

SCHEDULES

SCHEDULE 1

Section 2.

PARTICULAR PURPOSES FOR WHICH PROVISION MAY BE MADE UNDER SECTION 2

PART I

LIST OF PURPOSES

Preliminary

- 1 (1) Establishing standards, objectives or requirements in relation to emissions within the meaning of the regulations.
- (2) Authorising the making of plans for—
 - (a) the setting of overall limits,
 - (b) the allocation of quotas, or
 - (c) the progressive improvement of standards or objectives,relating to such emissions.
- (3) Authorising the making of schemes for the trading or other transfer of quotas so allocated.
- 2 (1) Determining the authorities (whether public or local or the Secretary of State) by whom functions conferred by the regulations—
 - (a) in relation to permits under the regulations, or
 - (b) otherwise for or in connection with the prevention or control of environmental pollution,are to be exercisable (in this Schedule referred to as “regulators”).
- (2) Specifying any purposes for which any such functions are to be exercisable by regulators.
- 3 Enabling the Secretary of State to give directions which regulators are to comply with, or guidance which regulators are to have regard to, in exercising functions under the regulations, including—
 - (a) directions providing for any functions exercisable by one regulator to be instead exercisable by another;
 - (b) directions given for the purposes of the implementation of any obligations of the United Kingdom under the Community Treaties or under any international agreement to which the United Kingdom is a party;
 - (c) directions relating to the exercise of any function in a particular case or class of case.

Permits

- 4 Prohibiting persons from operating any installation or plant of any specified description, or otherwise carrying on any activities of any specified description, except—
- (a) under a permit in force under the regulations, and
 - (b) in accordance with any conditions to which the permit is subject.
- 5 Specifying restrictions or other requirements in connection with the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations); and otherwise regulating the procedure to be followed in connection with the grant of permits.
- 6 (1) Prescribing the contents of permits.
- (2) Authorising permits to be granted subject to conditions imposed by regulators.
- (3) Securing that permits have effect subject to—
- (a) conditions specified in the regulations; or
 - (b) rules of general application specified in or made under the regulations.
- 7 (1) Requiring permits or the conditions to which permits are subject to be reviewed by regulators (whether periodically or in any specified circumstances).
- (2) Authorising or requiring the variation of permits or such conditions by regulators (whether on applications made by holders of permits or otherwise).
- (3) Regulating the making of changes—
- (a) in the operation of the installations or plant to which permits relate, or
 - (b) in the case of permits for the carrying on of activities otherwise than in the course of operating any installation or plant, in the carrying on of the activities.
- 8 (1) Regulating the transfer or surrender of permits.
- (2) Authorising the revocation of permits by regulators.
- (3) Authorising the imposition by regulators of requirements with respect to the taking of preventive or remedial action (by holders of permits or other persons) in connection with the surrender or revocation of permits.
- 9 Authorising the Secretary of State to make schemes for the charging by regulators of fees or other charges in respect of, or in respect of an application for—
- (a) the grant of a permit,
 - (b) the variation of a permit or the conditions to which it is subject, or
 - (c) the transfer or surrender of a permit,
- or in respect of the subsistence of a permit.
- 10 Authorising, or authorising a Minister of the Crown to make schemes for, the charging by Ministers of the Crown or public or local authorities of fees or other charges in respect of—
- (a) the testing or analysis of substances,
 - (b) the validating of, or of the results of, any testing or analysis of substances, or
 - (c) assessing how the environment might be affected by the release into it of any substances,

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

Information, publicity and consultation

- 11 Enabling persons of any specified description (whether or not they are holders of permits) to be required—
- (a) to compile information—
 - (i) on emissions within the meaning of the regulations;
 - (ii) on energy consumption and on the efficiency with which energy is used;
 - (iii) on waste within the meaning of the regulations and on the destinations of such waste;
 - (b) to provide such information in such manner as is specified in the regulations.
- 12 Securing—
- (a) that publicity is given to specified matters;
 - (b) that regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection;
 - (c) that copies of entries in such registers, or of specified documents, may be obtained by members of the public.
- 13 Requiring or authorising regulators to carry out consultation in connection with the exercise of any of their functions; and providing for them to take into account representations made to them on consultation.

Enforcement and offences

- 14 (1) Conferring on regulators functions with respect to the monitoring and inspection of the carrying on of activities to which permits relate, including—
- (a) power to take samples or to make copies of information;
 - (b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.
- (2) Authorising regulators to appoint suitable persons to exercise any such functions and conferring powers (such as those specified in section 108(4) of the Environment Act 1995) on persons so appointed.
- 15 (1) Authorising regulators to serve on holders of permits—
- (a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;
 - (b) notices requiring them to provide such financial security as the regulators serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;
 - (c) notices requiring them to take steps to remove imminent risks of serious environmental pollution (whether or not arising from any such contraventions).

Status: This is the original version (as it was originally enacted).

- (2) Providing for the enforcement of such notices by proceedings in the High Court or any court of competent jurisdiction in Scotland.
- 16 Authorising regulators to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.
- 17 The creation of offences and dealing with matters relating to such offences, including—
- (a) the provision of defences; and
 - (b) evidentiary matters.
- 18 Enabling, where a person has been convicted of an offence under the regulations—
- (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment); or
 - (b) a regulator to arrange for such action to be taken at that person's expense.

Appeals

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

General

- 20 (1) Making provision which, subject to any modifications that the Secretary of State considers appropriate, corresponds or is similar to—
- (a) any provision made by or under, or capable of being made under, Part I or II of the Environmental Protection Act 1990 or made by any of sections 157, 158 and 160 of that Act; or
 - (b) any provision made, or capable of being made, under section 2(2) of the European Communities Act 1972 in connection with one of the relevant directives.
- (2) In sub-paragraph (1) “the relevant directives” means—
- (a) Council Directive [96/61/EC](#) concerning integrated pollution prevention and control;
 - (b) Council Directive [75/442/EEC](#) on waste, as amended; and
 - (c) any other directive of the Council of the European Communities designated by the Secretary of State for the purposes of this paragraph by order made by statutory instrument.
- (3) Making provision about the application of the regulations to the Crown.

PART II

SUPPLEMENTARY PROVISIONS

Particular types of pollution

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

Determination of matters by regulators

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

Imposition of conditions

- 23 In connection with the determination of conditions as mentioned in paragraph 6(3) (a) the regulations may in particular provide—
- (a) for such conditions to be determined in the light of any specified general principles and any directions or guidance given under the regulations;
 - (b) for such guidance to include guidance sanctioning reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition.

Charging schemes

- 24 The regulations may—
- (a) require any such scheme as is mentioned in paragraph 9 or 10 to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the regulator or other person to whom they are so payable) as is specified;
 - (b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

Offences

- 25 (1) The regulations may provide for any such offence as is mentioned in paragraph 17 to be triable—
- (a) only summarily; or
 - (b) either summarily or on indictment.
- (2) The regulations may provide for such an offence to be punishable—
- (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which may not exceed six months), or
 - (ii) a fine not exceeding such amount as is specified (which may not exceed £20,000),or both; or
 - (b) on conviction on indictment by—

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- (i) imprisonment for a term not exceeding such period as is specified (which may not exceed five years), or
 - (ii) a fine,
- or both.

Interpretation

- 26 In this Schedule—
- “functions” includes powers and duties;
 - “the regulations” means regulations under section 2;
 - “specified” means specified in regulations under that section.