2019.*

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### *Designation*

- 2 (1) A principal litter authority may by order in accordance with this paragraph designate land in its area for the purposes of this Schedule.
- (2) The land designated must consist of—
  - (a) relevant land of the authority;
  - (b) all or part of any relevant highway for which the authority is responsible; or
  - (c) both.
- (3) A principal litter authority may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.
- (4) Where a principal litter authority proposes to make an order under sub-paragraph (1) above in respect of any land, it must—
  - (a) publish a notice of its proposal in at least one newspaper circulating in an area which includes the land; and
  - (b) post such a notice on the land.
- (5) A notice under sub-paragraph (4) above must specify—
  - (a) the land proposed to be designated;
  - (b) the date on which it is proposed that the order is to come into force (which may not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);
  - (c) the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).
- (6) Where after giving notice under sub-paragraph (4) above and taking into account any objections duly made pursuant to sub-paragraph (5)(c) above an authority decides to make an order under sub-paragraph (1) above in respect of any or all of the land in respect of which the notice was given, the authority must—
  - (a) publish a notice of its decision in at least one newspaper circulating in an area which includes the land; and
  - (b) post such a notice on the land.
- (7) A notice under sub-paragraph (6) above must specify the date on which the order is to come into force, being a date not earlier than—
  - (a) the end of the period of 14 days beginning with the day on which the notice is given; and
  - (b) the date referred to in sub-paragraph (5)(b) above.
- (8) A principal litter authority may at any time revoke an order under sub-paragraph (1) above in respect of any land to which the order relates.
- (9) A principal litter authority must—
  - (a) publish a notice of any revocation under sub-paragraph (8) above in at least one newspaper circulating in an area which includes the land in question; and
  - (b) post such a notice on the land.
- (10) Sub-paragraph (1) above does not apply to an English county council for an area for which there is a district council.

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### *Consent and conditions*

- 3 (1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.
- (2) Consent under this paragraph may be given without limitation or may be limited—
- (a) by reference to the material to be distributed;
  - (b) by reference to a particular period, or particular times or dates;
  - (c) by reference to any part of the designated land;
  - (d) to a particular distribution.
- (3) A principal litter authority need not give consent under this paragraph to any applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to defacement of the designated land.
- (4) Consent need not be given to any applicant if within the period of five years ending on the date of his application—
- (a) he has been convicted of an offence under paragraph 1 above; or
  - (b) he has paid a fixed penalty under paragraph 7 below.
- (5) Consent may be given under this paragraph subject to such conditions as the authority consider necessary or desirable for—
- (a) protecting the designated land from defacement; or
  - (b) the effective operation and enforcement of this Schedule.
- (6) The conditions which may be imposed by a principal litter authority under this paragraph include conditions requiring any person distributing printed matter pursuant to consent given under this paragraph to produce on demand written evidence of the consent to an authorised officer of the authority.
- (7) Consent given by a principal litter authority under this paragraph may at any time be revoked (entirely or to any extent) by notice to the person to whom it was given, where—
- (a) he has failed to comply with any condition subject to which it was given; or
  - (b) he is convicted of an offence under paragraph 1 above or pays a fixed penalty under paragraph 7 below.
- (8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.

### *Fees*

- 4 (1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.
- (2) The amount of a fee under this paragraph is to be such as the authority may determine, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.

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### *Appeals*

- 5 (1) Any person aggrieved by a decision of a principal litter authority under paragraph 3 above—
- (a) to refuse consent,
  - (b) to impose any limitation or condition subject to which consent is given,
  - (c) to revoke consent (or to revoke it to any extent),
- may appeal against the decision to a magistrates' court.
- (2) A magistrates' court may on an appeal under this paragraph—
- (a) uphold any refusal of consent or require the authority to grant consent (without limitation or condition or subject to any limitation or condition);
  - (b) require the authority to revoke or vary any condition;
  - (c) uphold or quash revocation of consent (or uphold or quash revocation to any extent).

### *Seizure of material*

- 6 (1) Where it appears to an authorised officer of a principal litter authority that a person distributing any printed matter is committing an offence under paragraph 1 above, he may seize all or any of it.
- (2) Any person claiming to own any printed matter seized under this paragraph may apply to a magistrates' court for an order that the printed matter be released to him.
- (3) On an application under sub-paragraph (2) above, if the magistrates' court considers that the applicant does own the printed matter, the court shall order the principal litter authority to release it to him, except to the extent that the court considers that the authority needs to retain it for the purposes of proceedings relating to an offence under paragraph 1 above.
- (4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3) above) must be returned to the person from whom it is seized—
- (a) at the conclusion of proceedings for the offence (unless the court orders otherwise);
  - (b) at the end of the period in which proceedings for the offence may be instituted, if no such proceedings have been instituted in that period (or have been instituted but discontinued).
- (5) Where it is not possible to return any printed matter under sub-paragraph (4) above because the name and address of the person from whom it was seized are not known, a principal litter authority may dispose of or destroy it.

### *Fixed penalty notices*

- 7 (1) This paragraph applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under paragraph 1 above on any land designated by the authority under this Schedule.
- (2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.

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- (3) Subsections (2) to (5) of section 88 above apply in relation to notices given under this paragraph as they apply to notices under that section.
- (4) The amount of the fixed penalty payable to a principal litter authority under this paragraph—
  - (a) is the amount specified by the authority in relation to its area; or
  - [<sup>F70</sup>(b) if no amount is so specified, is—
    - (i) in England, £100, or
    - (ii) in Wales, £75.]
- (5) The principal litter authority to which a fixed penalty is payable under this paragraph may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (6) In any proceedings a certificate which—
  - (a) purports to be signed on behalf of the chief finance officer of a principal litter authority, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
 is evidence of the facts stated.
- (7) If an authorised officer of a principal litter authority proposes to give a person a notice under this paragraph, the officer may require the person to give him his name and address.
- (8) A person commits an offence if—
  - (a) he fails to give his name and address when required to do so under sub-paragraph (7) above; or
  - (b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.
- (9) A person guilty of an offence under sub-paragraph (8) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this paragraph, “chief finance officer”, in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.

#### **Textual Amendments**

**F70** Sch. 3A para. 7(4)(b) substituted (1.4.2018) by [The Environmental Offences \(Fixed Penalties\) \(England\) Regulations 2017 \(S.I. 2017/1050\)](#), regs. 1(2), **6(2)**

#### *Supplementary*

- 8 In this Schedule “authorised officer”, in relation to a principal litter authority, means—
  - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under paragraph 7 above;
  - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

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- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.]

## SCHEDULE 4

Section 99.

### ABANDONED SHOPPING AND LUGGAGE TROLLEYS

#### *Application*

- 1 (1) Subject to sub-paragraph (2) below, this Schedule applies where any shopping or luggage trolley is found by an authorised officer of the local authority on any land in the open air and appears to him to be abandoned.
- (2) This Schedule does not apply in relation to a shopping or luggage trolley found on the following descriptions of land, that is to say—
- (a) land in which the owner of the trolley has a legal estate or, in Scotland, of which the owner of the trolley is the owner or occupier;
  - (b) where an off-street parking place affords facilities to the customers of shops for leaving there shopping trolleys used by them, land on which those facilities are afforded;
  - (c) where any other place designated by the local authority for the purposes of this Schedule affords like facilities, land on which those facilities are afforded; and
  - (d) as respects luggage trolleys, land which is used for the purposes of their undertaking by persons authorised by an enactment to carry on any railway, light railway, tramway or road transport undertaking or by a relevant airport operator (within the meaning of Part V of the <sup>M15</sup>Airports Act 1986).

[<sup>F71</sup>(3) In sub-paragraph (2)(d) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

#### **Textual Amendments**

**F71** Sch. 4 para. 1(3) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 40\(10\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.

#### **Marginal Citations**

**M15** 1986 c. 31.

#### *Power to seize and remove trolleys*

- 2 (1) Where this Schedule applies in relation to a shopping or luggage trolley, the local authority may, subject to sub-paragraph (2) below,—
- (a) seize the trolley; and
  - (b) remove it to such place under its control as the authority thinks fit.
- (2) When a shopping or luggage trolley is found on any land appearing to the authorised officer to be occupied by any person, the trolley shall not be removed without the consent of that person unless—

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- (a) the local authority has served on that person a notice stating that the authority proposes to remove the trolley; and
- (b) no notice objecting to its removal is served by that person on the local authority within the period of fourteen days beginning with the day on which the local authority served the notice of the proposed removal on him.

