

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

## SCHEDULES

### SCHEDULE 1

Section 6.

#### AUTHORISATIONS FOR PROCESSES: SUPPLEMENTARY PROVISIONS

##### PART I

##### GRANT OF AUTHORISATIONS

###### *Applications for authorisations*

- 1 (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.

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

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- (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 made to be heard with respect to the application by the applicant or [<sup>F1</sup>the enforcing authority] concerned.

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- (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

**F1** 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.

#### 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\(1\)\(3\)\(5\)\(6\)](#).

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## PART II

### VARIATION OF AUTHORISATIONS

#### *Variations by the enforcing authority*

- 6 (1) [<sup>F2</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>F3</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.
- (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.

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- (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

- F2** 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.
- F3** 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;
- 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—

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- (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)

*F<sup>4</sup> Call in of applications for variation*

**Textual Amendments**

**F4** 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>F58</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) 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.

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- (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

- 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**.

#### Marginal Citations

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

- <sup>F69</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

- F6** 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>F710</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 subparagraph (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

- F7** 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**.

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## SCHEDULE 2

Section 32.

### WASTE DISPOSAL AUTHORITIES AND COMPANIES

#### PART I

#### TRANSITION TO COMPANIES

##### *Preliminary*

- 1 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.

#### **Marginal Citations**

**M5** 1985 c. 6.

#### *Notice of direction*

- 2 (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.

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### *Applications for exemption from and representations about directions*

- 3
- (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 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.

### *Directions*

- 4
- (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.

### *Formation and status of companies*

- 5
- (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

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(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.

#### Marginal Citations

**M6** 1985 c. 6.

**M7** 1989 c. 42.

#### *Transfer schemes*

- 6 (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—

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- (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.
- (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.

*Transfer schemes: supplementary provisions*

- 7 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.
- 8 (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 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.

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- (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.

#### *Tax and company provisions*

- 9 (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

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- (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.

**Marginal Citations**

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

*Benefit of certain planning permission*

- 10 (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.
- (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.

**Marginal Citations**

- M10** S.I.1976/1419.

*Right to production of documents of title*

- 11 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.

**Marginal Citations**

- M11** 1925 c. 20.

*Proof of title by certificate*

- 12 (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

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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.

#### *Construction of agreements*

- 13 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—
- (a) the company had been a party to the agreement; and
  - (b) 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
  - (c) 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
  - (d) 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.

- 14 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.

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*Third parties affected by vesting provisions*

- 15 (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 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.

*Transfer of staff*

- 16 (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 sub-paragraph (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—
- (a) 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
  - (b) 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.

**Marginal Citations**

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

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### *Information for purposes of transfer scheme*

- 17 (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>F8</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**

**F8** 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](#).

## **PART II**

### PROVISIONS REGULATING WASTE DISPOSAL AUTHORITIES AND COMPANIES

#### *Terms of waste disposal contracts*

- 18 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 discrimination in favour of one description of waste disposal contractor as against other descriptions of waste disposal contractors.
- 19 (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 sub-paragraph (1) above.

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*Procedure for putting waste disposal contracts out to tender*

- 20 (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;
  - (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.
- 21 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.

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### *Variation of waste disposal contracts*

- 22 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.

### *Avoidance of restrictions on transfer of securities of companies*

- 23 (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
  - (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 sub-paragraph (1) above if the Secretary of State has given his approval in writing to that provision.

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

Sections 44A and 44B.]

### OBJECTIVES FOR THE PURPOSES OF THE NATIONAL WASTE STRATEGY

#### **Textual Amendments**

**F9** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), Sch.12 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

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- [<sup>F10</sup>1 Ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and, in particular, without—
- (a) risk to water, air, soil, plants or animals;
  - (b) causing nuisance through noise or odours; or
  - (c) adversely affecting the countryside or places of special interest.

**Textual Amendments**

**F10** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), Sch.12 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

- <sup>F11</sup>2 Establishing an integrated and adequate network of waste disposal installations, taking account of the best available technology not involving excessive costs.

**Textual Amendments**

**F11** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), Sch.12 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

- <sup>F12</sup>3 Ensuring that the network referred to in paragraph 2 above enables—
- (a) the European Community as a whole to become self-sufficient in waste disposal, and the Member States individually to move towards that aim, taking into account geographical circumstances or the need for specialised installations for certain types of waste; and
  - (b) waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.

**Textual Amendments**

**F12** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), Sch.12 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

- <sup>F13</sup>4 Encouraging the prevention or reduction of waste production and its harmfulness, in particular by—
- (a) the development of clean technologies more sparing in their use of natural resources;
  - (b) the technical development and marketing of products designed so as to make no contribution or to make the smallest possible contribution, by the nature of their manufacture, use or final disposal, to increasing the amount or harmfulness of waste and pollution hazards; and
  - (c) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery.]

**Textual Amendments**

**F13** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), Sch.12 (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

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- [<sup>F145</sup> Encouraging—
- (a) the recovery of waste by means of recycling, reuse or reclamation or any other process with a view to extracting secondary raw materials; and
  - (b) the use of waste as a source of energy.]

#### Textual Amendments

**F14** Sch. 2A inserted (1.4.1996) by 1995 c. 25, s. 92(2), **Sch.12** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

VALID FROM 26/01/2009

## [<sup>F15</sup>SCHEDULE 2AA

### WASTE REDUCTION SCHEMES

#### Textual Amendments

**F15** 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
  - (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—

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- (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.
  - (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.

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*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.

*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.

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- (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.

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.

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*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—
- (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;

*Status: Point in time view as at 10/09/2003.*

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“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.]

VALID FROM 01/01/2005

## [<sup>F16</sup>SCHEDULE 2B

### CATEGORIES OF WASTE

#### Textual Amendments

**F16** 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

*Status: Point in time view as at 10/09/2003.*

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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—
- (a) 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);
  - (b) 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;
  - (c) 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;
  - (d) 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>F17</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**

**F17** 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 10/09/2003.*

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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>F18</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**

**F18** 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 10/09/2003.*

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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>F19</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>F20</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

- F19** Sch. 3 para. 2A inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 4(5), 12(1)
- F20** 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>F21</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**

**F21** 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>F22</sup>or sections 80 and 80A] and its powers under paragraph 2 [<sup>F22</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 10/09/2003.*

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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>F23</sup>(9) This paragraph does not apply to Scotland.]

**Textual Amendments**

**F22** Words in [Sch. 3 para. 4\(1\)](#) inserted (E.W.) (5.1.1994) by [1993 c. 40, ss. 4\(7\)\(a\)\(b\)](#), [12\(1\)](#)

**F23** [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 (other than any liability under [<sup>F24</sup>section 17 or 18 of the Audit Commission Act 1998] (powers of district auditor and court)).

**Textual Amendments**

**F24** Words in [Sch. 3 para. 5](#) substituted (E.W.) (11.9.1998) by [1998 c. 18, ss. 54\(1\), 55\(2\)](#), [Sch. 3 para.21](#).

**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>F25</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**

**F25** 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](#).

*Status: Point in time view as at 10/09/2003.*

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VALID FROM 06/04/2006

## [<sup>F26</sup>SCHEDULE 3A

### FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND

#### Textual Amendments

**F26** 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\(j\)](#)

## 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).

#### 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,—

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- (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—
- (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 seized or 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.

VALID FROM 06/04/2006

- [<sup>F27</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.

*Status: Point in time view as at 10/09/2003.*

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- (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.]

#### Textual Amendments

**F27** 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, in fixing the charge to be paid under paragraph 3 above by the claimant of a shopping or luggage trolley, shall secure that the charges so payable by claimants shall be such as are sufficient, taking one financial year with another, to cover the cost of removing, storing and disposing of such 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 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>F28</sup>SCHEDULE 5

#### Textual Amendments

**F28** Sch. 5 repealed (27.8.1993) by 1993 c. 12, ss. 50, 51(2), Sch. 6 Pt.I (with ss. 42, 46)

*Status: Point in time view as at 10/09/2003.*

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## SCHEDULE 6

Section 128.

### THE NATURE CONSERVANCY COUNCILS FOR ENGLAND AND SCOTLAND AND THE COUNTRYSIDE COUNCIL FOR WALES: CONSTITUTION.

#### *Preliminary*

1           In this Part of this Schedule any reference to the council is a reference to each of the Councils established by section 128 of this Act.

#### *Constitution and membership*

2           The council shall be a body corporate.

3           (1) The council shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown; and the council's property shall not be regarded as property of, or property held on behalf of, the Crown.

            (2) Sub-paragraph (1) above has effect subject to paragraph 18 below.

4           (1) The Secretary of State shall appoint one of the members of the council to be chairman of the council and may appoint a member to be deputy chairman.

