

## SCHEDULE 22

### Groundwater activities

#### **Meaning of “groundwater activity”**

**3.—(1)** Subject to sub-paragraphs (2) and (3), “groundwater activity” means any of the following—

- (a) the discharge of a pollutant that results in the direct input of that pollutant to groundwater;
- (b) the discharge of a pollutant in circumstances that might lead to an indirect input of that pollutant to groundwater;
- (c) any other discharge that might lead to the direct or indirect input of a pollutant to groundwater;
- (d) an activity in respect of which a notice under paragraph 10 has been served and has taken effect;
- (e) an activity that might lead to a discharge mentioned in paragraph (a), (b) or (c), where that activity is carried on as part of the operation of a regulated facility of another class.

(2) A discharge or an activity that might lead to a discharge is not a “groundwater activity” if the discharge is—

- (a) made, or authorised to be made, by or under any prescribed statutory provision, or
- (b) of trade effluent or sewage effluent from a vessel.

(3) The regulator may determine that a discharge, or an activity that might lead to a discharge, is not a groundwater activity if the input of the pollutant—

- (a) is the consequence of an accident or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated,
- (b) is or would be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater, or
- (c) is or would be incapable, for technical reasons, of being prevented or limited without using—
  - (i) measures that would increase risks to human health or to the quality of the environment as a whole, or
  - (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil.

(4) The regulator must keep a record of all determinations under sub-paragraph (3).