*Retention, return and disposal of trolleys*

- 3 (1) Subject to the following sub-paragraphs, the local authority, as respects any shopping or luggage trolley it has seized and removed,—
- (a) shall keep the trolley for a period of six weeks; and
  - (b) may sell or otherwise dispose of the trolley at any time after the end of that period.
- (2) The local authority shall, as respects any trolley it has [<sup>F72</sup>seized and removed] , as soon as reasonably practicable (but not later than fourteen days) after its removal, serve on the person (if any) who appears to the authority to be the owner of the trolley a notice stating—
- (a) that the authority has removed the trolley and is keeping it;
  - (b) the place where it is being kept; and
  - (c) that, if it is not claimed, the authority may dispose of it.
- (3) Subject to sub-paragraph (4) below, if, within the period mentioned in sub-paragraph (1)(a) above, any person claims to be the owner of a shopping or luggage trolley being kept by the authority under that sub-paragraph, the local authority shall, if it appears that the claimant is the owner, deliver the trolley to him.
- (4) A person claiming to be the owner of a shopping or luggage trolley shall not be entitled to have the trolley delivered to him unless he pays the local authority, on demand, such charge as the authority requires.
- (5) No shopping or luggage trolley shall be disposed of by the local authority unless (where it has not been claimed) the authority has made reasonable enquiries to ascertain who owns it.
- [<sup>F73</sup>3A (1) This paragraph applies where the local authority is entitled to sell or otherwise dispose of a shopping or luggage trolley in accordance with paragraph 3(1)(b).
- (2) If it appears to the authority that a particular person is the owner of the trolley, the authority may charge him a sum in respect of the removal, storage and disposal of the trolley.
  - (3) The charge is payable to the authority on demand.
  - (4) The sum payable as a charge under this paragraph is recoverable by the authority as a debt due to it.
  - (5) In proceedings against a person under sub-paragraph (4) for enforcement of a charge, it is a defence for the person to prove that he was not the owner of the trolley to which the charge relates at the time it was removed.]

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**Textual Amendments**

**F73** Sch. 4 para. 3A inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 99(3)**, 108 (with s. 100); [S.I. 2006/795](#), **art. 2(3)**, Sch. 2; [S.I. 2006/2797](#), **art. 2(r)**

*Charges*

- 4 (1) The local authority, [<sup>F74</sup>in fixing the charges to be paid under this Schedule, shall secure that the charges so payable are such as are sufficient] , taking one financial year with another, to cover the cost of removing, storing and disposing of [<sup>F75</sup>shopping or luggage trolleys] under this Schedule.
- (2) The local authority may agree with persons who own shopping or luggage trolleys and make them available for use in its area a scheme for the collection by them of trolleys they make available for use; and where such an agreement is in force with any person, no charge may be demanded under paragraph 3 [<sup>F76</sup>or 3A] above by the local authority in respect of any trolley within the scheme in relation to which the provisions of the scheme are complied with.

*Definitions*

- 5 In this Schedule—
- “luggage trolley” means a trolley provided by a person carrying on an undertaking mentioned in paragraph 1(2)(d) above to travellers for use by them for carrying their luggage to, from or within the premises used for the purposes of his undertaking, not being a trolley which is power-assisted; and
- “shopping trolley”, means a trolley provided by the owner of a shop to customers for use by them for carrying goods purchased at the shop, not being a trolley which is power-assisted.

<sup>F77</sup>SCHEDULE 5

**Textual Amendments**

**F77** Sch. 5 repealed (27.8.1993) by [1993 c. 12](#), **ss. 50, 51(2)**, **Sch. 6 Pt.I** (with **ss. 42, 46**)

<sup>F78</sup>SCHEDULE 6

*Status: Point in time view as at 13/03/2019.*

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#### Textual Amendments

**F78** Sch. 6 repealed (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), arts. 1(2), **8(2)(b)** (with Sch. 7)

### <sup>F79</sup>F79 SCHEDULE 7

#### Textual Amendments

**F79** Sch. 7 repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105, 107, Sch. 11 para. 126(2), **Sch. 12**; S.I. 2006/2541, **art. 2**

### <sup>F87</sup>F87 SCHEDULE 8

Section 130.

#### Textual Amendments

**F87** Sch. 8 repealed (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), arts. 1(2), **8(2)(b)** (with Sch. 7)

### <sup>F88</sup>F88 SCHEDULE 9

Section 132.

#### Textual Amendments

**F88** Sch. 9 repealed (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), arts. 1(2), **8(2)(b)** (with Sch. 7)

### <sup>F89</sup>F89 SCHEDULE 10

#### Textual Amendments

**F89** Sch. 10 repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105, 107, Sch. 11 para. 127, **Sch. 12**; S.I. 2006/2541, **art. 2**

*Status: Point in time view as at 13/03/2019.*

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## SCHEDULE 11

Section 139.

### TRANSITIONAL PROVISIONS AND SAVINGS FOR PART VII

#### PART I

##### COUNTRYSIDE FUNCTIONS

###### *Preliminary*

- 1 In this Part of this Schedule—
- “the appointed day” means the day appointed under section 130(4) of this Act;
  - “the Commission” means the Countryside Commission;
  - “the Council” means the Countryside Council for Wales;
  - “relevant”, in relation to anything done by or in relation to the Commission before the appointed day, means anything which, if it were to be done on or after the appointed day, would be done by or in relation to the Council or, as the case may be, by or in relation to both the Commission (so far as concerning England) and the Council (so far as concerning Wales).

###### *Continuity of exercise of functions*

- 2
- (1) Any relevant thing done by or in relation to the Commission before the appointed day shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.
  - (2) Any relevant thing which, immediately before the appointed day, is in the process of being done by or in relation to the Commission may be continued by or in relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.

###### *Construction of references to the Countryside Commission*

- 3
- (1) This paragraph applies to any provision of any agreement, or of any instrument or other document, subsisting immediately before the appointed day which refers (in whatever terms) to the Commission and does so (or is to be construed as doing so) in relation to, or to things being done in or in connection with, Wales.
  - (2) Any provision to which this paragraph applies shall, subject to sub-paragraphs (3) and (4) below, have effect on and after the appointed day with the substitution for, or the inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.
  - (3) Any provision to which this paragraph applies which refers in general terms to members of or to persons employed by or agents of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of a reference to members of or persons employed by or agents of the Council, according as the reference concerns Wales only or concerns both England and Wales.

*Status: Point in time view as at 13/03/2019.*

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- (4) Any provision to which this paragraph applies which refers to a member or employee of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of—
- (a) a reference to such person as the Council may appoint, or
  - (b) in default of appointment, to the member or employee of the Council who corresponds as nearly as may be to the member or employee in question, according as the reference concerns Wales only or concerns both England and Wales.
- 4 (1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Commission and relates to, or to things being done in or in connection with, Wales.
- (2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.
- (3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for, or inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.

*Existing areas of outstanding natural beauty and long distance routes*

- 5 (1) This paragraph applies to—
- (a) any area of land which immediately before the appointed day is an area of outstanding natural beauty designated under section 87 of the 1949 Act of which part is in England and part is in Wales (referred to as “the two parts” of such an area); and
  - (b) any long distance route under Part IV of that Act of which some parts are in England and other parts in Wales.
- (2) On and after the appointed day the two parts of an area to which this paragraph applies shall be treated as if each were a distinct area of outstanding natural beauty; and accordingly, so far as may be necessary for the purpose of applying paragraphs 2 and 3 above, anything done by or in relation to the Commission in relation to both parts of that area shall be treated as having been done in relation to the part in Wales by or in relation to the Council.
- (3) On and after the appointed day any route to which this paragraph applies shall not cease, by virtue of this Part of this Act to be a single route for the purposes of Part IV of the 1949 Act; but any function which before that day is exercisable by or in relation to the Commission shall, on and after that day be exercisable by or in relation to the Commission (so far as concerns parts of the route in England) and by or in relation to the Council (so far as concerns parts of the route in Wales).
- (4) On or after the appointed day the Commission and the Council shall each exercise any function of theirs in relation to an area or route to which this paragraph applies only after consultation with the other; and the Commission and the Council may make arrangements for discharging any of their functions in relation to such an area or route jointly.