            (2) The chairman, deputy chairman and other members of the council shall hold and vacate office in accordance with the terms of their appointment.

            (3) A member of the council may, by notice in writing addressed to the Secretary of State, resign his membership, and the chairman and deputy chairman of the council may by such a notice resign their office as such without resigning their membership.

5           A member of the council who ceases to be a member or ceases to be chairman or deputy chairman of the council shall be eligible for reappointment.

6           The Secretary of State may remove a member of the council from membership if he has—

            (a) become bankrupt or made an arrangement with his creditors or, in Scotland, had his estate sequestrated or made a trust deed for behoof of his creditors or a composition contract; or

            (b) been absent from meetings of the council for a period longer than six consecutive months without the permission of the council;

            or if he is, in the opinion of the Secretary of State unable or unfit to discharge the functions of a member.

#### *Remuneration and allowances for members of council*

7           (1) The council shall—

            (a) pay to their members such remuneration and allowances (if any); and

            (b) as regards any member or former member in whose case the Secretary of State may so determine, pay such pension, allowance or gratuity to or in respect of him, or make such payments towards the provision of such pension, allowance or gratuity,

            as the Secretary of State may with the approval of the Treasury determine.

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- (2) If a person ceases to be a member of the council, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may require the council to pay to that person a sum of such amount as the Secretary of State may with the approval of the Treasury determine.

#### *Staff*

- 8 (1) There shall be a chief officer of the council.
- (2) The first appointment of a chief officer shall be made by the Secretary of State after consultation with the chairman of the council (if there is a person holding that office when the appointment is made); and the council shall, with the approval of the Secretary of State, make the subsequent appointments.
- 9 The council may appoint such number of other employees as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine.
- 10 The council shall pay to the chief officer and their other employees such remuneration and allowances as the council may, with the approval of the Secretary of State given with the consent of the Treasury, determine.
- 11 The council shall, in the case of such of their employees or former employees as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine—
- (a) pay such pensions, allowances or gratuities to or in respect of those employees,
  - (b) make such payments towards provision of such pensions, allowances or gratuities, or
  - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,
- as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine.

#### *Proceedings*

- 12 (1) The council may regulate their own procedure (including making provision in relation to quorum).
- (2) The proceedings of the council and any committee of the council shall not be invalidated by any vacancy amongst their members or by any defect in the appointment of any such member.

#### *Delegation of powers*

- 13 (1) Anything authorised or required by or under any enactment to be done by the council may be done by any committee of theirs which, or by any member or employee of the council who, is authorised (generally or specially) for the purpose by the council.
- (2) Nothing in sub-paragraph (1) above shall prevent the council from doing anything that a committee, member or employee has been authorised to do.

*Status: Point in time view as at 10/09/2003.*

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### *Committees*

- 14 (1) The council may appoint persons who are not members of the council to be members of any committee established by the council (in addition to any members of the council).
- (2) The council shall pay to a person so appointed such remuneration and allowances (if any) as the Secretary of State may with the approval of the Treasury determine.
- (3) The council may regulate the procedure of any committee of theirs.

### *Documents*

- 15 (1) This paragraph applies in England and Wales only.
- (2) The application of the seal of the council shall be authenticated by the signature of any member or employee of the council who is authorised (generally or specially) for the purpose by the council.
- (3) Any document purporting to be an instrument made or issued by the council and to be duly executed under the seal of the council, or to be signed or executed by a person authorised for the purpose by the council, shall be received in evidence and treated, without further proof, as being so made or issued unless the contrary is shown.

F29 16 .....

#### **Textual Amendments**

**F29** Sch. 6 para. 16 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, art. 4.

### *Public Records*

- 17 In Schedule 1 to the <sup>M16</sup>Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 (organisations whose records are public records) there shall be inserted in the appropriate places entries relating to the Countryside Council for Wales and the Nature Conservancy Council for England.

#### **Marginal Citations**

**M16** 1958 c. 51.

### *Land*

- 18 (1) For the purposes of the application of any enactment or rule of law to land an interest in which belongs to the council, and which is managed as a nature reserve, the council shall be deemed to be a Government department; and any other land occupied by them shall be deemed, for the purpose of any rate on property, to be property occupied by or on behalf of the Crown for public purposes.
- (2) In sub-paragraph (1) above “interest” and “land” have the meanings assigned to them by section 114 of the National Parks and Access to the <sup>M17</sup>Countryside Act 1949.

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#### Marginal Citations

M17 1949 c. 97.

#### *Reports, accounts etc.*

- 19 The council shall—
- (a) furnish the Secretary of State with such returns, accounts and other information with respect to their property and activities or proposed activities as he may from time to time require;
  - (b) afford to the Secretary of State facilities for the verification of information so furnished; and
  - (c) for the purpose of such verification, permit any person authorised in that behalf by the Secretary of State to inspect and make copies of the council's accounts, books, documents or papers and give that person such explanation of anything he is entitled to inspect as he may reasonably require.

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

- C12** Sch. 6 para. 19 modified (E.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 (S.I. 2004/3196), **reg. 6(4)** (as amended (30.4.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 (S.I. 2005/918), reg. 2(d)) (both S.I. 2004/3196 and S.I. 2005/918 were revoked (12.1.2006) by S.I. 2005/3459, reg. 10)
- C13** Sch. 6 para. 19 modified (W.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2004/3280), **reg. 6(5)** (as substituted (1.11.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2006 (S.I. 2006/2831), reg. 2(5))
- C14** Sch. 6 para. 19 modified (E.) (12.1.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2006 (S.I. 2005/3459), **reg. 6(5)**

- 20 (1) The council shall—
- (a) as soon as possible after the 31st March following the date appointed under section 131(3) of this Act make to the Secretary of State a report on the exercise and performance of their functions down to that date, and
  - (b) make a similar report to him as to each period of twelve months thereafter as soon as possible after its end;
- and a copy of each such report shall be laid before each House of Parliament by the Secretary of State.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the report of the Countryside Council for Wales for any year shall include a statement of the action taken by the Council to promote the enjoyment of the countryside by members of the public who are disabled.

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

- C15** Sch. 6 para. 20 amended (S.) (27.11.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 14(5), **Sch. 4 para. 2(1)(a)**; S.I. 1991/2633, art. 3, **Sch.**

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- C16** Sch. 6 para. 20 modified (E.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) Regulations 2004 (S.I. 2004/3196), **reg. 6(4)** (as amended (30.4.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (England) (Amendment) Regulations 2005 (S.I. 2005/918), **reg. 2(d)**) (both S.I. 2004/3196 and S.I. 2005/918 were revoked (12.1.2006) by S.I. 2005/3459, **reg. 10**)
- C17** Sch. 6 para. 20 modified (W.) (1.1.2005) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) Regulations 2004 (S.I. 2004/3280), **reg. 6(5)** (as substituted (1.11.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross Compliance) (Wales) (Amendment) Regulations 2006 (S.I. 2006/2831), **reg. 2(5)**)
- C18** Sch. 6 para. 20 modified (E.) (12.1.2006) by The Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (England) Regulations 2006 (S.I. 2005/3459), **reg. 6(5)**

- 21 (1) The council shall keep proper accounts and other records, and shall prepare for each financial year a statement of account in such form as the Secretary of State with the approval of the Treasury may direct and submit those statements of account to the Secretary of State at such time as he may with the approval of the Treasury direct.
- (2) The Secretary of State shall, on or before 30th November in any year, transmit to the Comptroller and Auditor General the statements of account of the council for the financial year last ended.
- (3) The Comptroller and Auditor General shall examine and certify the statements of account transmitted to him under this paragraph, and lay copies of them together with his report thereon before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the day appointed under section 131(3) of this Act and ending with the 31st March following that date and each period of twelve months thereafter.

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

- C19** Sch. 6 para. 21 amended (S.) (27.11.1991) by *Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1)*, s. 14(5), **Sch. 4 para. 2(1)(a)**; S.I. 1991/2633, art. 3, **Sch.**

*Superannuation Act 1965 (c. 74)*

- 22 In paragraph 7 of section 39(1) of the Superannuation Act 1965 (public offices)—
- (a) there shall be inserted in the appropriate place the following entry—
- “The Countryside Council for Wales.”;
- (b) for the entry relating to the Nature Conservancy Council there shall be substituted the following entries—
- “The Nature Conservancy Council for England.
- The Nature Conservancy Council for Scotland.”

*Parliamentary Commissioner Act 1967 (c. 13)*

- 23 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation)—
- <sup>F30</sup>(a) after the entry for the Countryside Commission for Scotland there shall be inserted the following entry—

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“Countryside Council for Wales.”;]

- (b) for the entry relating to the Nature Conservancy Council there shall be substituted the following entries—

“Nature Conservancy Council for England.

