

SCHEDULES

SCHEDULE 1

PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER ARTICLE 4

PART I

LIST OF PURPOSES

Preliminary

1.—(1) Establishing standards, objectives or requirements in relation to emissions within the meaning of the regulations.

(2) Authorising the making of plans for—

- (a) the setting of overall limits,
- (b) the allocation of quotas, or
- (c) the progressive improvement of standards or objectives,

relating to such emissions.

(3) Authorising the making of schemes for the trading or other transfer of quotas so allocated.

2.—(1) Conferring functions on the Department or the Secretary of State and determining the other bodies or persons (in this Schedule referred to as “enforcing authorities”) by which functions conferred by the regulations—

- (a) in relation to permits under the regulations, or
- (b) otherwise for or in connection with the prevention or control of environmental pollution,

are to be exercisable.

(2) Specifying any purposes for which any such functions are to be exercisable by enforcing authorities.

3. Enabling the Department or the Secretary of State to give directions which enforcing authorities are to comply with, or guidance which enforcing authorities are to have regard to, in exercising functions under the regulations, including—

- (a) directions providing for any functions exercisable by one enforcing authority to be instead exercisable by another, or by the Department or Secretary of State;

[^{F1}(b) directions given for the purposes of the implementation of—

- (i) any [^{F2}assimilated] obligations;
- (ii) any obligations of the United Kingdom under any international agreement to which the United Kingdom is a party;]

(c) directions relating to the exercise of any function in a particular case or class of case.

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002. (See end of Document for details)

F1	Sch. 1 para. 3(b) substituted (31.12.2020) by The Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/584) , regs. 1, 25(a) (with reg. 46(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
F2	Word in Sch. 1 para. 3(b)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424) , reg. 1(2), Sch. para. 49(2)(f)

Permits

4. Prohibiting persons from operating any installation or plant of any specified description, or otherwise carrying on any activities of any specified description, except—

- (a) under a permit in force under the regulations, and
- (b) in accordance with any conditions to which the permit is subject.

5. Specifying restrictions or other requirements in connection with the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations); and otherwise regulating the procedure to be followed in connection with the grant of permits.

6.—(1) Prescribing the contents of permits.

(2) Authorising permits to be granted subject to conditions imposed by enforcing authorities.

(3) Securing that permits have effect subject to—

- (a) conditions specified in the regulations; or
- (b) rules of general application specified in or made under the regulations.

7.—(1) Requiring permits or the conditions to which permits are subject to be reviewed by enforcing authorities (whether periodically or in any specified circumstances).

(2) Authorising or requiring the variation of permits or such conditions by enforcing authorities (whether on applications made by holders of permits or otherwise).

(3) Regulating the making of changes—

- (a) in the operation of the installations or plant to which permits relate, or
- (b) in the case of permits for the carrying on of activities otherwise than in the course of operating any installation or plant, in the carrying on of the activities.

8.—(1) Regulating the transfer or surrender of permits.

(2) Authorising the revocation of permits by enforcing authorities.

(3) Authorising the imposition by enforcing authorities of requirements with respect to the taking of preventive or remedial action (by holders of permits or other persons) in connection with the surrender or revocation of permits.

9. Authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges in respect of, or in respect of an application for—

- (a) the grant of a permit,
- (b) the variation of a permit or the conditions to which it is subject, or
- (c) the transfer or surrender of a permit,

or in respect of the subsistence of a permit.

F39A.

F3 Sch. 1 para. 9A omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **10(1)**

9B.—(1) Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges as a means of recovering costs incurred by them in performing functions conferred [^{F4}under or by virtue of regulations made for the purpose of implementing [^{F5}[^{F6}assimilated] obligations]].

[^{F7}(2) Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges (“registry charges”) in respect of—

- (a) an application to open an account that, under the [^{F8}Registries Regulation 2013], is required to be held in a trading scheme registry;
- (b) the subsistence of such an account;
- (c) the updating of information provided to the Environment Agency in relation to such an account.]