*Status: Point in time view as at 13/03/2019.*

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## PART II

### NATURE CONSERVATION FUNCTIONS

#### *Preliminary*

- 6 In this Part of this Schedule—
- “appointed day” means the date appointed under section 131(3) of this Act;
- “appropriate new council” shall be construed in accordance with paragraph 7 below; and
- “new council” means a council established by section 128(1) of this Act.
- 7 (1) In this Part of this Schedule a reference to “the appropriate new council” is, in relation to or to things done in connection with property, rights or liabilities of the Nature Conservancy Council which are transferred by section 135(2) of this Act to a new council, a reference to that new council.
- (2) Subject to sub-paragraph (1) above, a reference in this Part of this Schedule to “the appropriate new council” is, in relation to anything else done before the appointed day by or in relation to the Nature Conservancy Council in the exercise of or in connection with any function of theirs (other than a function corresponding to a special function of the new councils)—
- (a) a reference to the new council by whom the nature conservation function corresponding to that function is exercisable on and after that date; or
- (b) where the thing done relates to a matter affecting the area of more than one new council, a reference to each new council by whom the nature conservation function corresponding to that function is exercisable on and after that date;
- and in relation to anything done in the exercise of or in connection with any function of the Nature Conservancy Council corresponding to a special function of the new councils a reference to “the appropriate new council” is a reference to the joint committee or, where directions under section 133(5) of this Act have been given, the new council by whom the corresponding special function is dischargeable (on behalf of the new councils) on and after that day.
- (3) Any question arising under this paragraph as to which new council is the appropriate new council in relation to any particular function of the Nature Conservancy Council may be determined by a direction given by the Secretary of State.

#### *Continuity of exercise of functions*

- 8 (1) Anything done (or deemed by any enactment to have been done) by or in relation to the Nature Conservancy Council before the appointed day shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the appropriate new council.
- (2) Anything which immediately before the appointed day is in the process of being done by or in relation to the Nature Conservancy Council may be continued by or in relation to the appropriate new council as if it had been done by or in relation to that council.

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*Construction of references to the Nature Conservancy Council*

- 9 (1) This paragraph applies to any agreement, any instrument and any other document subsisting immediately before the appointed day which refers (in whatever terms) to the Nature Conservancy Council, other than a scheme provided by that Council under paragraph 12 of Schedule 3 to the <sup>M16</sup>Nature Conservancy Council Act 1973.
- (2) Any agreement, instrument or other document to which this paragraph applies shall have effect on and after the appointed day with the substitution—
- (a) for any reference to the Nature Conservancy Council of a reference to the appropriate new council;
  - (b) for any reference in general terms to members of or to persons employed by or agents of the Nature Conservancy Council of a reference to members of or persons employed by or agents of the appropriate new council; and
  - (c) for any reference to a member or officer of the Nature Conservancy Council of a reference to such person as the appropriate new council may appoint or, in default of appointment, to the member or employee of that council who corresponds as nearly as may be to the member or officer in question.

**Marginal Citations**

**M16** 1973 c. 54.

- 10 (1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Nature Conservancy Council.
- (2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.
- (3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for each reference to the Nature Conservancy Council of a reference to such one or more of the new councils as may be appropriate, according as the provision relates to, or to things being done in or in connection with, England, Scotland or Wales.

*Pensions for Nature Conservancy Council staff*

- 11 (1) The repeal by this Act of paragraph 12 of Schedule 3 to the <sup>M17</sup>Nature Conservancy Council Act 1973 shall not affect the operation on and after the appointed day of any scheme provided by the Nature Conservancy Council for the payment to or in respect of its officers of pensions, allowances or gratuities.
- (2) Any such scheme shall have effect on and after the appointed day with the substitution for any reference to the Nature Conservancy Council of a reference to the Secretary of State.

**Marginal Citations**

**M17** 1973 c. 54.

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*Existing nature reserves and areas of special scientific interest*

- 12 (1) This paragraph applies to any land which, immediately before the appointed day is—
- (a) a nature reserve (within the meaning of Part III of the 1949 Act) which is managed by, or under an agreement entered into with, the Nature Conservancy Council or which is the subject of a declaration under section 35 of the 1981 Act; or
  - (b) an area of special scientific interest which has been notified by the Nature Conservancy Council under section 28(1) of the 1981 Act or is treated by section 28(13) of that Act as having been notified under section 28(1)(a) of that Act or is an area to which an order under section 29(1) of that Act relates; and of which part is in England and part is in Wales or, as the case may be, part is in England and part is in Scotland (referred to as “the two parts” of such a reserve or area).
- (2) On and after the appointed day, the two parts of any reserve or area to which this paragraph applies shall be treated as if each were a distinct nature reserve or area of special scientific interest; and accordingly, so far as may be necessary for the purpose of applying paragraphs 8 and 9 above, anything done by or in relation to the Nature Conservancy Council affecting both parts of that reserve or area shall be treated as having been done by or in relation to each of the two parts separately.
- (3) On and after the appointed day the new council exercising functions as respects either part of a reserve or area to which this paragraph applies shall exercise those functions only after consultation with the new council exercising functions as respects the other part; and those councils may make arrangements for discharging any of those functions jointly.

**Modifications etc. (not altering text)**

**C13** [Sch. 11 para. 12](#) amended (S.) (01.04.1992) and extension to Scotland continued (S.) (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), [s. 4\(8\)](#); [S.I. 1991/2633](#), [art. 4](#).

**PART III**

SUPPLEMENTARY

- 13 Paragraphs 3, 4, 5, 8, 9, 10 and 12 above are without prejudice to any provision made by or under this Part of this Act in relation to any particular functions, property, rights or liabilities; and, in particular, nothing in this Schedule applies in relation to contracts of employment made by the Countryside Commission or the Nature Conservancy Council.
- 14 The Secretary of State may, in relation to any particular functions of the Countryside Commission or the Nature Conservancy Council, by order exclude, or modify or supplement any provision of this Schedule or make such other transitional provision as he may think necessary or expedient.
- 15 In this Schedule “the 1949 Act” means the National Parks and Access to the <sup>M18</sup>Countryside Act 1949 and “the <sup>M19</sup>1981 Act” means the Wildlife and Countryside Act 1981.

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**Marginal Citations**  
M18 1949 c. 97.  
M19 1981 c. 69.

<sup>F93</sup>SCHEDULE 12

Sections 140 and 142.

**Textual Amendments**  
F93 Sch. 12 repealed (22.7.2012) by The Advisory Committee on Hazardous Substances (Abolition) Order 2012 (S.I. 2012/1923), art. 1(2), Sch.

SCHEDULE 13

Section 144.

AMENDMENTS OF HAZARDOUS SUBSTANCES LEGISLATION

PART I

ENGLAND AND WALES

1 The <sup>M20</sup>Planning (Hazardous Substances) Act 1990 shall be amended as provided in this Part of this Schedule.

**Marginal Citations**  
M20 1990 c. 10.

- 2 (1) <sup>F94</sup> .....
- (2) [<sup>F95</sup>In section 7(3), for the words from “means” to “with” in the third place it occurs there shall be substituted the words “ means consultations with the Health and Safety Executive and with ”.]
- (3) In section 10(2), for the words from the beginning to “3” there shall be substituted the words “ A hazardous substances authority ”.
- (4) In section 28(1)—
  - (a) in paragraph (a), for the words following the word “consent” there shall be substituted the words “made to that authority;
    - (aa) to applications under section 17(1) made to that authority;”;
    - and
  - (b) after paragraph (d), there shall be inserted the following words—

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“ ; and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with. ”

- (5) In section 29, in subsection (3) and (4), for the words “appropriate body” there shall be substituted the words “ Health and Safety Executive ”.
- (6) In section 38(5) for the words “1 to 3” there shall be substituted “ 1, 3 ”.
- (7) In section 39(1), in the definition of “hazardous substances authority”, for the word “to”, in the second place it occurs, there shall be inserted the word “ and ”.