Nature Conservancy Council for Scotland.”

#### Textual Amendments

- F30** Sch. 6 para. 23(a) repealed (1.7.1999) by 1998 c. 38, s. 152, Sch. 18 Pt.I (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1999/1290, art. 4

#### *House of Commons Disqualification Act 1975 (c. 24)*

- 24 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), for the entry relating to members of the Nature Conservancy Council in receipt of remuneration there shall be substituted—

“Any member of the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Countryside Council for Wales in receipt of remuneration.”

#### *Inheritance Tax Act 1984 (c. 51)*

- 25 In Schedule 3 to the Inheritance Tax Act 1984 (gifts for national purposes), for the entry relating to the Nature Conservancy Council there shall be substituted the following entries—

“Nature Conservancy Council for England.

Nature Conservancy Council for Scotland.

Countryside Council for Wales.”

## SCHEDULE 7

Section 128.

### THE JOINT NATURE CONSERVATION COMMITTEE

#### *Preliminary*

- 1 In this Schedule—  
“chairman” means (except in paragraph 2(1) below) the chairman of the committee;  
“the committee” means the Joint Nature Conservation Committee; and  
“council” means a council established by section 128(1) of this Act.

*Status: Point in time view as at 10/09/2003.*

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### *Membership*

- 2 (1) The committee shall consist of eleven voting members, namely—
- (a) a chairman appointed by the Secretary of State;
  - (b) three members appointed by the Secretary of State;
  - (c) the chairman of each council and one other member of each council appointed by that council; and
  - (d) the chairman of the [<sup>F31</sup>Countryside Agency];
- and two non-voting members appointed by the Department of the Environment for Northern Ireland.
- (2) The committee may appoint any voting member to be deputy chairman.

#### **Textual Amendments**

**F31** Words in Sch. 7 para. 2 substituted (20.2.1999) by S.I. 1999/416, art. 3, Sch. 1 para. 14(5)

- 3 The chairman and the three members appointed by the Secretary of State shall be persons who are not members of any of the councils and shall hold and vacate office in accordance with the terms of their appointments.
- 4 (1) The three members appointed by the Secretary of State shall be persons appearing to the Secretary of State to have experience in or scientific knowledge of nature conservation; and the Secretary of State shall, in determining who to appoint, have regard to any recommendations made to him by the chairman.
- (2) Before appointing such a member the Secretary of State shall consult the chairman and such persons having scientific knowledge of nature conservation as the Secretary of State considers appropriate.

### *Remuneration and allowances for members*

- 5 (1) The councils shall—
- (a) pay to the chairman such remuneration and allowances; and
  - (b) pay such pension, allowance or gratuity to or in respect of the chairman or make such payments towards the provision of such pension, allowance or gratuity;
- as the Secretary of State may with the approval of the Treasury determine.
- (2) If a person ceases to be chairman and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may require the councils to pay to that person a sum of such amount as the Secretary of State may with the approval of the Treasury determine.

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- 6 The councils shall pay to the three members appointed by the Secretary of State, and to the non-voting members, such remuneration and allowances as the Secretary of State may with the approval of the Treasury determine.

*Staff etc. and expenses*

- 7 (1) The councils shall provide the committee with such staff, accommodation and other facilities, and such financial resources, as the councils, after consultation with the committee, consider appropriate for the proper discharge of the functions conferred by section 133(2) and (3) of this Act.
- (2) The expenses of the committee shall be defrayed by the councils in such proportions as the councils may agree.
- (3) In default of agreement between the councils as to any question arising under sub-paragraph (1) or (2) above the Secretary of State shall determine that question.

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

**C20** Sch. 7 para. 7(3) modified (1.7.1999) by [S.I. 1999/672](#), art. 5, [Sch. 2](#)

*Proceedings*

- 8 (1) The committee may regulate their own procedure (including making provision in relation to the quorum of voting members).
- (2) The proceedings of the committee shall not be invalidated by any vacancy amongst their members or defect in the appointment of any member.

*Delegation of functions*

- 9 (1) Anything authorised or required to be done by the committee may be done by any member of the committee, by any council or by any employee of a council who is authorised (generally or specially) for the purpose by the committee.
- (2) Nothing in sub-paragraph (1) above shall prevent the committee from doing anything that another person has been authorised to do.

*Annual reports*

- 10 (1) The committee shall—
- (a) as soon as possible after 31st March following the date appointed under section 131(3) of this Act make to the Secretary of State a report on their activities down to that date; and
- (b) make a similar report to him as to each period of twelve months thereafter as soon as possible after its end;

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and a copy of each such report shall be laid before each House of Parliament by the Secretary of State.

- (2) The committee shall, at the same time as they make a report under sub-paragraph (1) above, send a copy of it to each of the councils.

## SCHEDULE 8

Section 130.

### AMENDMENT OF ENACTMENTS RELATING TO COUNTRYSIDE MATTERS

#### *National Parks and Access to the Countryside Act 1949 (c. 97)*

- 1 (1) The National Parks and Access to the Countryside Act 1949 shall be amended as follows.
- (2) For section 1 (the Countryside Commission) there shall be substituted the following section—

#### **“1 The Countryside Commission and the Countryside Council for Wales.**

- (1) There shall be a Countryside Commission which shall exercise functions in relation to England for the purposes specified in subsection (2) below; and the Countryside Council for Wales (established by section 128 of the Environmental Protection Act 1990) shall exercise corresponding functions in relation to Wales for the corresponding purposes specified in section 130(2) of the Environmental Protection Act 1990.
- (2) The purposes for which the functions of the Commission are exercisable are—
- (a) the preservation and enhancement of natural beauty in England, both in the areas designated under this Act as National Parks or as areas of outstanding natural beauty and elsewhere;
  - (b) encouraging the provision or improvement, for persons resorting to National Parks, of facilities for the enjoyment thereof and for the enjoyment of the opportunities for open-air recreation and the study of nature afforded thereby.”
- (3) In section 3 (power of Minister to give directions), in subsection (1) after the word “Commission” in the first place it occurs there shall be inserted the words “ or to the Council ” and after that word in the second place it occurs there shall be inserted the words “ or Council ”.
- (4) Before section 5 (National Parks) there shall be inserted the following section—

#### **“4A Application of Part II of this Act in Wales.**

- (1) The provisions of this Part of this Act shall, subject to the next following subsection, apply to land in Wales as they apply to land in England.
- (2) Where a provision of this Part of this Act confers a function on the Countryside Commission as respects England (or areas of any description in

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England), the Countryside Council for Wales shall have the corresponding function as respects Wales (or areas of a similar description in Wales).”

- (5) In sections 5(2) and 6(1) the words “and Wales” shall be omitted.
- (6) Before section 51 (long-distance routes) there shall be inserted the following section—

**“50A Application of Part IV of this Act in Wales.**

- (1) The provisions of this Part of this Act shall, subject to the next following subsection, apply to land in Wales as they apply to land in England.
- (2) Where a provision of this Part of this Act confers a function on the Countryside Commission as respects England (or land of any description in England), the Countryside Council for Wales shall have the corresponding function as respects Wales (or land of a similar description in Wales).”
- (7) In section 51(1) the words “or Wales” shall be omitted.
- (8) In sections 62(1) and 64(5) (consultation requirements as to land in National Parks), after the word “Commission” there shall be inserted the words “ (where the Park is in England) or the Council (where the Park is in Wales) ”.
- (9) In section 65 (access orders), in subsection (5), after the word “Park” in both places in which it occurs, there shall be inserted the words “ in England ” and after that subsection there shall be inserted the following subsection—
  - “(5A) The preceding subsection shall apply in relation to National Parks in Wales, and the Council, as it applies in relation to National Parks in England, and the Commission.”
- (10) In section 85 (general advisory duties)—
  - (a) for the words “the duties of the Commission” there shall be substituted the words “ their respective duties ”;
  - (b) after the word “Commission”, in the second place in which it occurs, there shall be inserted the words “ and the Council ”;
  - (c) in paragraph (b), after the word “Commission” there shall be inserted the words “ , or, as the case may be, to the Minister and to the Council, ”; and
  - (d) in paragraph (c), after the word “Commission” there shall be inserted the words “ (as respects England) or to the Council (as respects Wales) ”.
- (11) After section 86 (information services provided by Commission regarding National Parks) there shall be inserted the following section—

**“86A Information services to be provided by Council.**

The provisions of section eighty-six of this Act shall apply to the Council in relation to National Parks and other land in Wales as they apply to the Commission in relation to National Parks and other land in England.”

F32(12) .....

F33(13) .....

