

Status: Point in time view as at 01/04/2015.

Changes to legislation: Environment Act 1995, Cross Heading: The Environmental Protection Act 1990 is up to date with all changes known to be in force on or before 06 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 23

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

PART I

GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

The Environmental Protection Act 1990

- 16 (1) Subject to sub-paragraph (2) below, if, at the transfer date, the content of the strategy required by section 44A of the ^{M1}Environmental Protection Act 1990 has not been finally determined, any plan or modification under section 50 of that Act, in its application to England and Wales, whose content has been finally determined before that date shall continue in force until the contents of the strategy are finally determined, notwithstanding the repeal by this Act of that section.
- (2) If the strategy required by section 44A of that Act consists, or is to consist, of more than one statement, sub-paragraph (1) above shall apply as if—
- (a) references to the strategy were references to any such statement; and
 - (b) references to a plan or modification under section 50 of that Act were references to such plans or modifications as relate to the area covered, or to be covered, by that statement.

Marginal Citations

M1 1990 c. 43.

- 17 If, at the transfer date, the content of the strategy required by section 44B of that Act has not been finally determined, any plan or modification under section 50 of that Act, in its application to Scotland, whose content has been finally determined before that date shall continue in force until the contents of the strategy are finally determined, notwithstanding the repeal by this Act of that section.
- 18 ^{F1}(1) This paragraph applies to—
- (a) any resolution of a waste regulation authority under section 54 of that Act (special provision for land occupied by disposal authorities in Scotland);
 - (b) any resolution of a waste disposal authority having effect by virtue of subsection (16) of that section as if it were a resolution of a waste regulation authority under that section,
- which is in force on the transfer date.
- (2) A resolution to which this paragraph applies shall continue in force—

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- (a) where no application is made under section 36(1) of that Act for a waste management licence in respect of the site or mobile plant covered by the resolution, until the end of the period of 6 months commencing with the transfer date;
 - (b) where an application as mentioned in sub-paragraph (a) above is made, until—
 - (i) the application is withdrawn;
 - (ii) the application is rejected and no appeal against the rejection is timeously lodged under section 43 of that Act;
 - (iii) any appeal against a rejection of the application is withdrawn or rejected; or
 - (iv) the application is granted.
- (3) In relation to a resolution continued in force by sub-paragraph (2) above, the said section 54 shall have effect subject to the amendments set out in the following provisions of this paragraph.
- (4) In subsection (2), for paragraph (b) there shall be substituted—
- “(b) specified in a resolution passed by a waste regulation authority, or by a waste disposal authority under Part I of the ^{M2}Control of Pollution Act 1974, before the transfer date within the meaning of section 56(1) of the Environment Act 1995”.
- (5) In subsection (3) for paragraph (b) there shall be substituted—
- “(b) by another person, that it is on land which is the subject of a resolution, that it is with the consent of the waste disposal authority and that any conditions to which such consent is subject are within the terms of the resolution.”
- (6) Subsections (4) to (7) shall cease to have effect.
- (7) For subsections (8) and (9) there shall be substituted—
- “(8) Subject to subsection (9) below, a resolution continued in force by paragraph 18 of Schedule 23 to the Environment Act 1995 may be varied or rescinded by SEPA by a resolution passed by it.
- (9) Before passing a resolution under subsection (8) above varying a resolution, SEPA shall—
- (a) prepare a statement of the variation which it proposes to make;
 - (b) refer that statement to the Health and Safety Executive and to the waste disposal authority in whose area the site is situated or, as the case may be, which is operating the plant; and
 - (c) consider any representations about the variation which the Health and Safety Executive or the waste disposal authority makes to it during the allowed period.
- (9A) The period allowed to the Health and Safety Executive and the waste disposal authority for the making of representations under subsection (9)(c) above is the period of 28 days beginning with that on which the statement is received by that body, or such longer period as SEPA and that body agree in writing.
- (9B) SEPA may—

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- (a) postpone the reference under subsection (9)(b) above so far as it considers that by reason of an emergency it is appropriate to do so;
 - (b) disregard the Health and Safety Executive in relation to a resolution which in SEPA’s opinion will not affect the Health and Safety Executive.”
- (8) In subsection (10)—
- (a) for the words “the authority which passed the resolution” and “the waste regulation authority” there shall be substituted the words “SEPA”;
 - (b) the words “the waste disposal authority to discontinue the activities and of” shall cease to have effect.
- (9) Subsections (11) to (15) shall cease to have effect.]

Textual Amendments

F1 Sch. 23 para. 18 repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), sch. 3 para. 29(11)(d); S.S.I. 2014/160, art. 2(1)(2)

Marginal Citations

M2 1974 c. 40.

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