F4 Words in Sch. 1 para. 9B(1) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **10(2)(a)**

F5 Words in Sch. 1 para. 9B(1) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **25(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Word in Sch. 1 para. 9B(1) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 49(2)(f)**

F7 Sch. 1 para. 9B(2) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **10(2)(b)**

F8 Words in Sch. 1 para. 9B(2)(a) substituted (31.1.2014) by [The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory \(Amendment\) Regulations 2013 \(S.I. 2013/3135\)](#), regs. 1, **15**

[^{F9}**9C.** Without prejudice to paragraph 9, authorising the Department to make schemes for the charging by enforcing authorities of fees or other charges as a means of recovering costs incurred by them in performing functions conferred by [^{F10}[^{F11}assimilated] obligations].]

F9 Sch. 1 para. 9C inserted (1.1.2018) by [The Control of Mercury \(Enforcement\) Regulations 2017 \(S.I. 2017/1200\)](#), regs. 2(1), **50** (with reg. 1(2))

F10 Words in Sch. 1 para. 9C substituted (31.12.2020) by virtue of [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **25(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F11 Word in Sch. 1 para. 9C substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 49(2)(f)**

10. Authorising, or authorising the Department to make schemes for, the charging by the Department or public bodies of fees or other charges in respect of—

- (a) the testing or analysis of substances
- (b) the validating of, or of the results of, any testing or analysis of substances, or
- (c) assessing how the environment might be affected by the release into it of any substances,

in cases where the testing, analysis, validating or assessing is in any way in anticipation of, or otherwise in connection with, the making of applications for the grant of permits or is carried out in pursuance of conditions to which any permit is subject.

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the *The Environment (Northern Ireland) Order 2002*. (See end of Document for details)

Information, publicity and consultation

11. Enabling persons of any specified description (whether or not they are holders of permits) to be required—

- (a) to compile information—
 - (i) on emissions within the meaning of the regulations;
 - (ii) on energy consumption and on the efficiency with which energy is used;
 - (iii) on waste within the meaning of the regulations and on the destinations of such waste;
- (b) to provide such information in such manner as is specified in the regulations.

12. Securing—

- (a) that publicity is given to specified matters;
- (b) that enforcing authorities maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection;
- (c) that copies of entries in such registers, or of specified documents, may be obtained by members of the public.

13. Requiring or authorising enforcing authorities to carry out consultation in connection with the exercise of any of their functions; and providing for them to take into account representations made to them on consultation.

Enforcement and offences

14.—(1) Conferring on enforcing authorities functions with respect to the monitoring and inspection of the carrying on of activities to which permits relate, including—

- (a) power to take samples or to make copies of information;
- (b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.

(2) Authorising the appointment of suitable persons to exercise any such functions and conferring powers (such as those specified in Article 17(3) of the Industrial Pollution Control (Northern Ireland) Order 1997 (NI 18)) on persons so appointed.

15.—(1) Authorising enforcing authorities to serve on holders of permits—

- (a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;
- (b) notices requiring them to provide such financial security as the enforcing authorities serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;
- (c) notices requiring them to take steps to remove imminent risks of serious environmental pollution (whether or not arising from any such contraventions).

(2) Providing for the enforcement of such notices by proceedings in the High Court.

16. Authorising enforcing authorities to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.

17. The creation of offences and dealing with matters relating to such offences, including—

- (a) the provision of defences; and

(b) evidentiary matters.

18. Enabling, where a person has been convicted of an offence under the regulations—

- (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment); or
- (b) an enforcing authority to arrange for such action to be taken at that person's expense.

Appeals

19.—(1) Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations; and making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

(2) Making provision for—

- (a) the payment of fees and costs in connection with such appeals; and
- (b) the determination of the amount of any such fees or costs.

General

20.—(1) Making provision which, subject to any modifications that the Department considers appropriate, corresponds or is similar to—

(a) any provision made by or under, or capable of being made under—

- (i) the Industrial Pollution Control (Northern Ireland) Order 1997; or
 - (ii) Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19);
- or

[^{F12}(b) any provision (not being a provision within any of paragraphs 1 to 19) that might be made by an Act of Parliament in connection with the relevant directives, other than provision—

- (i) imposing or increasing taxation;
- (ii) taking effect from a date earlier than that of the making of the regulations containing the provision;
- (iii) conferring any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal;
- (iv) creating any new criminal offence punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than three months or with a fine.]