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- (14) In section 90(4) (consultation before making certain byelaws) after the word “Commission” there shall be inserted the words “ (as regards land in England) or the Council (as regards land in Wales) ”.
- (15) In section 91(1) (consultation before making certain byelaws) after the word “Commission” there shall be inserted the words “ (as regards land or waterways in England) or the Council (as regards land or waterways in Wales) ”.
- (16) In section 114 (interpretation), after the definition of “area of outstanding natural beauty” there shall be inserted the following definitions—  
“the Commission” means the Commission established by section one of this Act;  
“the Council” means the Countryside Council for Wales;”.
- (17) In the first Schedule (procedure for certain orders), in paragraph 2(5), after the word “Commission” where it first appears there shall be inserted the words “ , the Council ” and after that word in the second place it appears there shall be inserted the word “ , Council ”.

#### Textual Amendments

- F32** Sch. 8 para. 1(12) repealed (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 102, **Sch. 16 Pt. V**; S.I. 2000/114, **art. 2(2)(i)(m)**; S.I. 2001/1410, **art. 2(i)(q)**
- F33** Sch. 8 para. 1(13) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2, Sch.**

#### *The Countryside Act 1968 (c. 41)*

- 2 (1) The Countryside Act 1968 shall be amended as follows.
- (2) In section 1 (additional general functions)—
- (a) for subsection (1) there shall be substituted the following subsections—
- “(1) The National Parks Commission shall in future be known as the “Countryside Commission” and shall exercise functions in relation to England.
- (1A) The functions of the Countryside Commission (in this Act referred to as “the Commission”) in England and the corresponding functions of the Countryside Council for Wales (in this Act referred to as “the Council”) in Wales shall be enlarged in accordance with this Act.”;
- (b) in subsection (2)—
- (i) after the word “recreation” there shall be inserted the words “ and the study of nature ”; and
- (ii) at the end, there shall be inserted the words “ ; and the purposes for which the functions of the Council in Wales are to be exercised are the corresponding purposes specified in section 130(2) of the Environmental Protection Act 1990. ”;
- (c) in subsection (3) for the word “shall” there shall be substituted the words “ and the Council shall each ”.

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- (3) In section 2 (new functions)—
- (a) in subsection (1), for the word “shall” where it first appears there shall be substituted the words “ and the Council shall each ” and after the word “Commission” in the second and third place it appears there shall be inserted the words “ or Council ”;
  - (b) in subsections (2) and (3), after the word “Commission” where it first appears there shall be inserted the words “ and the Council ” and after that word in the second place it appears there shall be inserted the words “ or Council ”;
  - (c) in subsection (4), after the word “Commission” where it first appears there shall be inserted the words “ and the Council ” and after that word in the second and third place it appears there shall be inserted the words “ or Council ”;
  - (d) in subsection (5), after the word “Commission” where it first appears there shall be inserted the words “ or to the Council ” and after that word in the second place it appears there shall be inserted the words “ or , as the case may be, the Council ”;
  - (e) in subsection (5)(b), after the word “Commission” in each place it appears there shall be inserted the words “ or Council ”;
  - (f) in subsection (6) after the word “Commission” there shall be inserted the words “ and the Council ”;
  - (g) in subsections (7), (8) and (9), after the word “Commission” where it first appears there shall be inserted the words “ and the Council ” and after that word in the second place it appears there shall be inserted the words “ or Council ”.
- (4) In section 4 (experimental projects or schemes)—
- (a) in subsection (1), after the word “Commission” where it first appears there shall be inserted the words “ and the Council ” and after that word in the second place it appears there shall be inserted the words “ or Council ”;
  - (b) in subsection (3) after the word “Commission” there shall be inserted the words “ or, as the case may be, the Council ”;
  - (c) in subsection (4) after the word “Commission” there shall be inserted the words “ or Council ”;
  - (d) in subsection (5) after the word “Commission” where it first appears there shall be inserted the words “ or by the Council ” and after that word in the second place it appears there shall be inserted the words “ or Council ”;
  - (e) in subsection (6), after the word “Commission” where it first appears there shall be inserted the words “ or of the Council ” and after that word in the second place it appears there shall be inserted the words “ or Council ”.
- (5) In section 8 (sailing, boating and fishing in country parks), in subsection (5) after the word “Commission” there shall be inserted the words “ (if the works are in England) or the Council (if the works are in Wales) ”.
- (6) In section 12 (facilities in or near National Parks)—
- (a) in subsection (1) after the word “Commission” where it first appears there shall be inserted the words “ or, as the case may be, the Council ” and after that word in the second place it appears there shall be inserted the words “ or the Council ”;

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- (b) in subsection (5) after the word “Commission” there shall be inserted the words “ (if the National Park is in England) or the Council (if the National Park is in Wales) ”.
- (7) In section 13 (control of boats etc. in National Parks) in subsection (4), after the word “Commission” there shall be inserted the words “ (if the National Park is in England) or the Council (if the National Park is in Wales) ”.
- (8) In section 23 (provision of facilities by Forestry Commissioners), in subsection (5) for the word “shall” there shall be inserted the words “ and the Countryside Council for Wales shall each ”.
- (9) In section 38 (avoidance of pollution) after the words “the Commission” there shall be inserted the words “ , the Council ”.
- (10) In section 41 (byelaws etc.)—
- (a) in subsection (2), for the word “may” there shall be substituted the words “ and the Council may each ”;
  - (b) in subsection (5), after the word “Commission” there shall be inserted the words “ (as respects a park or area in England) or the Council (as respects a park or area in Wales) ”;
  - (c) in subsection (8), for the words “were a local authority” there shall be substituted the words “ and the Council were local authorities ”;
  - (d) in subsection (9), for the words “or the Commission” there shall be substituted the words “ , the Commission or the Council ”.
- (11) In section 45 (agreements with landowners), in subsection (1) after the word “Commission” there shall be inserted the words “ , the Council ”.
- (12) In section 46 (application of general provisions of 1949 Act), in subsection (2), at the end there shall be inserted “ and any reference to the Nature Conservancy Council, so far as referring to the Countryside Council for Wales for purposes connected with their nature conservation functions (within the meaning of section 131 of the Environmental Protection Act 1990) shall include a reference to that Council for purposes connected with their countryside functions (whether conferred by this Act, the Act of 1949 or otherwise.) ”.
- (13) In section 49 (interpretation), after the definition of “bridleway” there shall be inserted the following definitions—
- ““the Commission” means the Countryside Commission;
- “the Council” means the Countryside Council for Wales;”.

*Local Government Act 1972 (c.70)*

F34<sub>3</sub>

#### Textual Amendments

**F34** Sch. 8 para. 3 repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch.24 (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2,Sch.

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*Local Government Act 1974 (c.7)*

- 4 <sup>F35</sup> . . . in section 9 of that Act <sup>X1</sup> (grants and loans by the Countryside Commission)
- (a) in subsection (1), for the word “may” there shall be substituted the words “and the Countryside Council for Wales may each ” and after the word “Commission” in the second place it appears there shall be inserted the words “ or, as the case may be, the Council ”;
- (b) in subsection (2), after the word “Commission” there shall be inserted the words “ or the Countryside Council for Wales ”;
- (c) in subsection (3), for the words “Countryside Commission’s power” there shall be substituted the words “ the power of the Countryside Commission and of the Countryside Council for Wales ” and after the word “Commission” in the second place it appears there shall be inserted the words “ or to the Council ”.

**Editorial Information**

**X1** In Sch. 8 para. 4 'that Act' is a reference to the Local Government Act 1974

**Textual Amendments**

**F35** Words in Sch. 8 para. 4 repealed (1.4.1997) by 1995 c. 25. s. 120(3), Sch.24 (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2,Sch.

*Highways Act 1980 (c. 66)*

- 5 (1) The Highways Act 1980 shall be amended as follows.
- (2) In section 105A (environmental assessment for highway projects) in subsection (6) (a), after the word “land” there shall be inserted the words “ in England ” and, at the end, there shall be inserted the words “ or the Countryside Council for Wales, if it relates to land in Wales falling within that paragraph of that subsection ”.
- (3) In section 120 (orders for extinguishment or diversion of public paths), in subsection (2)(c), at the end there shall be inserted the words “ (if the National Park is in England) or the Countryside Council for Wales (if the National Park is in Wales) ”.

*Wildlife and Countryside Act 1981 (c. 69)*

- 6 (1) The Wildlife and Countryside Act 1981 shall be amended as follows.
- (2) In section 34 (limestone pavement orders), in subsection (6) in the definition of “the Commission”, the words “and Wales” shall be omitted.
- (3) In section 43 (maps of National Parks showing certain areas of moor or heath), in subsection (1A) the words “by the Countryside Commission” shall be omitted and—
- (a) in subsection (1B) for the word “shall” there shall be substituted the words “and the Countryside Council for Wales shall each ” and for the word “may” there shall be substituted “ the Commission and the Council may each ”;
- (b) in subsection (1C), after the word “Commission” there shall be inserted the words “ or, as the case may be, the Council ”.

