



The Scottish Parliament
Pàrlamaid na h-Alba

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

AGENDA

8th Meeting, 2011 (Session 3)

Tuesday 15 March 2011

The Committee will meet at 2.00 pm in Committee Room 6.

1. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Animal By-Products (Enforcement) (Scotland) Regulations 2011 (SSI 2011/171);

the Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2011 (SSI 2011/155); and

the Radioactive Substances Exemption (Scotland) Order 2011 (SSI 2011/147).

Peter McGrath
Clerk to the Rural Affairs and Environment Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 0131 348 5240
Email: peter.mcgrath@scottish.parliament.uk

The papers for this meeting are as follows—

Agenda Item 1

[Animal By-Products \(Enforcement\) \(Scotland\) Regulations 2011 \(SSI 2011/171\)](#) RAE/S3/11/8/1

[Conservation \(Natural Habitats &c\) Amendment \(Scotland\) Regulations 2011 \(SSI 2011/155\)](#) RAE/S3/11/8/2

[Radioactive Substances Exemption \(Scotland\) Order 2011 \(SSI 2011/147\)](#) RAE/S3/11/8/3

For Information

Recent Developments RAE/S3/11/8/4

SCOTTISH STATUTORY INSTRUMENTS

2011 No. 171

ANIMALS

ANIMAL HEALTH

**The Animal By-Products (Enforcement) (Scotland)
Regulations 2011**

<i>Made</i> - - - -	<i>1st March 2011</i>
<i>Laid before the Scottish Parliament</i>	<i>3rd March 2011</i>
<i>Coming into force</i> - -	<i>4th March 2011</i>

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SCHEDULE 1 — Animal by-product requirements
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The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972^(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is necessary for the references to Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive^(b) to be construed as references to that instrument as amended from time to time.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal By-Products (Enforcement) (Scotland) Regulations 2011 and come into force on 4th March 2011.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“animal by-product requirement” has the meaning given in regulation 17;

“authorised person” has the meaning given in regulation 22;

“competent authority” has the meaning given in regulation 3;

“enforcement authority” has the meaning given in regulation 21(5);

“EU Control Regulation” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)^(c);

“EU Implementing Regulation” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive, as amended from time to time;

“premises” includes—

(a) any land, building (including any domestic premises), shed or pen;

(a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”), section 27(4)). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28 and was amended by the 2008 Act, Schedule, Part 1. The functions conferred upon the Minister of the Crown under the 1972 Act, section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of the 1998 Act, section 53.

(b) O.J. L 54, 26.02.2011, p.1.

(c) O.J. L 300, 14.11.2009, p.1, amended by Directive 2010/63/EU (O.J. L 276, 20.10.2010, p.33).

- (b) any receptacle or container;
- (c) any ship; or
- (d) vehicle of any description; and

“ship” includes a hovercraft, submersible craft and any other floating craft but not a vessel which—

- (a) permanently rests on or is permanently attached to the seabed; or
- (b) is an installation within section 16 of the Energy Act 2008^(a).

(2) Expressions used in these Regulations that are also used in the EU Control Regulation or the EU Implementing Regulation have the same meaning in these Regulations as they have in the EU Control Regulation and in the EU Implementing Regulation, as the context may require.

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000^(b), which has been recorded and is consequently capable of being reproduced.

PART 2

The competent authority and miscellaneous provisions

The competent authority

3. The Scottish Ministers are the competent authority for the purposes of—
- (a) the EU Control Regulation; and
 - (b) the EU Implementing Regulation.

Access in relation to the prohibitions in Article 11(1)(a), (b) or (d) of the EU Control Regulation

4. In relation to a prohibition on feeding in Article 11(1)(a), (b) or (d) of the EU Control Regulation, the requirements of regulations 5 and 6 apply.

5.—(1) Animal by-products, including catering waste, must not be brought on to any premises where farmed animals are kept.

(2) Paragraph (1) does not apply—

- (a) where, in relation to bringing on to premises, the occupier of the premises and the person having control of the animal by-products ensure that bringing on to the premises will not allow farmed animals to have access to such products; and
- (b) to derived products, except for the following derived products—
 - (i) products derived from catering waste; and
 - (ii) meat and bone meal derived from Category 2 material and processed animal proteins intended to be used as or in organic fertilisers and soil improvers that do not comply with the requirements of Article 32(1)(d) of the EU Control Regulation.