(2) In sub-paragraph (1) “the relevant directives” means—

[^{F13}(a) Directive [2010/75/EU](#) of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)] ;

[^{F14}(b) Directive [2008/98/EC](#) of the European Parliament and of the Council on waste;]

[^{F15}(c)

[^{F16}(d) Council Directive [87/217/EEC](#) on the prevention and reduction of environmental pollution by asbestos;]

[^{F17}(e) European Parliament and Council Directive [94/63/EC](#) on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations;

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002. (See end of Document for details)

- (f) Council Directive [1999/31/EC](#) on the landfill of waste as last amended by Directive [2011/97/EU](#);
- (g) Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of life vehicles as last amended by Directive (EU) [2017/2096](#);
- (h) Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy;
- (i) Directive [2001/81/EC](#) of the European Parliament and of the Council on national emission ceilings for certain atmospheric pollutants;
- (j) Directive [2003/35/EC](#) of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage;
- (k) Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries;
- (l) Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators, as last amended by Directive [2013/56/EU](#);
- (m) Directive [2006/118/EC](#) of the European Parliament and of the Council (on the protection of groundwater against pollution and deterioration);
- (n) Directive [2008/98/EC](#) of the European Parliament and of the Council of waste, as last amended by Regulation (EU) [2017/997](#);
- (o) Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide;
- (p) Directive [2009/126/EC](#) of the European Parliament and of the Council on stage II petrol vapour recovery during refuelling of motor vehicles at service stations;
- (q) Directive [2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control);
- (r) Directive [2012/19/EU](#) of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), as it had effect immediately before 4th July 2018;
- (s) Directive [2012/27/EU](#) of the European Parliament and of the Council on Energy efficiency;
- (t) Directive [2013/59/EURATOM](#) laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation;
- (u) Directive [2015/2193/EU](#) of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants;
- (v) any other directive of the Council of the European Community designated by order for the purposes of this paragraph as in force on exit day.]

[^{F18}(2A) In sub-paragraph (1)(b)(iii), “power to legislate” does not include any power to—

- (a) amend or extend a power to legislate conferred other than under this paragraph;
- (b) give directions as to matters of administration.]

(3) Making provision about the application of the regulations to the Crown.

F12 Sch. 1 para. 20(1)(b) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), regs. 1, **25(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F13 Sch. 1 para. 20(2)(a) substituted (17.1.2019) by [The Air Quality \(Amendment, etc.\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/215\)](#), regs. 1(1), **2(4)**

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the *The Environment (Northern Ireland) Order 2002*. (See end of Document for details)

- F14** Sch. 1 para. 20(2)(b) substituted (8.4.2011) by [Waste Regulations \(Northern Ireland\) 2011 \(S.R. 2011/127\)](#), [reg. 2\(2\)](#) (with [reg. 9\(2\)](#))
- F15** Sch. 1 para. 20(2)(c) omitted (31.12.2020) by virtue of [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), [regs. 1, 25\(d\)\(ii\)\(aa\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Sch. 1 para. 20(2)(d) substituted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), [regs. 1, 25\(d\)\(ii\)\(bb\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Sch. 1 para. 20(2)(e)-(v) added (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), [regs. 1, 25\(d\)\(ii\)\(cc\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Sch. 1 para. 20(2A) inserted (31.12.2020) by [The Environment \(Miscellaneous Amendments\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/584\)](#), [regs. 1, 25\(d\)\(iii\)](#); 2020 c. 1, Sch. 5 para. 1(1)

PART II

SUPPLEMENTARY PROVISIONS

Particular types of pollution

21. The regulations may provide for specified provisions of the regulations to have effect in relation only to such environmental pollution as is specified.

Determination of matters by enforcing authorities

22. The regulations may make provision for anything which, by virtue of paragraphs 5 to 8, could be provided for by the regulations to be determined under the regulations by enforcing authorities.

Imposition of conditions

23. In connection with the determination of conditions as mentioned in paragraph 6(3)(a) the regulations may in particular provide—

- (a) for such conditions to be determined in the light of any specified general principles and any directions or guidance given under the regulations;
- (b) for such guidance to include guidance sanctioning reliance by an enforcing authority on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition.

Charging schemes

24. The regulations may require any such scheme as is mentioned in paragraph 9 ^[^{F19}] ^[^{F20}] ... [^{F21} 9B] or 10 to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the enforcing authority or other person to whom they are so payable) as is specified.