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

(4) Section 45 (power to vary orders designating National Parks) shall be subsection (1) of that section and, in that subsection, after the word “Park” in the first place it appears there shall be inserted the words “ in England ”; and at the end there shall be inserted, as subsection (2) of that section, the following words—

“(2) Subsection (1) shall apply to the Countryside Council for Wales, in relation to any National Park in Wales, as it applies to the Countryside Commission in relation to any National Park in England.”

(5) In section 47(2) (power of Secretary of State to give grants) after the word “Commission” there shall be inserted the words “ or to the Countryside Council for Wales ”.

(6) In section 49 (extension of power to appoint wardens), in subsection (1)(b), after the word “authority” in the second place it appears there shall be inserted the words “ , the Countryside Council for Wales. ” and, in subsection (4), after the word “Commission” in both places it appears there shall be inserted the words “ or the Countryside Council for Wales ”.

*The Road Traffic Regulation Act 1984 (c.27)*

7            In section 22 of the Road Traffic Regulation Act 1984 (traffic regulation orders in special areas), in subsection (1)(a)(iv), after the word “Commission” there shall be inserted the words “ or the Countryside Council for Wales ”<sup>F36</sup> . . .

**Textual Amendments**

**F36** Words in Sch. 8 para. 7 repealed (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59\)](#), s. 168(2), [Sch.9](#); for Scotland [S.I.1991/2286](#), art. 2(2), [Sch.2](#) and for England and Wales [S.I. 1991/2288](#), [art. 3](#),Sch.

*The Water Act 1989 (c. 15)*

F37g            . . . . .

**Textual Amendments**

**F37** [Sch. 8 para. 8](#) 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 para. 10, 14\(1\), 15](#))

SCHEDULE 9

Section 132.

AMENDMENT OF ENACTMENTS CONFERRING NATURE CONSERVANCY FUNCTIONS

*National Parks and Access to the Countryside Act 1949 (c. 97)*

1            (1) The National Parks and Access to the Countryside Act 1949 shall be amended as follows.

*Status: Point in time view as at 10/09/2003.*

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(2) After section 15 there shall be inserted the following section—

**“15A Meaning of “Nature Conservancy Council”.**

In this Part of this Act references to “the Nature Conservancy Council” are references—

- (a) in relation to land in England, to the Nature Conservancy Council for England;
- (b) in relation to land in Scotland, to the Nature Conservancy Council for Scotland; and
- (c) in relation to land in Wales, to the Countryside Council for Wales.”

<sup>F38</sup>(3) .....

(4) In section 103 (general provisions as to acquisition of land)—

- (a) in subsection (1), after the words “the Nature Conservancy Council” there shall be inserted the words “ (as defined in section 15A of this Act) ”; and

<sup>F38</sup>(b) .....

(5) In section 106 (supplementary provisions as to bye-laws), in subsection (1), after the words “the Nature Conservancy Council” there shall be inserted the words “ (as defined in section 15A of this Act) ”.

**Textual Amendments**

**F38** Sch. 9 para. 1(3)(4)(b) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art.4](#)

*Deer (Scotland) Act 1959 (c. 40)*

<sup>F39</sup><sub>2</sub> .....

**Textual Amendments**

**F39** Sch. 9 para. 2 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art. 4](#) and expressed to be repealed (18.10.1996) by 1996 c. 44, ss. 13(2), 14(2), [Sch. 2](#).

*Deer Act 1963 (c. 36)*

<sup>F40</sup><sub>3</sub> .....

**Textual Amendments**

**F40** Sch. 9 para. 3 repealed (25. 10. 1991) by [Deer Act 1991 \(c. 54, SIF 4:3\)](#), ss. 17, 18(3), [Sch. 4](#)

*Status:* Point in time view as at 10/09/2003.

*Changes to legislation:* Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)

*Countryside Act 1968 (c. 41)*

- 4 (1) The Countryside Act 1968 shall be amended as follows.
- (2) In section 15 (areas of special scientific interest)—
  - (a) in subsection (2), the words “in the national interest” shall be omitted and, after the words “any such land” there shall be inserted the words “(or of any adjacent land)”; and
  - (b) after subsection (6), there shall be inserted the following subsection—
    - “(6A) In this section references to “the Nature Conservancy Council” or “the Council” are references to the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Council, according as the land in question is in England, Scotland or Wales”.
- (3) In section 37 (protection for interests in countryside) for the words “Nature Conservancy Council” there shall be substituted the words “, the Council, the Nature Conservancy Council for England and the Nature Conservancy Council for Scotland”.

*Conservation of Seals Act 1970 (c. 30)*

- 5 In section 10 of the Conservation of Seals Act 1970 (power to grant licences), after subsection (4) there shall be inserted the following subsection—
  - “(5) In this section a reference to “the Nature Conservancy Council” is a reference to the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Countryside Council for Wales, according as the area in question is in or is in waters adjacent to England, Scotland or Wales.”

*Badgers Act 1973 (c. 57)*

F416 .....

**Textual Amendments**  
**F41** Sch. 9 para. 6 repealed (16.10.1992) by [Protection of Badgers Act 1992 \(c. 51\), s. 15\(2\)\(3\)](#), Sch.

*Import of Live Fish (Scotland) Act 1978 (c. 35)*

F427 .....

**Textual Amendments**  
**F42** Sch. 9 para. 7 repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\), s. 27\(2\), Sch. 11](#); S.I. 1991/2633, art. 4.

*Status: Point in time view as at 10/09/2003.*

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*Import of Live Fish (England and Wales) Act 1980 (c. 27)*

- 8 In section 1 of the Import of Live Fish (England and Wales) Act 1980 (power to limit imports), in subsection (2) after the word “Council” there shall be inserted the words “ for England, the Countryside Council for Wales ”.

*Highways Act 1980 (c. 66)*

- 9 In section 105A of the Highways Act 1980 (environmental assessment of highway projects), for subsection (6)(c) there shall be substituted the following paragraph—  
“(c) the Nature Conservancy Council for England or the Countryside Council for Wales, if it relates to land in England or, as the case may be, in Wales, falling within paragraph (c).”

*Animal Health Act 1981 (c. 22)*

- 10 (1) The Animal Health Act 1981 shall be amended as follows.
- (2) In section 21 (destruction of wildlife on infection)—
- (a) in subsection (3), after the word “Council” there shall be inserted the words “ for the area to which it will apply ”;
- (b) in subsection (9), after the definition of “animals” there shall be inserted the following definition—
- ““Nature Conservancy Council” means the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland or the Countryside Council for Wales,”.
- (3) In section 22 (powers of entry for s.21), in subsection (7)(a) for the words from “the Nature Conservancy” to “1973”, there shall be substituted the words “ a Nature Conservancy Council under section 132 of the Environmental Protection Act 1990 ”.

*Wildlife and Countryside Act 1981 (c. 69)*

- 11 (1) The Wildlife and Countryside Act 1981 shall be amended as follows.
- (2) In section 10(5) (consultation with Council required before taking or killing a bat) after the word “Council” there shall be inserted the words “ for the area in which the house is situated or, as the case may be, the act is to take place ”.
- (3) In section 15(2) (endangered species) for the word “Council” there shall be substituted the word “ Councils ”.
- (4) In section 16 (power to grant licences)—
- (a) in subsection (9)(a) and (9)(c), before the word “Nature” there shall be inserted the word “ relevant ”;
- (b) in subsection (10)(a), for the words “the Nature Conservancy Council” there shall be substituted the words “ each of the Nature Conservancy Councils ” and, after the word “exercise” there shall be inserted the words “ in the area of that Council ”;