**Textual Amendments**

- F94** Sch. 13 para. 2(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 13**
- F95** Sch. 13 para. 2(2) repealed (S.) (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 2 para. 13** (with Sch. 4)

- 3 In section 7(1)(a) (applications for consent), after the word “applications” there shall be inserted the words “ under this Act ”.
- 4 In section 11 (deemed hazardous substances consent in transitional cases)—
  - (a) in subsection (2) for the words “immediately before the relevant date” there shall be substituted the words “ while it was so present ”; and
  - (b) in subsection (7), in paragraph (a), at the beginning there shall be inserted the words “to the condition that” and, for paragraphs (b) and (c), there shall be substituted the words “ , and
    - (b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of that consent.”
- 5 In section 12 (deemed consent: government authorisation), at the end there shall be added the following subsection—

“(6) A government department or the Secretary of State shall, as respects any hazardous substances consent deemed to be granted by virtue of directions under this section, send to the hazardous substances authority concerned any such information as appears to be required by them for the purposes of a register under section 28.”
- 6 **F96** .....

**Textual Amendments**

- F96** Sch. 13 para. 6 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 13**

- 7 In section 22 (validity of decisions as to applications), in subsection (4), for the words “1971 Act” there shall be substituted the words “ principal Act ”.
- 8 In section 25(1)(c) (provisions of principal Act capable of application to hazardous substances contravention notices), after “184,” there shall be inserted “ 186, ”.
- 9 Before section 27 there shall be inserted the following section—

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**“26A Fees for consent applications.**

- (1) Provision may be made by regulations for the payment of a fee of the prescribed amount to a hazardous substances authority in respect of an application for, or for the continuation of, hazardous substances consent.
- (2) Regulations under this section may provide for the payment to the Secretary of State of a fee of the prescribed amount in respect of any application which is, by virtue of regulations under section 25, deemed to have been made for hazardous substances consent.
- (3) Regulations under this section may provide—
  - (a) for the transfer of prescribed fees received by a hazardous substances authority in respect of any application which is referred to the Secretary of State under section 20;
  - (b) for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by the Secretary of State;
 and the regulations may make different provision for different areas or for different cases or descriptions of cases.”

10

[<sup>F97</sup>In section 303(6) of the <sup>M21</sup>Town and Country Planning Act 1990 (meaning of “Planning Acts” for purposes of fees chargeable under that section), at the end there shall be inserted the words “ or the Planning (Hazardous Substances) Act 1990. ”)]

**Textual Amendments**  
**F97** Sch. 13 para. 10 repealed (6.4.2009 for E. and otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#) , ss. 238, 241, {Sch. 13} (with s. 226); [S.I. 2009/400](#), [art. 5](#), [Sch. Pt. 2](#)

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**Marginal Citations**  
**M21** 1990 c. 8.

**PART II**

SCOTLAND

<sup>F98</sup>11 .....

**Textual Amendments**  
**F98** Sch. 13 paras. 11-13 repealed (27.5.1997) by [1997 c. 11](#), ss. 3, 6(2), [Sch. 1 Pt.I](#) (with s. 5, Sch. 3).

<sup>F99</sup>12 .....

**Textual Amendments**  
**F99** Sch. 13 paras. 11-13 repealed (27.5.1997) by [1997 c. 11](#), ss. 3, 6(2), [Sch. 1 Pt.I](#) (with s. 5, Sch. 3).

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F100 13 .....

**Textual Amendments**

F100 Sch. 13 paras. 11-13 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt.I (with s. 5, Sch. 3).

F101 SCHEDULE 14

Section 148.

AMENDMENTS OF THE PREVENTION OF OIL POLLUTION ACT 1971

**Textual Amendments**

F101 Sch. 14, except so far as the amendments relate to offences under section 2(1) of the Prevention of Oil Pollution Act 1971, repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), Sch.12 (with s. 312(1), Sch. 14 para. 1).

1 The <sup>M22</sup>Prevention of Oil Pollution Act 1971 shall be amended as follows.

**Marginal Citations**

M22 1971 c. 60.

2 In section 19 (prosecutions), after subsection (4), there shall be inserted the following subsection—

“(4A) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 2(2A) of this Act alleged to have been committed by the company as the owner of a vessel shall be treated as duly served on that company if the document is served on the master of the vessel; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the vessel in question.

(4B) In subsection (4A) of this section a “foreign company” means a company or body which is not one to whom any of the following provisions applies—

- (a) sections 695 and 725 of the Companies Act 1985;
- (b) Articles 645 and 673 of the Companies (Northern Ireland) Order 1986,

so as to authorise the service of the document in question under any of those provisions.”

3 After that section there shall be inserted the following section—

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**“19A Power to detain vessels.**

- (1) Where a harbour master has reason to believe that the master or owner of a vessel has committed an offence under section 2(2A) of this Act by the discharge from the vessel of oil, or a mixture containing oil, into the waters of the harbour, the harbour master may detain the vessel.
- (2) Subsections (1) and (2) of section 692 of the Merchant Shipping Act 1894 (enforcing detention of ship) shall apply in relation to a vessel detained under subsection (1) of this section as they apply in relation to a ship detained under that Act but as if—
  - (a) in subsection (1) (penalties where ship proceeds to sea while subject to detention)—
    - (i) for the words from “any commissioned officer” to “and if” there were substituted the word “ and ”; and
    - (ii) for the reference to competent authority there were substituted a reference to the harbour authority; and
  - (b) in subsection (2) (penalties where a ship so proceeds to sea when any officer authorised to detain the ship is on board), for any reference to any officer authorised to detain the ship, or any surveyor or officer of the Secretary of State or any officer of Customs and Excise there were substituted a reference to the harbour master or any person acting on his behalf.
- (3) Where a harbour master detains a ship other than a United Kingdom ship (within the meaning of section 21(2) of the Merchant Shipping Act 1979) under this section he shall immediately notify the Secretary of State who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.
- (4) A harbour master who exercises the power conferred by subsection (1) of this section shall immediately release the vessel—
  - (a) if no proceedings for the offence in question are instituted within the period of 7 days beginning with the day on which the vessel is detained;
  - (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted;
  - (c) if either—
    - (i) the sum of £55,000 is paid to the harbour authority by way of security, or
    - (ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than £55,000 is given to the harbour authority,
 by or on behalf of the master or owner; or
  - (d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid.
- (5) The harbour authority shall repay any sum paid in pursuance of subsection (4)(c) of this section or release any security so given—

*Status: Point in time view as at 13/03/2019.*

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- (a) if no proceedings for the offence in question are instituted within the period of 7 days beginning with the day on which the sum is paid; or
  - (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.
- (6) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (4)(c) of this section and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows—
  - (a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and
  - (b) next in payment of any fine imposed by the court;and any balance shall be repaid to the first mentioned person.
- (7) Any reference in this section to a harbour master or a harbour authority shall, where the harbour in question consists of or includes the whole or any part of a dockyard port within the meaning of the Dockyard Ports Regulation Act 1865, be construed as including a reference to the Queen's harbour master for the port.
- (8) For the purposes of this section in its application to England and Wales and, subject to section 30(4A) of this Act, in its application to Northern Ireland—
  - (a) proceedings for an offence are instituted—
    - (i) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' Courts Act 1980 in respect of the offence,
    - (ii) when a person is charged with the offence after being taken into custody without a warrant,
    - (iii) when a bill of indictment is preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933;and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times; and
  - (b) proceedings for an offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the discontinuance of the proceedings;
    - (ii) the acquittal of the master or owner;
    - (iii) the quashing of the master or owner's conviction for the offence;
    - (iv) the grant of Her Majesty's pardon in respect of the master or owner's conviction for the offence.
- (9) For the purposes of this section in its application to Scotland—
  - (a) proceedings for an offence are instituted—
    - (i) on the granting by the sheriff of a warrant in respect of the offence on presentation of a petition under section 12 of the Criminal Procedure (Scotland) Act 1975;