- F19** Words in Sch. 1 para. 24 inserted (1.4.2010) by [Environment \(Northern Ireland\) Order 2002 \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/92\)](#), [regs. 1\(1\), 2\(2\)\(b\)](#)
- F20** Word in Sch. 1 para. 24 omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), [regs. 1, 11\(1\)](#)

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002. (See end of Document for details)

F21 Word in Sch. 1 para. 24 inserted (1.1.2012) by [Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Registries and Fees etc.\) Regulations 2011 \(S.I. 2011/2911\)](#), reg. 4, **Sch. para. 26** (with Sch. paras. 33-36)

[^{F22}24A. The regulations may require any scheme as is mentioned in paragraph ^{F23}... [^{F24}9B] to include provision which gives effect to any proposal of the Environment Agency to prescribe ^{F25}... [^{F26}registry charges] and for any such charges to be paid to that Agency.]

F22 Sch. 1 para. 24A inserted (1.4.2010) by [Environment \(Northern Ireland\) Order 2002 \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/92\)](#), regs. 1(1), **2(2)(c)**

F23 Words in Sch. 1 para. 24A omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **11(2)(a)**

F24 Words in Sch. 1 para. 24A inserted (1.1.2012) by [Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Registries and Fees etc.\) Regulations 2011 \(S.I. 2011/2911\)](#), reg. 4, **Sch. para. 27(a)** (with Sch. paras. 33-36)

F25 Words in Sch. 1 para. 24A omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **11(2)(b)**

F26 Words in Sch. 1 para. 24A inserted (1.1.2012) by [Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Registries and Fees etc.\) Regulations 2011 \(S.I. 2011/2911\)](#), reg. 4, **Sch. para. 27(b)** (with Sch. paras. 33-36)

Offences

25.—(1) The regulations may provide for any such offence as is mentioned in paragraph 17 to be triable—

- (a) only summarily; or
- (b) either summarily or on indictment

(2) The regulations may provide for such an offence to be punishable—

- (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which may not exceed six months), or
 - (ii) a fine not exceeding such amount as is specified (which may not exceed [^{F27}£50,000]),
 or both; or
- (b) on conviction on indictment by—
 - (i) imprisonment for a term not exceeding such period as is specified (which may not exceed five years), or
 - (ii) a fine,
 or both.

F27 Sum in Sch. 1 para. 25(2)(a)(ii) substituted (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011 \(c. 23\)](#), **ss. 73, 78**; S.R. 2012/13, art. 2(2), Sch. 2

Interpretation

26. In this Schedule—

F28
...

F28
...

[^{F29}“ Environment Agency ” means the Agency constituted under the Environment Act 1995;]

F30
...

“public body” means a body established or constituted by or under a statutory provision;

[^{F31}“the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [290/204/EC](#) and No [406/2009/EC](#) of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time;]

“the regulations” means regulations under Article 4;

“specified” means specified in regulations under that Article [^{F32}.]

[^{F33}“trading scheme registry” means any registry operated by the Environment Agency for the purpose of meeting the obligations of the United Kingdom referred to in Articles 4(3) and 5(1) of the Registries Regulation 2013.]

- | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>F28 Words in Sch. 1 para. 26 omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, 12(2)</p> |
| <p>F29 Sch.1 para. 26: definition of "Environment Agency" inserted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), 2(2)(d)(i)</p> |
| <p>F30 Words in Sch. 1 para. 26 omitted (31.12.2020) by virtue of The Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/584), regs. 1, 25(e); 2020 c. 1, Sch. 5 para. 1(1)</p> |
| <p>F31 Words in Sch. 1 para. 26 substituted (31.1.2014) by The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 (S.I. 2013/3135), regs. 1, 16(2)</p> |
| <p>F32 In Sch.1 para. 26 ":" substituted (1.4.2010) by Environment (Northern Ireland) Order 2002 (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/92), regs. 1(1), 2(2)(d)(ii)</p> |
| <p>F33 Words in Sch. 1 para. 26 substituted (31.1.2014) by The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 (S.I. 2013/3135), regs. 1, 16(3)</p> |

SCHEDULE 2

AIR QUALITY: SUPPLEMENTAL PROVISIONS

Consultation requirements

- 1.—(1) A district council in carrying out its functions in relation to—
- (a) any air quality review,
 - (b) any assessment under Article 11 ^{F34}..., or
 - (c) the preparation of an action plan or any revision of an action plan,
- shall consult such other persons as fall within sub-paragraph (2).
- (2) Those persons are—
- (a) the Department;

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002. (See end of Document for details)

- (b) each district council whose district is contiguous to the council's district;
- (c) such competent authorities exercising functions in, or in the vicinity of, the council's district as the council may consider appropriate;
- (d) such bodies or persons appearing to the council to be representative of persons with business interests in the district to which the review or action plan in question relates as the council may consider appropriate;
- (e) such other bodies or persons as the council may consider appropriate.