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- (c) in subsection (10)(b), before the word “Council” there shall be inserted the word “ relevant Nature Conservancy ”; and
  - (d) after subsection (10) there shall be inserted the following subsection—
    - “(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the Nature Conservancy Council for the area in which it is proposed to carry on the activity requiring a licence.”
- (5) In section 22(3) (power of Secretary of State to amend Schedules 5 or 8 to Act) for the words “to him by the Nature Conservancy Council” there shall be substituted the words “ jointly to him by the Nature Conservancy Councils ”, and at the end of that subsection there shall be inserted the words—
- “and the functions of the Nature Conservancy Councils under this subsection shall be special functions of the Councils for the purposes of section 133 of the Environmental Protection Act 1990”.
- (6) In section 24 (functions of Nature Conservancy Council)—
- (a) in subsection (1), for the word “Council” there shall be substituted the words “ Councils, acting jointly, ”, for the words “the passing of this Act” there shall be substituted the words “ 30th October 1991 ” and at the end there shall be inserted the words—
    - “and the functions of the Nature Conservancy Councils under this subsection shall be special functions of the Councils for the purposes of section 133 of the Environmental Protection Act 1990”;
  - (b) in subsection (2), for the words from “the Council” to the end there shall be substituted the words “ to that advice being given. ”;
  - (c) for subsection (3) there shall be substituted the following subsection—
    - “(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.”;
    - and
  - (d) in subsection (4), for the word “Council” there shall be substituted the words “ Nature Conservancy Councils ”.
- (7) In section 27 (interpretation of Part I)—
- (a) in subsection (1), in the definition of authorised person, for the words “the Nature Conservancy Council” there shall be substituted the words “ any of the Nature Conservancy Councils ”; and
  - (b) after subsection (3) there shall be inserted the following subsection—
    - “(3A) Any reference in this Part to the Nature Conservancy Councils is a reference to the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland and the Countryside Council for Wales.”
- (8) In Part II (nature conservation etc.), before section 28 there shall be inserted the following section—

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**“27A Construction of references to Nature Conservancy Council.**

In this Part references to “the Nature Conservancy Council” are, unless the contrary intention appears, references—

- (a) in relation to land in, or land covered by waters adjacent to, England, to the Nature Conservancy Council for England;
- (b) in relation to land in, or land covered by waters adjacent to, Scotland, to the Nature Conservancy Council for Scotland; and
- (c) in relation to land in, or land covered by waters adjacent to, Wales, to the Countryside Council for Wales;

and references to “the Council” shall be construed accordingly.”

(9) <sup>F43</sup> .....

(10) <sup>F43</sup> .....

(11) <sup>F43</sup> .....

(12) In section 33 (Ministerial guidance) in subsection (1) for the word “Council” there shall be substituted the word “ Councils ”.

(13) In section 52 (interpretation of Part II), in subsection (1) at the end there shall be inserted the following words—

“the Nature Conservancy Councils” means the Nature Conservancy Council for England, the Nature Conservancy Council for Scotland and the Countryside Council for Wales;

and references to “the Nature Conservancy Council” shall be construed in accordance with section 27A.

**Textual Amendments**

**F43** Sch. 9 para. 11(9)-(11) repealed (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. III

*Roads (Scotland) Act 1984 (c. 54)*

<sup>F44</sup>12 .....

**Textual Amendments**

**F44** Sch 9 para. 12 repealed (01.04.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), Sch. 11; S.I. 1991/2633, art. 4.

*Agriculture Act 1986 (c. 49)*

13 In section 18 of the Agriculture Act 1986 (environmentally sensitive areas), in subsection (2)—

- (a) in paragraph (a) after the word “Council” there shall be inserted the words “ for England ”;

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- (b) in paragraph (b) for the words “Countryside Commission and the Nature Conservancy Council” there shall be substituted the words “Countryside Council for Wales”;

<sup>F45</sup>(c) .....

**Textual Amendments**

**F45** Sch. 9 para. 13(c) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art. 4](#).

*Channel Tunnel Act 1987 (c. 53)*

- 14 In paragraph 5 of Schedule 2, and in paragraph 17 of Schedule 3, to the Channel Tunnel Act 1987, after the words “Nature Conservancy Council” there shall be inserted the words “for England”.

*Norfolk and Suffolk Broads Act 1988 (c. 4)*

- 15 In the Norfolk and Suffolk Broads Act 1988, for each reference to the Nature Conservancy Council there shall be substituted a reference to the Nature Conservancy Council for England.

*Electricity Act 1989 (c. 29)*

- 16 In Schedule 9 to the Electricity Act 1989 (preservation of amenity)—
- (a) in paragraph 2(2) for the words from “the Nature” to “Wales”, where it first appears, there shall be substituted the words “and—
- (a) where the activities which he is authorised by his licence to carry on include activities in England, the Nature Conservancy Council for England and the Historic Buildings and Monuments Commission for England; and
- (b) where those activities include activities in Wales, the Countryside Council for Wales and”; and

<sup>F46</sup>(b) .....

**Textual Amendments**

**F46** Sch. 9 para. 16(b) repealed (01.04.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(2), [Sch.11](#); S.I. 1991/2633, [art. 4](#).

*Water Act 1989 (c. 15)*

<sup>F47</sup>17 .....

**Textual Amendments**

**F47** Sch. 9 para. 17 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)

*Status: Point in time view as at 10/09/2003.*

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## SCHEDULE 10

Sections 135, 136 and 137.

### TRANSFER SCHEMES AND STAFF OF EXISTING COUNCILS

#### PART I

##### TRANSFER SCHEMES: NATURE CONSERVANCY COUNCIL

###### *Making and approval of schemes*

- 1 (1) Before such date or dates as the Secretary of State may direct, the Nature Conservancy Council shall make, and submit to the Secretary of State for his approval, their transfer scheme or schemes under section 135 of this Act (in this Part of this Schedule referred to as a “transfer scheme”).
- (2) A transfer scheme shall not take effect unless approved by the Secretary of State, who may modify such a scheme before approving it.
- (3) The Secretary of State may make a transfer scheme himself if—
  - (a) he decides not to approve a scheme which has been submitted to him before the due date (with or without modifications); or
  - (b) no scheme is submitted to him for approval before the due date;but nothing in this sub-paragraph shall prevent the Secretary of State from approving any scheme which may be submitted to him after the due date.
- (4) A scheme made by the Secretary of State shall be treated for all purposes as having been made by the Council and approved by him.

###### *Modification of schemes*

- 2 (1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, having consulted any of the Councils established by section 128 of this Act (in this Schedule referred to as “the new Councils”) which may be affected, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
- (2) An order under sub-paragraph (1) above may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme and in connection with giving effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

###### *Provision of information to Secretary of State*

- 3 It shall be the duty of the Nature Conservancy Council and the new Councils to provide the Secretary of State with all such information and other assistance as he

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may reasonably require for the purposes of or in connection with the exercise of any power conferred on him by paragraphs 1 and 2 above.

### *Contents of schemes*

- 4 A transfer scheme may—
- (a) define the property, rights and liabilities to be allocated to a particular new Council by specifying or describing them or by referring to all the property, rights and liabilities comprised in a specified part of the undertaking of the Nature Conservancy Council (or partly in one way and partly in the other);
  - (b) create in favour of a new Council—
    - (i) an interest in or right over property transferred in accordance with the scheme (or any earlier scheme) to another new Council;
    - (ii) new rights and liabilities as between that Council and the others;
  - (c) provide that any rights or liabilities specified or described in the scheme shall, or shall to any extent, be enforceable either by or against each of the new Councils or by or against any two of the new Councils which are so specified;
  - (d) require a new Council to enter into written agreements with, or execute other instruments in favour of, another new Council;
- and a scheme may make such supplemental, incidental and consequential provision as the Nature Conservancy Council considers appropriate (including provision as to the order in which transfers or transactions are to be regarded as having occurred).
- 5 For the avoidance of doubt property, rights and liabilities of the Nature Conservancy Council may be allocated to a new Council notwithstanding—
- (a) that they would not, or would not without the consent or concurrence of another person, otherwise be capable of being transferred or assigned;
  - (b) that, in the case of foreign property, steps must be taken by the Council to secure its effective vesting under the relevant foreign law.

## PART II

### TRANSFER SCHEMES: THE COUNTRYSIDE COMMISSION

#### *Making and approval of schemes*

- 6 (1) Before such date or dates as the Secretary of State may direct, the Countryside Commission shall make, and submit to the Secretary of State for his approval, their transfer scheme or schemes under section 136 of this Act (in this Part of this Schedule referred to as a “transfer scheme”).
- (2) A transfer scheme shall not take effect unless approved by the Secretary of State, who may modify such a scheme before approving it.
- (3) The Secretary of State may make a transfer scheme himself if—

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- (a) he decides not to approve a scheme which has been submitted to him before the due date (with or without modifications); or
  - (b) no scheme is submitted to him for approval before the due date;
- but nothing in this sub-paragraph shall prevent the Secretary of State from approving any scheme which may be submitted to him after the due date.
- (4) A scheme made by the Secretary of State shall be treated for all purposes as having been made by the Countryside Commission and approved by him.

#### *Modification of schemes*

- 7
- (1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, having consulted the Countryside Council for Wales and the Countryside Commission, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
  - (2) An order under sub-paragraph (1) above may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme and in connection with giving effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

#### *Provision of information to Secretary of State*

- 8
- It shall be the duty of the Countryside Council for Wales and the Countryside Commission to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any power conferred on him by paragraphs 6 and 7 above.