6. A carcase or part of a carcase of any farmed animal that has not been slaughtered for human consumption must be held, pending consignment or disposal, in accordance with the EU Control Regulation as read with the EU Implementing Regulation, in such manner as to ensure that any animal or bird will not have access to it.

^(a) 2008 c.32.

^(b) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.

Use of organic fertilisers and soil improvers and extended waiting period for pigs in relation to the prohibition in Article 11(1)(c) of the EU Control Regulation

7.—(1) In accordance with Article 32(1) of the EU Control Regulation, the application of organic fertilisers or soil improvers to land is prohibited, where, during the period of 60 days from the application of such products, it is intended that pigs will—

- (a) have access for grazing to such land; or
- (b) be fed cut herbage from such land.

(2) Where organic fertilisers or soil improvers have been applied to land, in addition to the minimum waiting period that applies to farmed animals, pigs are prohibited during an additional waiting period, resulting in a total period of 60 days from such application, from—

- (a) having access to such land; or
- (b) being fed cut herbage from such land.

(3) Paragraphs (1) and (2) do not apply to the following organic fertilisers or soil improvers:—

- (a) manure;
- (b) milk;
- (c) milk based products;
- (d) milk derived products;
- (e) colostrum;
- (f) colostrum products; and
- (g) digestive tract content.

(4) In this regulation—

- (a) “the minimum waiting period” is the period of 21 days commencing from the date of application of organic fertilisers or soil improvers to land as provided in Article 11(1)(c) of the EU Control Regulation, as read with Article 5(2) of, and Chapter II of Annex II to, the EU Implementing Regulation; and
- (b) “the additional waiting period” is the period of 39 days commencing on the expiration of the minimum waiting period.

Collection centres for feeding in relation to Article 18(1) of the EU Control Regulation

8. In relation to Article 18(1) of the EU Control Regulation and in accordance with Article 13 of the EU Implementing Regulation, as read with point 3 of Section 1 of Chapter II of Annex VI to that Regulation, a processing plant for Category 2 material which is approved for the purpose of being a collection centre for Category 2 material is authorised as a collection centre.

Remote areas referred to in Article 19(1)(b) of the EU Control Regulation

9. For the purposes of applying Article 19(1)(b) of the EU Control Regulation, the following areas are categorised as remote areas:—

- (a) the area of the Argyll and Bute Council, excluding the Parishes of Arrochar (339), Cardross (347), Dunoon and Kilmun (140), Inverchaolain (141), Kilfinan (142), Kilmodan (143), Kingarth (276), Lochgoilhead and Kilmorich (144), Luss (349), North Bute (other than the island of Inchmarnock) (277), Rhu (340), Rosneath (341), Rothesay (278), Strachur (145) and Strathlachlan (146);
- (b) the area of Comhairle nan Eilean Siar;
- (c) the area of the Highland Council, excluding the Parishes of Abernethy and Kincardine (438), Alvie (439), Ardclach (605), Ardersier (445), Auldearn (606), Boleskine and Abertarff (433), Cawdor (607), Cromdale, Inverallan and Advie (586), Croy (446), Croy and Dalcross (608), Daviot and Dunlichity (447), Dores (448), Duthil and Rothiemurchus

- (440), Inverness and Bona (449), Kingussie and Insh (441), Kirkhill (436), Moy and Dalarossie (450), Nairn (609) and Petty (451);
- (d) in the area of North Ayrshire Council, the parishes of Cumbrae (279), Kilbride (274) and Kilmory (275);
- (e) the area of the Orkney Islands Council;
- (f) in the area of the Perth and Kinross Council, the Parish of Fortingall (679); and
- (g) the area of the Shetland Islands Council.

Placing on the market in relation to Article 36 of the EU Control Regulation

10. In relation to Article 36 of the EU Control Regulation and in accordance with Article 24(4) of the EU Implementing Regulation, as read with point B of Chapter VII to Annex XIII to that Regulation, the placing of untreated wool and hair from farms or from establishments or plants is authorised without restrictions except where they present a risk of any disease communicable through those products to humans or animals.

PART 3

Registration and approval

Procedure for registration of plants and establishments

11. A notification must be made in writing to the competent authority, where it is made in relation to the following Article of the EU Control Regulation:—

- (a) with a view to registration in accordance with Article 23(1); or
- (b) to inform the competent authority of changes in accordance with Article 23(2).