F34 Words in Sch. 2 para. 1(1)(b) repealed (12.4.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016 \(c. 13\)](#), ss. 18(5), 27(1), [Sch. 2](#)

Exchange of information

2.—(1) A relevant authority shall provide a district council with all such information as is reasonably requested by the council for purposes connected with the carrying out of its functions under this Part.

(2) A district council shall provide a relevant authority with all such information as is reasonably requested by the authority for purposes connected with the carrying out of any of its functions relating to the assessment or management of the quality of air.

(3) Information provided to a district council or relevant authority under sub-paragraph (1) or (2) shall be provided in such form and in such manner and at such times as the council or, as the case may be, the authority may reasonably require.

(4) A relevant authority or district council which provides information under sub-paragraph (1) or (2) shall be entitled to recover the reasonable cost of doing so from the council or authority which requested the information.

(5) The information which a relevant authority or a district council may be required to provide under this paragraph shall include information which, although it is not in the possession of the authority or the council, is information which it is reasonable to require the authority or the council to obtain.

Joint exercise of district council functions

3.—(1) The Department may give directions to any two or more district councils requiring them to discharge functions under this Part jointly in accordance with the directions.

(2) Where two or more district councils have jointly discharged functions under this Part, the Department may give them directions requiring them to revoke, or modify in accordance with the directions, the arrangements which they have made.

Public access to information about air quality

4.—(1) Each district council shall—

- (a) secure that there is available at all reasonable times for inspection by the public free of charge a copy of each of the documents specified in sub-paragraph (2); and
- (b) afford to members of the public facilities for obtaining copies of those documents on payment of a reasonable charge.

(2) The documents mentioned in sub-paragraph (1)(a) are—

- (a) a report of the results of any air quality review which the council has caused to be conducted;

- (b) a report of the results of any assessment which the council has caused to be made under Article 11^{F35} ...;
- (c) any order (together with any map or plan referred to therein) made by the council under Article 12;
- (d) any action plan prepared by the council;
- (e) any proposals or statements submitted to the council pursuant to paragraph (4)(a) or (b) of Article 13;
- (f) any directions given to the council under this Part.

F35 Words in Sch. 2 para. 4(2)(b) repealed (12.4.2016) by [Environmental Better Regulation Act \(Northern Ireland\) 2016](#) (c. 13), ss. 18(5), 27(1), [Sch. 2](#)

Fixed penalty offences

5.—(1) Without prejudice to the generality of sub-paragraph (o) of paragraph (2) of Article 15, regulations may, in particular, make provision—

- (a) for the qualifications, appointment or authorisation of persons who are to issue fixed penalty notices;
- (b) for the offences in connection with which, the cases or circumstances in which, the time or period at or within which, or the manner in which fixed penalty notices may be issued;
- (c) prohibiting the institution, before the expiration of the period for paying the fixed penalty, of proceedings against a person for an offence in connection with which a fixed penalty notice has been issued;
- (d) prohibiting the conviction of a person for an offence in connection with which a fixed penalty notice has been issued if the fixed penalty is paid before the expiration of the period for paying it;
- (e) entitling, in prescribed cases, a person to whom a fixed penalty notice is issued to give, within a prescribed period, notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
- (f) for the amount of the fixed penalty to be increased by a prescribed amount in any case where the person liable to pay the fixed penalty fails to pay it before the expiration of the period for paying it, without having given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
- (g) for or in connection with the recovery of an unpaid fixed penalty as a fine or as a civil debt or as if it were a sum payable under a county court order;
- (h) for or in connection with enforcement in respect of an unpaid fixed penalty by prescribed persons;
- (j) for a fixed penalty notice, and any prescribed proceedings or other prescribed steps taken by reference to the notice, to be rendered void in prescribed cases where a person makes a prescribed statutory declaration, and for the consequences of any notice, proceedings or other steps being so rendered void (including extension of any time limit for instituting criminal proceedings);
- (k) for or in connection with the extension, in prescribed cases or circumstances, by a prescribed person of the period for paying a fixed penalty;
- (l) for or in connection with the withdrawal, in prescribed circumstances, of a fixed penalty notice, including—