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- (ii) when, in the absence of a warrant or citation, the master or owner is first brought before a court competent to deal with the case;
  - (iii) when, in a case where he is liberated upon a written undertaking in terms of section 18(2)(a), 294(2)(a) or 295(1)(a) of the Criminal Procedure (Scotland) Act 1975, the master or owner appears at the specified court at the specified time;
  - (iv) when, in a case mentioned in paragraph (iii) above where the master or owner fails to appear at the specified court at the specified time, the court grants warrant for his apprehension;
  - (v) when summary proceedings are commenced in terms of section 331(3) of the Criminal Procedure (Scotland) Act 1975; and
- (b) proceedings for an offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
- (i) the court makes a finding of not guilty or not proven against the master or owner in respect of the offence;
  - (ii) the proceedings are expressly abandoned (other than *pro loco et tempore*) by the prosecutor or are deserted simpliciter;
  - (iii) the conviction is quashed;
  - (iv) the accused receives Her Majesty’s pardon in respect of the conviction.
- (10) This section shall not apply in relation to any vessel of Her Majesty’s navy or to any Government ship (within the meaning of section 80 of the Merchant Shipping Act 1906).”
- 4 In section 20(1) (power of court to direct amount of unpaid fine to be levied by distress or pouding and sale of vessel) after the words “is not paid” there shall be inserted the words “, or any costs or expenses ordered to be paid by him are not paid,”.
- 5 In section 24(2) (application of Act to Government ships), for the words “and subsection (4) of section 16” there shall be substituted the words “, subsection (4) of section 16 and subsection (10) of section 19A ”.
- 6 In section 25(1) (power to extend provisions of Act to Isle of Man, Channel Islands etc), after the words “other than section 3” there shall be inserted the words “ or 19A ”.
- 7 In section 30 (provisions as to Northern Ireland), after subsection (4), there shall be inserted the following subsection—
- “(4A) In its application to proceedings in Northern Ireland, subsection (8)(a) of section 19A of this Act shall have effect as if—
- (a) in sub-paragraph (i), for the references to section 1 of the Magistrates’ Courts Act 1980 there were substituted a reference to Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981; and
  - (b) for sub-paragraph (iii) there were substituted—”

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“(iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969;”.

## SCHEDULE 15

Section 162.

### CONSEQUENTIAL AND MINOR AMENDMENTS OF ENACTMENTS

F102 1 .....

#### Textual Amendments

**F102** Sch. 15 para 1 repealed (1.4.1993) by 1992 c. 14, s. 117(2), Sch.14; S.I. 1993/575, art. 2(d), Sch. (with art. 5)

#### *Exclusion of Alkali Works Act for prescribed processes*

2 [F103 In the M23 Alkali, &c. Works Regulation Act 1906 there shall be inserted, after section 2, the following section—

#### “**Relation to Environmental Protection Act 1990, Part I.**

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

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

#### Textual Amendments

**F103** Sch. 15 para. 2 repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), sch. 3 para. 23(e)(i); S.S.I. 2014/160, art. 2(1)(2), sch.

#### Commencement Information

**II** Sch. 15 para. 2 in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, art. 2

*Status: Point in time view as at 13/03/2019.*

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### Marginal Citations

**M23** 1906 c. 14.

### *Stray dogs*

- [<sup>F104</sup>3 (1) The following provisions of the <sup>M24</sup>Dogs Act 1906 shall be amended as follows.
- (2) The amendments made to section 3 by section 39(2) of the <sup>M25</sup>Local Government Act 1988 and section 128(1)(a) of the <sup>M26</sup>Civic Government (Scotland) Act 1982 shall cease to have effect.
- (3) In section 4—
- (a) subsection (1) shall be omitted;
  - (b) in subsection (2), for the words “so taken to a police station” there shall be substituted the words “ taken to a police station in pursuance of section 150(1) of the Environmental Protection Act 1990 ”;
  - (c) in subsection (2)(a), for the words from “his name and address” to “other” there shall be substituted the words “ this fact and shall furnish his name and address and the police officer shall, having complied with the procedure (if any) prescribed under subsection (5) below, allow the finder to remove the dog ”;
  - (d) in subsection (3), for the words from “fails” to “section” there shall be substituted the words “ removes the dog but fails to keep it for at least one month, ”; and
  - (e) after subsection (3) or, as respects Scotland, subsection (4) there shall be inserted as subsection (4) or subsection (5) the following subsection—

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

### Textual Amendments

**F104** Sch. 15 para. 3 repealed (E.W.) (6.4.2008) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 6](#); S.I. 2008/956, [art. 2\(b\)](#)

### Marginal Citations

**M24** 1906 c. 32.

**M25** 1988 c. 9.

**M26** 1982 c. 45.

### *Statutory nuisances*

- 4 (1) The following provisions of the <sup>M27</sup>Public Health Act 1936 (matters deemed statutory nuisances) shall be amended as follows.
- (2) In section 141, for the words “Part III of this Act” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”.

*Status: Point in time view as at 13/03/2019.*

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(3) in section 259(1), for the words “Part III of this Act” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”.

(4) In section 268—

- (a) in subsection (1), for the words “Parts III” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 and Parts ”;
- (b) in subsection (2), for the words “the said Part III” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”; and
- (c) in subsection (3), for the words “Part III of this Act” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”.

**Marginal Citations**

**M27** 1936 c. 49.

5 (1) Section 151 of the <sup>M28</sup>Mines and Quarries Act 1954 (matters deemed statutory nuisances) shall be amended as follows.

(2) In subsection (2), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”.

(3) In subsection (3), for the words “Part III of the Public Health Act 1936” there shall be substituted the words “ Part III of the Environmental Protection Act 1990 ”.

<sup>F105</sup>(4) .....

**Textual Amendments**

**F105** Sch. 15 para. 5(4) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch.24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

**Marginal Citations**

**M28** 1954 c. 70.

*Exclusion of Clean Air Act 1956 for prescribed processes*

<sup>F106</sup>6 .....

**Textual Amendments**

**F106** Sch. 15 para. 6 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch.6**

*Statutory nuisances*

<sup>F107</sup>7 .....

**Textual Amendments**

**F107** Sch. 15 para. 7 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch.6**

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F108 8 .....

**Textual Amendments**  
F108 Sch. 15 para. 8 repealed (27.8.1993) by 1993 c. 12, ss. 50, 51(2), Sch. 6 Pt.I (with ss. 42, 46)

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

*Goods vehicle operators’ licences: pollution offences*

10 (1) The following provisions of of the <sup>M29</sup>Transport Act 1968 shall be amended as follows.

F109 (2) .....

(3) In section 108(1) (statutory nuisance proceedings in relation to waterways), for the words “said Act of 1936” there shall be substituted the words “ Environmental Protection Act 1990 ”.

**Textual Amendments**  
F109 Sch. 15, para. 10(2) repealed (1.1.1996) by 1995 c. 23, s. 60(2), Sch. 8 Pt.I (with ss. 54, 55); S.I. 1995/2181, art.2 and para. 10(2)(a) repealed (1.1.1996) by 1994 c. 40, s. 81, Sch. 17; S.I. 1995/2835, art. 2.

**Commencement Information**  
I2 Sch. 15 partly in force; Sch. 15 not in force at Royal Assent see s.164(2); Sch. 15 para. 10(3) in force at 14.1.1991 by S.I. 1991/96, art. 2

**Marginal Citations**  
M29 1968 c. 73.

*National Park Wardens*

11 In section 42 of the <sup>M30</sup>Countryside Act 1968 (National Park Wardens), in subsection (4)(a), for the words “section 1 of the Litter Act 1983” there shall be substituted the words “ section 87 of the Environmental Protection Act 1990 ”.

**Commencement Information**  
I3 Sch. 15, para. 11 in at force 1.4.1991, see s. 164(3) and S.I. 1991/1042, art. 2

**Marginal Citations**  
M30 1968 c. 41

*Exclusion of Clean Air Act 1968 for prescribed processes*

F110 12 .....

*Status: Point in time view as at 13/03/2019.*

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**Textual Amendments**

**F110** Sch. 15 para. 12 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), Sch.6

*Sale of electricity: Scotland*

- 13 In section 170A(3) of the <sup>M31</sup>Local Government (Scotland) Act 1973 (restriction on sale of electricity by local authority) after the word “prescribed,” there shall be inserted the words “ or in cases where it is produced from waste, ”.

**Commencement Information**

**I4** Sch. 15, para. 13 in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, art. 2

**Marginal Citations**

**M31** 1973 c. 65.

*Workplace emissions into the air*

- <sup>F111</sup>14 .....

**Textual Amendments**

**F111** Sch. 15 para. 14 repealed (26.2.2015) by The Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015 (S.I. 2015/374), arts. 1(1), 5(2)

*Water, noise and atmospheric pollution*

- 15 (1) The following provisions of the <sup>M32</sup>Control of Pollution Act 1974 shall be amended as follows.
- (2) [<sup>F112</sup>In section 30D, after the words “and 1965” there shall be inserted the words “ and of the Environmental Protection Act 1990 ”.]
- (3) In section 61(9), at the end, there shall be inserted the words “ (in relation to Scotland) or section 82 of the Environmental Protection Act 1990 (in relation to England and Wales) ”.
- <sup>F113</sup>(4) .....
- (5) In section 74(2), after paragraph (b), there shall be inserted the following “; or  
(c) under section 80(4) of the Environmental Protection Act 1990,”.
- <sup>F114</sup>(6) .....
- <sup>F114</sup>(7) .....
- <sup>F114</sup>(8) .....
- <sup>F114</sup>(9) .....