#### *Contents of schemes*

- 9
- (1) A transfer scheme may—
    - (a) define the property, rights and liabilities to be allocated to the Countryside Council for Wales by specifying or describing them or by referring to all the property, rights and liabilities comprised in a specified part of the undertaking of the Countryside Commission (or partly in one way and partly in the other);
    - (b) create in favour of the Countryside Commission an interest in or right over property transferred in accordance with the scheme (or any earlier scheme) to the Countryside Council for Wales;
    - (c) require the Countryside Council for Wales to enter into written agreements with, or execute other instruments in favour of, the Countryside Commission;

and a scheme may make such supplemental, incidental and consequential provision as the Countryside Commission consider appropriate (including provision as to the order in which transfers or transactions are to be regarded as having occurred).

*Status: Point in time view as at 10/09/2003.*

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(2) Paragraph 5 above shall apply to transfer schemes under section 136 of this Act.

### PART III

#### EMPLOYMENT OF STAFF OF EXISTING BODIES

##### *Proposals for staff of Nature Conservancy Council*

- 10 Not later than such date or dates as the Secretary of State may determine, the Nature Conservancy Council shall prepare and submit to the Secretary of State for approval proposals that would secure that an offer is made by one of the new Councils to each person who will be entitled to receive an offer under section 137 of this Act.
- 11 (1) The Secretary of State may, after consultation with the new Councils—
- (a) approve the proposals submitted to him under paragraph 10 above or modify the proposals before approving them;
  - (b) if he decides not to approve the proposals or if the Nature Conservancy Council fail to submit the proposals by the due date, make his own proposals;
- and any proposals made by the Secretary of State shall be treated for all purposes as if they were made by the Council and approved by him.
- (2) It shall be the duty of the Nature Conservancy Council and the new Councils to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any power conferred on him by this paragraph.

##### *Proposals for certain staff of the Countryside Commission*

- 12 Not later than such date or dates as the Secretary of State may determine, the Countryside Commission shall prepare and submit to the Secretary of State for approval proposals as to which of their employees are to receive offers of employment from the Countryside Council for Wales under section 137 of this Act.
- 13 (1) The Secretary of State may, after consultation with the Countryside Council for Wales—
- (a) approve the proposals submitted to him under paragraph 12 above or modify the proposals before approving them;
  - (b) if he decides not to approve the proposals or if the Countryside Commission fail to submit the proposals by the due date, make his own proposals;
- and any proposals made by the Secretary of State shall be treated for all purposes as if they were made by the Commission and approved by him.
- (2) It shall be the duty of the Countryside Commission and the Countryside Council for Wales to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any power conferred on him by this paragraph.

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### *Offers of employment*

- 14 (1) Each new Council shall, before such date as the Secretary of State may direct, make offers of employment in accordance with this paragraph to those persons allocated to that Council by the proposals under paragraph 10 above as approved by the Secretary of State.
- (2) The Countryside Council for Wales shall, before such date as the Secretary of State may direct, make offers of employment in accordance with this paragraph to those persons who are the subject of proposals under paragraph 12 above as approved by the Secretary of State.
- (3) The terms of employment to be offered shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (4) An offer under this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.

### *Continuity of employment, redundancy etc.*

- 15 Where a person becomes an employee of a new Council in consequence of an offer made under paragraph 14(1) or (2) above, then, for the purposes of [<sup>F48</sup>the Employment Rights Act 1996], his period of employment with the Nature Conservancy Council, or as the case may be, the Countryside Commission shall count as a period of employment by the new Council and the change of employment shall not break the continuity of the period of employment.

#### **Textual Amendments**

**F48** Words in [Sch. 10 para. 15](#) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para.47](#) (with [ss. 191-200, 202](#)).

- 16 Where an offer is made to a person in pursuance of paragraph 14(1) or (2) above, none of the redundancy procedures applicable to such a person shall apply to him; and where that person ceases to be employed by the Nature Conservancy Council or, as the case may be, the Countryside Commission—
- (a) on becoming employed by a new Council, or
- (b) having unreasonably refused an offer,
- <sup>F49</sup> . . . he shall not be treated for the purposes of any superannuation or other pension scheme as having been retired on redundancy.

#### **Textual Amendments**

**F49** Words in [Sch. 10 para. 16](#) repealed (22.8.1996) by [1996 c. 18, ss. 242, 243, Sch. 3 Pt.I](#) (with [ss. 191-200, 202](#)).

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

### *Disputes*

- 17 (1) Any dispute as to whether an offer under paragraph 14(1) or (2) above complies with sub-paragraph (3) of that paragraph shall be referred to and determined by an [<sup>F50</sup>employment tribunal].
- (2) An [<sup>F50</sup>employment tribunal] shall not consider a complaint referred to it under sub-paragraph (1) above unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer or, where the tribunal is satisfied that it was not reasonably practicable for that to be done, within such further period as the tribunal considers reasonable.
- (3) Subject to sub-paragraph (4) below, there shall be no appeal from the decision of an [<sup>F50</sup>employment tribunal] under this paragraph.
- (4) An appeal to the Employment Appeal Tribunal may be made only on a point of law arising from a decision of, or in proceedings before, an [<sup>F50</sup>employment tribunal] under this paragraph.

#### **Textual Amendments**

**F50** Words in *Sch. 10 para. 17* substituted (1.8.1998) by *1998 c. 8, s. 1(2)(a)* (with *s. 16(2)*); *S.I. 1998/1658, art. 1(2), Sch. 1*

## 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).

*Status: Point in time view as at 10/09/2003.*

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*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.
  - (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.

*Status: Point in time view as at 10/09/2003.*

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*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.

## 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)—

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- (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.

#### *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>M18</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**

**M18** 1973 c. 54.

*Status: Point in time view as at 10/09/2003.*

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- 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>M19</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**

**M19** 1973 c. 54.

*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.

*Status: Point in time view as at 10/09/2003.*

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- (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)**

**C21** 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>M20</sup>Countryside Act 1949 and “the <sup>M21</sup>1981 Act” means the Wildlife and Countryside Act 1981.

**Marginal Citations**

**M20** 1949 c. 97.

**M21** 1981 c. 69.

SCHEDULE 12

Sections 140 and 142.

INJURIOUS OR HAZARDOUS SUBSTANCES: ADVISORY COMMITTEE

- 1 The Secretary of State shall appoint the members of the committee, and shall appoint one of those members to be chairman.
- 2 The committee shall include persons who appear to the Secretary of State to be representative of—
- (a) persons engaged in carrying on industrial or commercial undertakings;
  - (b) persons having scientific knowledge of matters concerning pollution of the environment;
  - (c) bodies concerned with the protection or improvement of the environment;
- and

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- (d) bodies concerned with the protection of persons using substances or articles subject to regulation under section 140 or 142 of this Act.
- 3 The Secretary of State may make provision by regulations with respect to the terms on which members of the committee are to hold and vacate office, including the terms on which any person appointed as chairman is to hold and vacate office as chairman.
- 4 The Secretary of State shall provide the committee with such services and other facilities as appear to him to be necessary or expedient for the proper performance of the committee's functions.
- 5 The Secretary of State may pay to the members of the committee such remuneration (if any) and such allowances as may be determined by the Secretary of State with the consent of the Treasury.

## SCHEDULE 13

Section 144.

### AMENDMENTS OF HAZARDOUS SUBSTANCES LEGISLATION

#### PART I

##### ENGLAND AND WALES

- 1 The <sup>M22</sup>Planning (Hazardous Substances) Act 1990 shall be amended as provided in this Part of this Schedule.

#### **Marginal Citations**

**M22** 1990 c. 10.

- 2 (1) Section 2 (appropriate Minister to be hazardous substances authority for land used or to be used by statutory undertakers) shall be omitted.
- (2) 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—
- “; 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.”

*Status: Point in time view as at 10/09/2003.*

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- (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”.
- 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 In section 13 (applications for hazardous substances consent in place of subsisting consent subject to conditions), subsection (7) shall be omitted.
- 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—

**“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—

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- (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 In section 303(6) of the <sup>M23</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. ”)

**Marginal Citations**

**M23** 1990 c. 8.

**PART II**

SCOTLAND

<sup>F51</sup>11 .....

**Textual Amendments**

**F51** 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>F52</sup>12 .....

**Textual Amendments**

**F52** 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>F53</sup>13 .....

**Textual Amendments**

**F53** 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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F54 SCHEDULE 14

Section 148.

AMENDMENTS OF THE PREVENTION OF OIL POLLUTION ACT 1971

**Textual Amendments**

**F54** 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>M24</sup>Prevention of Oil Pollution Act 1971 shall be amended as follows.

**Marginal Citations**

**M24** 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—

**“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)—

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- (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—
- (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.