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the *The Environment (Northern Ireland) Order 2002*. (See end of Document for details)

- (i) repayment of any amount paid by way of fixed penalty in pursuance of a fixed penalty notice which is withdrawn; and
 - (ii) prohibition of the institution or continuation of proceedings for the offence in connection with which the withdrawn notice was issued;
 - (m) for or in connection with the disposition of sums received by way of fixed penalty
 - (n) for a certificate purporting to be signed by or on behalf of a prescribed person and stating either—
 - (i) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or
 - (ii) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,to be received as evidence of the matters so stated and to be treated, without further proof, as being so signed unless the contrary is shown;
 - (o) requiring a fixed penalty notice to give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and to state—
 - (i) the monetary amount of the fixed penalty which may be paid;
 - (ii) the person to whom, and the address at which, the fixed penalty may be paid and any correspondence relating to the fixed penalty notice may be sent;
 - (iii) the method or methods by which payment of the fixed penalty may be made;
 - (iv) the period for paying the fixed penalty;
 - (v) the consequences of the fixed penalty not being paid before the expiration of that period;
 - (p) similar to any provision made by Article 84 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (statements by constables in fixed penalty cases);
 - (q) for presuming, in any proceedings, that any document of a prescribed description purporting to have been signed by a person to whom a fixed penalty notice has been issued has been signed by that person;
 - (r) requiring or authorising a fixed penalty notice to contain prescribed information relating to, or for the purpose of facilitating, the administration of the fixed penalty system;
 - (s) with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
 - (i) the methods by which,
 - (ii) the officers, servants or agents by, to or on whom, and
 - (iii) the places at which,fixed penalty notices may be given by, or served on behalf of, a prescribed person;
 - (t) prescribing the method or methods by which fixed penalties may be paid;
 - (u) for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given;
 - (v) for a fixed penalty notice to be treated for prescribed purposes as if it were a complaint or summons or any other document of a prescribed description
- (2) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or

- (b) except if it is committed in such circumstances or manner as may be prescribed.
- (3) Regulations may make provision for such exceptions, limitations and conditions as the Department considers necessary or expedient.
- (4) In this paragraph—
- “fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);
 - “fixed penalty notice” means a notice offering a person an opportunity to discharge any liability to conviction for a fixed penalty offence by payment of a penalty of a prescribed amount;
 - “fixed penalty offence” means, subject to sub-paragraph (2), any offence under the pollution control statutory provisions which is for the time being prescribed as a fixed penalty offence;
 - “the fixed penalty system” means the system implementing regulations;
 - “the period for payment”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;
 - “regulations” means regulations under sub-paragraph (o) of paragraph (2) of Article 15.

SCHEDULE 3

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Interpretation

1. In this Schedule “relevant power” means a power conferred by Article 19, including a power exercisable by virtue of a warrant under this Schedule.

Issue of warrants

- 2.—(1) If it is shown to the satisfaction of a justice of the peace on complaint on oath—
- (a) that there are reasonable grounds for the exercise in relation to any premises of a relevant power; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,

the justice may by warrant authorise an authorised person to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

- (2) The conditions mentioned in sub-paragraph (1)(b) are—
- (a) that the exercise of the power in relation to the premises has been refused
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises and the case is one of urgency; or
 - (e) that an application for admission to the premises would defeat the object of the proposed entry.

(3) In a case where paragraph (4) of Article 19 applies, a justice of the peace shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the *The Environment (Northern Ireland) Order 2002*. (See end of Document for details)

(4) Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Information obtained to be admissible in evidence

3.—(1) Subject to Article 19(7), information obtained in consequence of the exercise of a relevant power, with or without the consent of any person, shall be admissible in evidence against that or any other person.

(2) Without prejudice to the generality of sub-paragraph (1), information obtained by means of monitoring or other apparatus installed on any premises in the exercise of a relevant power, with or without the consent of any person in occupation of the premises, shall be admissible in evidence in any proceedings against that or any other person.