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#### Textual Amendments

- F112** Sch. 15 para. 15(2) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 23\(e\)\(ii\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.
- F113** Sch. 15 para. 15(4) omitted (E.W.) (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 13 para. 15\(4\)](#); S.I. 2015/1732, art. 2(f)
- Sch. 15 para. 15(4) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), sch. 3 para. 23(e)(ii); S.S.I. 2014/160, art. 2(1)(2), sch.
- F114** Sch. 15(6)-(9) repealed (27.8.1993) by [1993 c. 11](#), ss. 67(3), 68(2), [Sch.6](#)

#### Commencement Information

- I5** Sch. 15 partly in force; Sch. 15 not in force at Royal Assent see s. 164(2); Sch. 15 paras. 15(3)-(5) in force at 14.1.1991 see s. 164(3) and [S.I. 1991/96](#), [art. 2](#)
- Sch. 15, para. 15 partly in force; Sch. 15 paras. 15(6)-(9) in force at 1. 4. 1991 see s. 164(3) and [S.I. 1991/1042](#), [art. 2](#)

#### Marginal Citations

- M32** 1974, c. 40.

**F115**<sup>16</sup> . . . . .

#### Textual Amendments

- F115** [Sch. 15 para. 16](#) repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), [Sch.24](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art.3](#).

PROSPECTIVE

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

17 [F116] For subsection (6) of section 56 of the <sup>M33</sup>Control of Pollution Act 1974 (interpretation of Part II) there shall be substituted the following subsection—

“(6) Except as provided by regulations made under this subsection, nothing in this Part of this Act applies to radioactive waste within the meaning of the Radioactive Substances Act 1960; but regulations may—

- (a) provide for prescribed provisions of this Part of this Act to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;
- (b) make such modifications of the Radioactive Substances Act 1960 and any other Act as the Secretary of State considers appropriate in connection with regulations made under paragraph (a) above.”]

#### Textual Amendments

- F116** Sch. 15 para. 17 repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 23\(e\)\(iii\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.

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### Marginal Citations

**M33** 1974 c. 40.

### *Statutory nuisances*

**F117** 18 .....

### Textual Amendments

**F117** Sch. 15 para. 18 repealed (1. 12. 1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch.3** (with Sch. 2 paras. 10, 14(1), 15)

### *Refuse Disposal: Scotland*

- 19 (1) Section 1 of the <sup>M34</sup>Refuse Disposal (Amenity) Act 1978 (provision by waste disposal authorities of places etc. for disposal of refuse) shall be amended in relation to Scotland as follows.
- (2) In subsection (1) at the end there shall be inserted the words “ and to dispose of refuse so deposited ”.
- (3) In subsection (6) for the words from “mandamus” to the end of the subsection there shall be substituted the words “ by proceedings under section 45 of the Court of Session Act 1988 ”.
- (4) In subsection (7) the definition of “local authority” and the word “and” which follows it shall be omitted.

### Commencement Information

**I6** Sch. 15 para. 19 wholly in force at 1.4.1992 see [S.I. 1992/266](#), art. 3

### Marginal Citations

**M34** 1978 c. 3.

### *Street cleansing: Scotland*

- 20 In section 25 of the <sup>M35</sup>Local Government and Planning (Scotland) Act 1982, for subsection (3) there shall be substituted—
- “(3) In subsection (2) above “cleansing” means such cleansing as appears to the islands or as the case may be district council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice and “relevant land” means any land, in the open air, to which members of the public have access and which is not comprehended in a public road within the meaning of the Roads (Scotland) Act 1984.”.

*Status: Point in time view as at 13/03/2019.*

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**Commencement Information**

**I7** Sch. 15, para. 20 in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, art. 2

**Marginal Citations**

**M35** 1982 c. 43.

*Byelaws relating to straw or stubble burning*

21 **F118** .....

**Textual Amendments**

**F118** Sch. 15 para. 21 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 13**

*Functions assignable to London port health authority*

22 In section 7(4) of the <sup>M36</sup>Public Health (Control of Disease) Act 1984 (enactments functions under which are assignable to London port health authority), after the paragraph (k) inserted by paragraph 23 of Schedule 6 to the <sup>M37</sup>Building Act 1984, there shall be inserted the following paragraphs—

- “(l) Part I of the Environmental Protection Act 1990;
- (m) Part III of the Environmental Protection Act 1990;”.

**Commencement Information**

**I8** Sch. 15 para. 22 partly in force at 1.1.1991 see s. 164(2) and wholly in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, **art. 2**

**Marginal Citations**

**M36** 1984 c. 22.

**M37** 1984 c. 55.

*Street cleaning, etc: restriction of traffic*

**F119**<sup>23</sup> .....

**Textual Amendments**

**F119** Sch. 15 para. 23 repealed (1.7.1992) by Road Traffic (Temporary Restrictions) Act 1991 (c. 26), s. 2(2), **Sch.2**; S.I. 1992/1218, **art.2**

*Statutory nuisance*

24 In section 76(1)(b) and (4)(a) of the <sup>M38</sup>Building Act 1984, for the words “sections 93 to 96 of the Public Health Act 1936” there shall be substituted the words “section 80 of the Environmental Protection Act 1990”.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Marginal Citations

M38 1984 c. 55.

#### PROSPECTIVE

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

- 25 In section 25(3) of the <sup>M39</sup>Food and Environment Protection Act 1985, after paragraph (a)(ii) there shall be inserted the following sub-paragraph—
- “(iii) in section 14(8), for the words from “and any such power” onwards there shall be substituted the words “ and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954; and ””.

#### Marginal Citations

M39 1985 c. 48.

#### *Constitution of authorities for waste disposal*

- 26 In section 10 of the <sup>M40</sup>Local Government Act 1985 (joint arrangements for waste disposal functions), in subsection (4), for the words “Part I of the Control of Pollution Act 1974” there shall be substituted the words “ Part II of the Environmental Protection Act 1990 ”.

#### Commencement Information

**I9** Sch. 15 para. 26 not in force at Royal Assent, see s. 164(3); Sch. 15 para. 26 in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by S.I. 1994/1096, arts. 2(2)(3), 3 (as amended by S.I. 1994/2487, art. 2 and S.I. 1994/3234, art. 2)

#### Marginal Citations

M40 1985 c. 51.

#### *Meaning of household waste: competition*

- 27 In Schedule 1 to the <sup>M41</sup>Local Government Act 1988 (competition: collection of household waste), paragraph 1 shall be amended as follows—
- in sub-paragraph (1), the words “In the application of this Part to England and Wales,” shall be omitted;
  - in sub-paragraph (2)(a), for the words “section 12 of the Control of Pollution Act 1974” there shall be substituted the words “ section 45 of the Environmental Protection Act 1990 ”;

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) in sub-paragraph (3), for the words “section 30(4) of the Control of Pollution Act 1974” there shall be substituted the words “ section 75(8) of the Environmental Protection Act 1990 ”; and
- (d) sub-paragraph (4) shall be omitted.

**Marginal Citations**  
**M41** 1988 c. 9.

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

F120<sup>28</sup> .....

**Textual Amendments**  
**F120** Sch. 15, para. 28 repealed (1. 12. 1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch.3** (with Sch. 2 paras. 10, 14(1), 15)

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

F121<sup>29</sup> .....

**Textual Amendments**  
**F121** Sch. 15 para. 29 repealed (1. 12. 1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3** (with Sch. 2 paras. 10, 14(1), 15)

*Contents of registers of National Rivers Authority*

F122<sup>30</sup> .....

