

SCHEDULE 2

Regulation 28

Consequential amendments

Environmental Protection Act 1990

- 1.—(1) The Environmental Protection Act 1990^{M1} is amended as follows.
- (2) In section 29 (interpretation)—
- (a) in subsection (3) after “controlled waste” (in each place where it occurs) insert “ or extractive waste ”,
 - (b) in subsection (4) after “controlled waste” (in each place where it occurs) insert “ or extractive waste ”,
 - (c) in subsection (8) after “controlled waste” insert “ or extractive waste ”, and
 - (d) in subsection (13)^{M2} after “exempt waste operation” insert—
 - ““extractive waste”;
 - “mining waste operation”;
 - “the Mining Waste Directive”.”
- (3) In section 33 (prohibition on unauthorised or harmful depositing, treatment or disposal etc of waste), in subsection (1)—
- (a) in paragraph (a), after “controlled waste” (in each place where it occurs) insert “ or extractive waste ”, and
 - (b) in paragraph (c) after “controlled waste” insert “ or extractive waste ”.
- (4) In section 33A (section 33 offences: investigation and enforcement costs), as inserted by section 42(1) of the Clean Neighbourhoods and Environment Act 2005^{M3}, in subsection (1)^{M4}, at the end of paragraph (b) insert “ or a mining waste operation ”.
- (5) In section 33B (section 33 offences: clean up costs), in subsection (1)(a), after “controlled waste” insert “ or extractive waste ”.
- (6) In section 34 (duty of care)—
- (a) after subsection (1) insert—
 - “(1A) It shall be the duty of any person who is responsible for the management of extractive waste to take all such measures applicable to him in that capacity as are reasonable in the circumstances —
 - (a) to prevent any contravention by any other person of section 33 above;
 - (b) to prevent any contravention by another person of regulation 12 of the 2007 Regulations or of a condition of an environmental permit; and
 - (c) to prevent the escape of the waste from his control or that of any other person.”,
 - and
 - (b) in subsection (6), after “subsection (1)” insert “ , (1A). ”.
- (7) In section 59 (powers to require removal of waste unlawfully deposited), in subsection (1), after “controlled waste” insert “ or extractive waste ”.

Marginal Citations

M1 1990 c. 43.

M2 Section 29(13) was inserted by S.I. 2007/3538.

Changes to legislation: There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to The Environmental Permitting (England and Wales) (Amendment) Regulations 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

M3 2005 c. 16.

M4 Section 33A(1) was substituted by [S.I. 2007/3538](#).

Water Resources Act 1991

2.—(1) The Water Resources Act 1991 ^{M5} is amended as follows.

(2) In section 85 (offences of polluting controlled waters) for subsection (7) substitute—

“(7) For the purposes of subsection (1), “waste” in the term “waste matter” includes—

- (a) anything that is waste for the purposes of Directive [2006/12/EC](#) of the European Parliament and of the Council on waste, and that is not excluded from the scope of that Directive by Article 2(1) of that Directive;
- (b) anything that is waste for the purposes of Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries and amending Directive [2004/35/EC](#), and that is not excluded from the scope of that Directive by Article 2(2) of that Directive.”.

Marginal Citations

M5 1991, c. 57. Section 85 was amended by [S.I. 2007/3538](#).

Clean Air Act 1993

3.—(1) The Clean Air Act 1993 ^{M6} is amended as follows.

(2) In section 41A (relation to the Pollution Prevention and Control Act 1999) in subsection (4) for the definition of “activity” substitute—

“activity” includes—

- (a) a waste operation within the meaning of the 2007 Regulations, and
- (b) a mining waste operation within the meaning of those Regulations;”.

Marginal Citations

M6 1993, c. 11. Section 41A was inserted by [S.I. 2000/1973](#) and amended by [S.I. 2007/3538](#).

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations revoked by [S.I. 2024/513 Sch. 1 Pt. 1](#)
- Regulations revoked in part by [S.I. 2016/1154 Sch. 28](#)