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- (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;
  - (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;

*Status: Point in time view as at 10/09/2003.*

**Changes to legislation:** *Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

- (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—”

“(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

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

### Textual Amendments

**F55** 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 In the <sup>M25</sup>Alkali, &c. Works Regulation Act 1906 there shall be inserted, after section 2, the following section—

#### **“2A 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.

### Commencement Information

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

### Marginal Citations

**M25** 1906 c. 14.

### *Stray dogs*

- 3 (1) The following provisions of the <sup>M26</sup>Dogs Act 1906 shall be amended as follows.
- (2) The amendments made to section 3 by section 39(2) of the <sup>M27</sup>Local Government Act 1988 and section 128(1)(a) of the <sup>M28</sup>Civic Government (Scotland) Act 1982 shall cease to have effect.
- (3) In section 4—
  - (a) subsection (1) shall be omitted;

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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 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.”

#### **Commencement Information**

**I2** [Sch. 15 para. 3](#) wholly in force at 1.4.1992 see [S.I. 1992/266](#), art. 3

#### **Marginal Citations**

**M26** 1906 c. 32.  
**M27** 1988 c. 9.  
**M28** 1982 c. 45.

#### *Statutory nuisances*

- 4 (1) The following provisions of the <sup>M29</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 ”.
  - (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**

**M29** 1936 c. 49.

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

- 5 (1) Section 151 of the <sup>M30</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>F56</sup>(4) .....

**Textual Amendments**

**F56** 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**

**M30** 1954 c. 70.

*Exclusion of Clean Air Act 1956 for prescribed processes*

- <sup>F57</sup>6 .....

**Textual Amendments**

**F57** Sch. 15 para. 6 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch.6**

*Statutory nuisances*

- <sup>F58</sup>7 .....

**Textual Amendments**

**F58** Sch. 15 para. 7 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch.6**

- <sup>F59</sup>8 .....

**Textual Amendments**

**F59** 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>M31</sup>Transport Act 1968 shall be amended as follows.
- <sup>F60</sup>(2) .....

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

- (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**

**F60** 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**

**I3** 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**

**M31** 1968 c. 73.

*National Park Wardens*

- 11 In section 42 of the <sup>M32</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**

**I4** Sch. 15, para. 11 in at force 1.4.1991, see s. 164(3) and S.I. 1991/1042, **art. 2**

**Marginal Citations**

**M32** 1968 c. 41

*Exclusion of Clean Air Act 1968 for prescribed processes*

<sup>F61</sup>12 .....

**Textual Amendments**

**F61** 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>M33</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**

**I5** Sch. 15, para. 13 in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042, **art. 2**

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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

M33 1973 c. 65.

#### *Workplace emissions into the air*

- 14 Section 5 of the <sup>M34</sup>Health and Safety at Work etc. Act 1974 (general duty in relation to harmful emissions into the air from prescribed premises) shall be amended by the insertion—
- (a) in subsection (1), at the beginning, of the words “Subject to subsection (5) below,”; and
  - (b) after subsection (4), of the following subsections—
    - “(5) The foregoing provisions of this section shall not apply in relation to any process which is a prescribed process as from the date which is the determination date for that process.
    - (6) For the purposes of subsection (5) above, 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.
    - (7) In subsections (5) and (6) above “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.”

#### Commencement Information

I6 Sch. 15, para. 14 in force at 1. 4. 1991, see s. 164(3) and S.I. 1991/1042, art. 2

#### Marginal Citations

M34 1974 c. 37.

#### *Water, noise and atmospheric pollution*

- 15 (1) The following provisions of the <sup>M35</sup>Control of Pollution Act 1974 shall be amended as follows.
- (2) 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) ”.

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

(4) In section 65(8), 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) ”.

(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,”.

F62(6) .....

F62(7) .....

F62(8) .....

F62(9) .....

**Textual Amendments**

F62 Sch. 15(6)-(9) repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), Sch.6

**Commencement Information**

I7 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**

M35 1974, c. 40.

F63 16 .....

**Textual Amendments**

F63 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 [F64 For subsection (6) of section 56 of the M36 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;

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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) 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**

**F64** 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.

**Marginal Citations**

**M36** 1974 c. 40.

*Statutory nuisances*

F65 18 .....

**Textual Amendments**

**F65** 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>M37</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**

**I8** Sch. 15 para. 19 wholly in force at 1.4.1992 see [S.I. 1992/266](#), art. 3

**Marginal Citations**

**M37** 1978 c. 3.

*Street cleansing: Scotland*

- 20 In section 25 of the <sup>M38</sup>Local Government and Planning (Scotland) Act 1982, for subsection (3) there shall be substituted—

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

“(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.”.

**Commencement Information**

**I9** Sch. 15, para. 20 in force at 1.4.1991, see s. 164(3) and S.I. 1991/1042 , art. 2

**Marginal Citations**

**M38** 1982 c. 43.

*Byelaws relating to straw or stubble burning*

- 21 Section 43 of the <sup>M39</sup>Criminal Justice Act 1982 (creation by byelaws of offences relating to burning of straw or stubble) shall cease to have effect.

**Commencement Information**

**I10** Sch. 15 para. 21 in force at 18.2.1993 see s. 164(3) and S.I. 1993/274, art. 2(1)

**Marginal Citations**

**M39** 1982 c. 48.

*Functions assignable to London port health authority*

- 22 In section 7(4) of the <sup>M40</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>M41</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**

**I11** 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**

**M40** 1984 c. 22.

**M41** 1984 c. 55.

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

*Street cleaning, etc: restriction of traffic*

F66 23 .....

**Textual Amendments**

**F66** 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>M42</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”.

**Marginal Citations**

**M42** 1984 c. 55.

PROSPECTIVE

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

25 In section 25(3) of the <sup>M43</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**

**M43** 1985 c. 48.

*Constitution of authorities for waste disposal*

26 In section 10 of the <sup>M44</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**

**I12** 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)

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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**

M44 1985 c. 51.

*Meaning of household waste: competition*

27 In Schedule 1 to the <sup>M45</sup>Local Government Act 1988 (competition: collection of household waste), paragraph 1 shall be amended as follows—

- (a) in sub-paragraph (1), the words “In the application of this Part to England and Wales,” shall be omitted;
- (b) 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 ”;
- (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**

M45 1988 c. 9.

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

F67 28 .....

**Textual Amendments**

F67 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*

F68 29 .....

**Textual Amendments**

F68 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*

F69 30 .....

*Status: Point in time view as at 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)*

### Textual Amendments

**F69** 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>M46</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>F70</sup> . . . , (7)(a) and (c), (8) and (9) and 7(1), <sup>F70</sup> . . . , (3)(a) and (8).
- (3) In section 6(1) (offences justifying seizure of vehicles), in paragraph (a)(i)—
- (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>F71</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>F71</sup>(c) . . . . .
- (6) Section 9(2) shall be omitted.

### Textual Amendments

**F70** 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**.

**F71** 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**.

*Status: Point in time view as at 10/09/2003.*

**Changes to legislation:** Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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)

### Commencement Information

**I13** 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

**M46** 1989 c. 14.

## SCHEDULE 16

### REPEALS

#### <sup>F72</sup>PART I

#### ENACTMENTS RELATING TO PROCESSES

### Textual Amendments

**F72** 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.

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).
1974 c. 37.	Health and Safety at Work etc. Act 1974.	Section 1(1)(d) and the word “and” preceding it. Section 5.

*Status: Point in time view as at 10/09/2003.*

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1974 c. 40.	Control of Pollution Act 1974.	<p>In section 76(4), the words “or work subject to the Alkali Act”.</p> <p>In section 78(1), the words “or work subject to the Alkali Act”.</p> <p>In section 79(4), the words “or work subject to the Alkali Act”.</p> <p>In section 80(3), the words “or work subject to the Alkali Act”.</p> <p>In section 84(1), the definition of “a work subject to the Alkali Act”.</p> <p>In section 103(1)(a), the words “Alkali Act or the”.</p> <p>In section 105(1), the definition of “the Alkali Act”.</p>
1990 c. 43.	Environmental Protection Act 1990.	In section 79(10), the words following “Part I”.

*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

**I14** 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](#))

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 10/09/2003.*

*Changes to legislation: Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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”;

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*Status: Point in time view as at 10/09/2003.*

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1961 c. 64.	Public Health Act 1961.	(b) in paragraph 3, the words “subsection (2) of section one hundred and eight”; and (c) in paragraph 8, the words “and sixteen”. 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.

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*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 10/09/2003.*

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## 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 10/09/2003.*

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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 10/09/2003.*

**Changes to legislation:** Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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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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 10/09/2003.*

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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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VALID FROM 01/04/2015

### PART VIII

#### ENACTMENTS RELATING TO DEPOSITS AT SEA

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

**I18** 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 10/09/2003.

**Changes to legislation:**

Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 08 July 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.