**Textual Amendments**  
**F122** Sch. 15, para. 30 repealed (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch.3** (with Sch. 2 paras. 10, 14(1), 15)

*Carriers of controlled waste*

- 31 (1) The <sup>M42</sup>Control of Pollution (Amendment) Act 1989 shall be amended as follows.
- (2) In the following provisions, for the words “disposal authority” and “disposal authorities” there shall be substituted the words “ regulation authority ” and “ regulation authorities ” respectively, that is to say, in sections 1(4)(a), 2(1), 2(b) and (e), (3)(a) and (e) and (4)(a), (b) and (c), 3(1), (2) and (6), 4(1), (3), (4), (5) and (8) (b) and (c), 5(1) and (4)(a), 6(1), (2), (3), (5), <sup>F123</sup> . . . , (7)(a) and (c), (8) and (9) and 7(1), <sup>F123</sup> . . . , (3)(a) and (8).
- (3) In section 6(1) (offences justifying seizure of vehicles), in paragraph (a)(i)—

*Status: Point in time view as at 13/03/2019.*

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- (a) after “1974” there shall be inserted the words “ or section 33 of the Environmental Protection Act 1990 ”; and
  - (b) after the word “unlicensed” there shall be inserted the words “ deposit, treatment or ”.
- (4) In section 7 (enforcement)—
- (a) in subsection (1), for the words from “91” to “information)” there shall be substituted the words “ 68(3), (4) and (5), 69, 70 and 71 of the Environmental Protection Act 1990 (powers of entry, of dealing with imminent pollution and to obtain information) ”;
  - (b) in subsection (2), paragraph (b) shall be omitted; and
  - <sup>F124</sup>(c) .....
- (5) In section 9(1)—
- (a) in the definition of “controlled waste”—
    - (i) for the words “, subject to subsection (2) below,” there shall be substituted the words “, at any time, ”; and
    - (ii) for the words “in Part I of the Control of Pollution Act 1974” there shall be substituted the words “ for the purposes of Part II of the Environmental Protection Act 1990 ”,
  - (b) the definition of “disposal authority” shall be omitted; and
  - <sup>F124</sup>(c) .....
- (6) Section 9(2) shall be omitted.

**Textual Amendments**

**F123** Words in Sch. 15, para. 31(2) repealed (1.4.1996) by 1995 c. 25, s. 120(3), Sch.24 (with s. 7(6), 115, 117); S.I. 1996/186, art.3.

**F124** Sch. 15, paras. 31(4)(c)(5)(c) repealed (1.4.1996) by 1995 c. 25, s. 120(3), Sch.24 (with s. 7(6), 115, 117); S.I. 1996/186, art.3.

**Commencement Information**

**I10** Sch. 15, para. 31 wholly in force at 1.4.1992; Sch. 15, para. 31(4)(b) in force at 1.1.1991 ; Sch. 15, para. 31(1)–(3)(4)(a)(c)(5)(b)(c) in force at 31.5.1991 by S.I. 1991/1319, art. 2; Sch. 15, para. 31(5)(a)(6) in force at 1.4.1992 by S.I. 1991/2829, art. 2.

**Marginal Citations**

**M42** 1989 c. 14.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 16

### REPEALS

#### <sup>F125</sup> PART I

#### ENACTMENTS RELATING TO PROCESSES

##### Textual Amendments

**F125** Sch. 16 Pt. I partly in force; Sch. 16 Pt. I not in force at Royal Assent see 164(3); repeal in Sch. 16 Pt. I relating to 1906 c. 14 in force for certain purposes at 1.12.1994 by S.I. 1994/2854, art. 2 and in force (E.W.) at 16.12.1996 insofar as not already in force by S.I. 1996/3056, art. 2; repeals in Sch. 16 Pt. I relating to 1974 c. 37 and 1990 c. 43 in force (E.W.) at 16.12.1996 by S.I. 1996/3056, art. 2.

##### Commencement Information

**I11** Sch. 16 Pt. I in force at 1.4.2015 for specified purposes for S. by S.S.I. 2015/72, art. 2(1)

Chapter	Short title	Extent of repeal
1906 c. 14.	Alkali, &c. Works Regulation Act 1906.	The whole Act so far as unrepealed.
1956 c. 52.	Clean Air Act 1956.	Section 17(4). In section 29(1), in the proviso, paragraph (a). In section 31(1), the words from “(other” to “1906)”. Schedule 2.
1968 c. 62.	Clean Air Act 1968.	Section 11.
1972 c. 70.	Local Government Act 1972.	In section 180(3), paragraph (b).
1973 c. 65.	Local Government (Scotland) Act 1973.	In section 142(2), paragraph (b).
[ <sup>F126</sup> 1974 c. 37.	Health and Safety at Work etc. Act 1974.	Section 1(1)(d) and the word “and” preceding it.] Section 5.
1974 c. 40.	Control of Pollution Act 1974.	In section 76(4), the words “or work subject to the Alkali Act”. In section 78(1), the words “or work subject to the Alkali Act”. In section 79(4), the words “or work subject to the Alkali Act”.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		In section 80(3), the words “or work subject to the Alkali Act”.
		In section 84(1), the definition of “a work subject to the Alkali Act”.
		In section 103(1)(a), the words “Alkali Act or the”.
		In section 105(1), the definition of “the Alkali Act”.
[ <sup>F127</sup> 1990 c. 43	Environmental Protection Act 1999	In section 79(10), the words following “Part I”.]

#### Textual Amendments

**F126** Words in Sch. 16 Pt. I repealed (S.) (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **5(3)**

**F127** Words in Sch. 16 Pt. I repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), sch. 3 para. 23(f); [S.S.I. 2014/160](#), art. 2(1)(2), sch.

*Note:* The repeal of the Alkali, &c. Works Regulation Act 1906 does not extend to Northern Ireland.

## PART II

### ENACTMENTS RELATING TO WASTE ON LAND

#### Commencement Information

**I12** Sch. 16 Pt. II partly in force; Sch. 16 Pt. II not in force at Royal Assent, see s. 164(3); Sch. 16 Pt. II in force for certain purposes at 31.5.1991 by [S.I. 1991/1319](#); Sch. 16 Pt. II in force for certain further purposes at 1.4.1992 by [S.I. 1991/2829](#) and [S.I. 1992/266](#); Sch. 16 Pt. II in force for certain further purposes at 1.5.1994 and other ascertainable dates for limited purposes by [S.I. 1994/1096](#), **arts. 2(1)(2) (3)**, 3 (as amended by [S.I. 1994/2487](#), **art. 2** and [S.I. 1994/3234](#), **art. 2**)

**I13** Sch. 16 Pt. 2 in force at 1.4.2012 for specified purposes by [S.I. 2012/898](#), **art. 2**

**I14** [Sch. 16 Pt. II](#) in force at 1.4.2015 for specified purposes for S. by [S.S.I. 2015/72](#), **art. 2(2)**

Chapter	Short title	Extent of repeal
1974 c. 40.	Control of Pollution Act 1974.	Sections 1 to 21.  Sections 27 to 30.
1978 c. 3.	Refuse Disposal (Amenity) Act 1978.	Sections 1.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1982 c. 45.	Civic Government (Scotland) Act 1982.	Sections 124 and 125 and in section 126, subsections (1) and (3).
1988 c. 9.	Local Government Act 1988.	In Schedule 1, in paragraph 1, in sub-paragraph (1) the words “in the application of this Part to England and Wales,” and sub-paragraph (4).
1989 c. 14.	Control of Pollution (Amendment) Act 1989.	In section 7(2), paragraph (b) and the word “and” preceding it.  In section 9, in subsection (1), the definition of “disposal authority” and subsection (2).
1989 c. 15.	Water Act 1989.	In Schedule 25, in paragraph 48, sub-paragraphs (1) to (6).
1989 c. 29.	Electricity Act 1989.	In Schedule 16, paragraph 18.
1990 c. 43.	Environmental Protection Act 1990.	In section 34(3)(b), the words following “below”.  Section 36(8).

*Note:* The repeal in the Refuse Disposal (Amenity) Act 1978 does not extend to Scotland.