Duty to secure premises

4. An authorised person who, in the exercise of a relevant power enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as he found them.

Compensation

5.—(1) Where an authorised person exercises any power conferred by Article 19(2)(a) or (b) or (3), the enforcing authority under whose authorisation he acts shall make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the authorised person of that power; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed by paragraph 4.

(2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage if the loss or damage—

- (a) is attributable to the default of the person who sustained it; or
- (b) is loss or damage in respect of which compensation is payable under any other provision of the pollution control statutory provisions.

(3) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 (NI 9) shall apply to such determination.

SCHEDULE 4

TRANSITIONAL PROVISIONS

Introductory

1.—(1) In this Schedule “the 1985 Order” means the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1).

(2) Nothing in this Schedule prejudices the application of section 28 or 29 of the Interpretation Act (Northern Ireland) 1954 (c.33).

Existing areas of special scientific interest

2.—(1) Any declaration under Article 24 of the 1985 Order which is in force immediately before the date on which Article 28 comes into operation has effect as from that date as if it were a declaration made and confirmed under that Article.

(2) The Department shall, within the period of five years beginning with the date on which Article 28 comes into operation, give to every owner and occupier of any land to which a declaration mentioned in sub-paragraph (1) relates a notice containing a statement of the Department's views about the matters referred to in the words following sub-paragraph (b) of Article 28(2).

(3) The notice shall specify the date (not being less than three months from the date of the giving of the notice) on or before which, and the manner in which, representations or objections with respect to it may be made; and the Department shall consider any representation or objection duly made.

(4) Within the period of two months beginning with the date referred to in sub-paragraph (3), the Department shall give a notice to every owner and occupier of the land confirming the statement referred to in sub-paragraph (2) or containing a revised statement.

(5) A statement confirmed or revised under sub-paragraph (4) has effect as if it were a statement made under Article 28(2) and confirmed under Article 28(6).

Consents under Article 32

3.—(1) Subject to sub-paragraph (2) and paragraphs 4 and 5—

(a) a notice given by an owner or occupier of land under Article 25(1) of the 1985 Order has effect from the date on which Article 32 comes into operation as if it were a notice given under paragraph (1)(a) of that Article; and

(b) a consent given under Article 25(1) or (2) of the 1985 Order has effect from that date as if it were a consent under Article 32(3)(a).

(2) In relation to such a consent, Article 32 has effect as if for paragraphs (7) and (8) there were substituted—

“(7) A notice under paragraph (6) must include a notice of—

(a) the Department's reasons for withdrawing or modifying the consent;

(b) the rights of appeal under Article 33;

(c) the effect of paragraph (9); and

(d) the effect of Article 37(1).”

Operations on land

4. Article 32 does not apply in relation to the carrying out of any operation which began lawfully before the coming into operation of that Article.

Appeals under Article 33

5.—(1) Article 33(1)(a) does not apply to a refusal of a consent under Article 25(1) or (2) of the 1985 Order.

(2) Article 33(1)(b) does not apply to a consent taking effect as mentioned in paragraph 3(1)(b).

Management agreements

6.—(1) Subject to sub-paragraph (2), an agreement in force under Article 24(8)(a) of the 1985 Order immediately before the coming into operation of Article 34 has effect as a management agreement entered into under that Article.

Status: Point in time view as at 01/01/2024.

Changes to legislation: There are currently no known outstanding effects for the
The Environment (Northern Ireland) Order 2002. (See end of Document for details)

(2) Article 35(1) does not apply in relation to an agreement entered into under Article 24(8)(a) of the 1985 Order.

Compensation

7. Despite its repeal by this Order, Article 26 of the 1985 Order continues to apply in relation to—
- (a) a notification received as mentioned in paragraph (1)(a) of that Article before the date on which that repeal comes into operation; or
 - (b) an extension mentioned in paragraph (2) of that Article which occurs before that date.

Duty of public bodies in relation to operations

8. Article 39 does not apply in relation to the carrying out of operations which began before the coming into operation of that Article.

Offences and restoration orders

9. Article 46 does not apply in relation to an offence committed before the coming into operation of that Article.

Schedule 5—Amendments

Schedule 6—Repeals

Status:

Point in time view as at 01/01/2024.

Changes to legislation:

There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002.