### PART III

#### ENACTMENTS RELATING TO STATUTORY NUISANCES

Chapter	Short title	Extent of repeal
1936 c. 49.	Public Health Act 1936.	Sections 91 to 100.  Sections 107 and 108.  Sections 109 and 110.  In section 267(4), “III”
1956 c. 52.	Clean Air Act 1956.	Section 16.  In section 30(1), the words from “or a nuisance” to “existed”.
1960 c. 34.	Radioactive Substances Act 1960.	In Schedule 1—  (a) In paragraph 3, the words “and ninety-two”;

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		(b) in paragraph 3, the words “subsection (2) of section one hundred and eight”; and
		(c) in paragraph 8, the words “and sixteen”.
1961 c. 64.	Public Health Act 1961.	Section 72.
1963 c. 33.	London Government Act 1963.	In Schedule 11, in Part I, paragraph 20.
1963 c. 41.	Offices, Shops and Railway Premises Act 1963.	Section 76(3).
1969 c. 25.	Public Health (Recurring Nuisances) Act 1969.	The whole Act.
1972 c. 70.	Local Government Act 1972.	In section 180(3), paragraph (j). In Schedule 14— (a) in paragraph 4, the words “107(1) and (2), 108”; (b) paragraph 11; and (c) paragraph 12.
1974 c. 40.	Control of Pollution Act 1974.	In section 57, paragraph (a). Sections 58 and 59. In section 69, in subsection (1), paragraph (a) and, in paragraph (c), the words “section 59(2) or”, and in subsection (3) the words “section 59(6) or” and paragraph (i). In Schedule 2, paragraphs 11 and 12.
1982 c. 30.	Local Government (Miscellaneous Provisions) Act 1982.	Section 26(1) and (2).
1989 c. 17.	Control of Smoke Pollution Act 1989.	Section 1.
1990 c. 8.	Town and Country Planning Act 1990.	In Schedule 17, paragraph 1.

*Note:* The repeals in the Clean Air Act 1956, the Control of Pollution Act 1974 and the Control of Smoke Pollution Act 1989 do not extend to Scotland.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART IV

### ENACTMENTS RELATING TO LITTER

#### Commencement Information

**I15** Sch. 16, Pt. IV in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, art. 2

Chapter	Short title	Extent of repeal
1974 c. 40.	Control of Pollution Act 1974.	Section 22(1) and (2).
1982 c. 43	Local Government and Planning (Scotland) Act 1982.	Section 25(1).
1983 c. 35.	Litter Act 1983.	Section 1 and 2. Section 12(1).
1986 c. ii.	Berkshire Act 1986.	Section 13.
1987 c. xi.	Exeter City Council Act 1987.	Section 24.
1988 c. viii.	City of Westminster Act 1988.	The whole Act.
1990 c. vii.	London Local Authorities Act 1990.	Section 43.

## PART V

### ENACTMENTS RELATING TO RADIOACTIVE SUBSTANCES

Chapter	Short title	Extent of repeal
1960 c. 34.	Radioactive Substances Act 1960.	Section 2(1).  In section 4, subsection (1) and in subsection (2) the word “further”. Section 7(3)(a). Section 8(1)(a).  In section 12, subsection (1), in subsection (2)(b) the words “of waste” and, at the end “and”, and in subsection (3) (b) the words “subsection (1) or”.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In section 19(1) the definition of “the Minister”.

Section 21(4).

In Schedule 1, paragraphs 9 and 11.

## PART VI

### ENACTMENTS RELATING TO NATURE CONSERVATION AND COUNTRYSIDE MATTERS

#### Commencement Information

**I16** Sch. 16 Part VI partly in force; Pt. VI not in force at Royal Assent see s. 164(3); Pt. VI partly in force at 1.4.1991 by S.I. 1991/685 and at 1.4.1992 by S.I. 1991/2829, art. 4

Chapter	Short title	Extent of repeal
1968 c. 41.	Countryside Act 1968.	In section 15(2), the words “in the national interest”. Section 19. In section 46(2), the words “and (2)”
1973 c. 54.	Nature Conservancy Council Act 1973.	In section 1, subsections (1), (2) and (4) to (8). Sections 2 and 4. In Schedule 1, paragraphs 6, 10 and 12. In Schedule 3, Parts I and II.
1981 c. 69.	Wildlife and Countryside Act 1981.	In section 34(6) the words “and Wales”. Section 38. In section 43(1A) the words “by the Countryside Commission”. In Schedule 13, paragraph 5.

*Status: Point in time view as at 13/03/2019.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART VII

### ENACTMENTS RELATING TO HAZARDOUS SUBSTANCES

#### Commencement Information

**I17** Sch. 16 Pt. VII partly in force; Sch. 16 Pt. VII not in force at Royal Assent see s. 164(3); repeals relating to the Planning (Hazardous Substance) Act 1990 in Sch. 16 Pt. VII in force at 1.1.1992 by S.I. 1991/2829, art. 3; repeals relating to the Town and Country Planning (Scotland) Act 1972 in Sch. 16 Pt. VII in force at 18.2.1993 by S.I. 1993/274, art. 2(1); repeal in the Housing and Planning Act 1986 in Sch. 16 Pt. VII in force at 1.5.1993 by S.I. 1993/274, art. 3

Chapter	Short title	Extent of repeal
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	<p>In section 56A(1), the words “and to section 56B below”.</p> <p>Section 56B.</p> <p>In section 56E(2)(e) and 56K(5)(b), the words “or Health and Safety Commission”.</p> <p>In section 56F(1), the words “and (3)”.</p> <p>Section 56F(3).</p> <p>Section 56H(5).</p> <p>In section 56J(5), the words from “other” to “applies”.</p> <p>In section 56M(3), the words “Subject to subsection (4) below,”.</p> <p>Section 56M(4).</p> <p>In section 56N, in subsection (1)(b), the words from “or” to “would be” and subsection (2).</p> <p>In section 56O, the definition of “the appropriate body” and the word “and” immediately following.</p>
1986 c. 63.	Housing and Planning Act 1986.	In Part II of Schedule 7, in paragraph 8 the word “56B,”.
1989 c. 29.	Electricity Act 1989.	In Schedule 17, paragraph 37(1)(b).
1990 c. 10.	Planning (Hazardous Substances) Act 1990.	In section 1, the words “2 or”.

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*Status: Point in time view as at 13/03/2019.*

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Section 2.

Section 3(6).

In section 9(2)(e) and 18(2)(b), the words “or Health and Safety Commission”.

In section 11(7), the words “to the conditions that”.Section 13(7).

In section 15(1), the words from “other” to “applies”.

Section 20(6).

Section 21(7).

Section 27(4).

In section 28(1), the words “authority who are a” and the words “by virtue of section 1 or 3”.

In section 28(1)(b), the words “or but for section 2 would be”.

Section 28(2).

In section 29(6), the definition of “the appropriate body” and the word “and” immediately following that definition.

In section 30(1), the words “by virtue of section 1 or 3”.

Section 33.

In section 38(2), the words “(being a local planning authority)”.

In section 39(2), the entries for “the 1971 Act”, “the appropriate Minister” and “operational land”.

In section 39(4), the words “2,” and “and his undertaking a statutory undertaking”.

In section 39(5), the word “2,”, in the first place it occurs and the words following “undertaker” in the second place it occurs.

*Status: Point in time view as at 13/03/2019.*

**Changes to legislation:** Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1990 c. 11.	Planning (Consequential Provisions) Act 1990.	In section 39(6), the words “and their undertakings statutory undertakings”. Section 39(7) and (8). In Schedule 2, paragraph 82(2).
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### PART VIII

#### ENACTMENTS RELATING TO DEPOSITS AT SEA

##### Commencement Information

**I18** Sch. 16 Pt. VIII in force at 1.4.2015 for specified purposes for S. by S.I. 2015/72, art. 2(3)

Chapter	Short title	Extent of repeal
1985 c. 48.	Food and Environment Protection Act 1985.	Section 5(c), (d) and (e)(iii). Section 6(1)(a)(iii). Schedule 4.

### PART IX

#### MISCELLANEOUS ENACTMENTS

##### Commencement Information

**I19** Sch. 16 Pt. IX wholly in force; Sch. 16 Pt. IX partly in force at Royal Assent see s. 164(2); sch. 16 Pt. IX partly in force at 1.4.1992 by S.I. 1992/266, art. 3; repeals in Sch. 16 Pt. IX relating to the Criminal Justice Act 1982 and the Criminal Justice Act 1988 in force at 18.2.1993 by S.I. 1993/274, art. 2(1)

Chapter	Short title	Extent of repeal
1906 c. 32.	Dogs Act 1906.	Section 4(1).
1974 c. 40.	Control of Pollution Act 1974.	Section 100.
1982 c. 45.	Civic Government (Scotland) Act 1982.	Section 128(1).
1982 c. 48.	Criminal Justice Act 1982.	Section 43.
1988 c. 9.	Local Government Act 1988.	Section 39(2) and (4).
1988 c. 33.	Criminal Justice Act 1988.	Section 58.

**Status:**

Point in time view as at 13/03/2019.

**Changes to legislation:**

Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.