Notifications of competent authority in respect of registration

12. The competent authority must give notice in writing to—

- (a) the operator who has notified in accordance with regulation 11 of—
 - (i) the registration of such an operator; or
 - (ii) the decision not to register; and
- (b) a registered operator of—
 - (i) a prohibition made under Article 46(2) of the EU Control Regulation (prohibition on operations);
 - (ii) a requirement to comply with Article 23(1)(b) or (2) of the EU Control Regulation (information on activities and up to date information); or
 - (iii) the amendment of the registration or the ending of the registration where an operator has notified the competent authority of the closure of an establishment in accordance with Article 23(2) of the EU Control Regulation (up-to-date information).

Procedure for application for approval

13. Operators to whom Article 24(1) of the EU Control Regulation applies, must apply in writing to the competent authority to be—

- (a) approved; or
- (b) where Article 33 of the EU Implementing Regulation applies, re-approved.

Notification in respect of decisions on approval

14. The competent authority must give notice in writing to—

- (a) the applicant for approval of the—
 - (i) grant of approval in accordance with Articles 24 and 44 of the EU Control Regulation;
 - (ii) grant of conditional approval in accordance with Articles 24 and 44 of the EU Control Regulation, or the extension of such approval in accordance with that Article; or
 - (iii) refusal to grant approval in accordance with the initial application or extension;
- (b) where conditional approval has been granted in accordance with Articles 24 and 44 of the EU Control Regulation, the operator of the plant or establishment subject to such approval of the—
 - (i) grant of full approval;
 - (ii) extension of such approval;
 - (iii) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;
 - (iv) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;
 - (v) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation;
 - (vi) refusal to extend or grant full approval; or
 - (vii) prohibition in accordance with Article 46(2) of the EU Control Regulation; or
- (c) the operator of an approved plant or establishment of the—
 - (i) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;
 - (ii) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;
 - (iii) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation; or
 - (iv) prohibition in accordance with Article 46(2) of the EU Control Regulation.

Reasons for decisions

15.—(1) Where a decision is made by the competent authority as provided in paragraph (2), the competent authority must give reasons in writing for that decision, with the decision.

(2) The types of decision are those made—

- (a) in respect of registration, under regulation 12(a)(ii) (not to register) or regulation 12(b) (requirements, amendments or ending of registration);
- (b) in respect of an application of approval, as mentioned in regulation 14(a)(ii) (conditional approval) or regulation 14(a)(iii) (refusal);
- (c) in respect of conditional approval, as mentioned in regulation 14(b)(v) (withdrawal) or regulation 14(b)(vii) (refusal);
- (d) in respect of the suspension or withdrawal of full approval, as mentioned in regulation 14(c)(ii) or regulation 14(c)(iv);
- (e) in respect of the imposition of conditions, as mentioned in regulation 14(b)(iii) or regulation 14(c)(i);
- (f) in respect of a prohibition as mentioned in regulation 14(b)(vi) or regulation 14(c)(iii).

Appeals procedure

16.—(1) Where the competent authority has notified a decision referred to in regulation 15(2), a person may make written representations to a person appointed for the purpose by the Scottish Ministers within 21 days of the notification of that decision.

(2) The competent authority may also make written representations to the appointed person concerning the decision.

(3) The appointed person must then report in writing to the Scottish Ministers, who will then make their final determination.

(4) The Scottish Ministers must give to the appellant written notification of the Scottish Ministers' final determination and the reasons for it.

PART 4

Offences and penalties

Offence in respect of EU Control Regulation

17.—(1) Any person—

- (a) to whom an animal by-product requirement applies; and
- (b) who contravenes or fails to comply with such a requirement,

commits an offence.

(2) In these Regulations “animal by-product requirement” means a requirement in any provision of the EU Control Regulation or the EU Implementing Regulation specified in column 2 of Schedule 1 to these Regulations as read with, where applicable, any provision of the EU Control Regulation, the EU Implementing Regulation or these Regulations specified in column 3 of that Schedule.

Offence of obstruction

18. A person is guilty of an offence if that person, in relation to an authorised person acting under these Regulations—

- (a) intentionally obstructs the authorised person;
- (b) without reasonable cause, fails to give to the authorised person any information or assistance or to provide any facilities that such person may reasonably require;
- (c) knowingly or recklessly gives false or misleading information to the authorised person; or
- (d) fails to produce a record or document when required to do so by the authorised person.

Offences by bodies corporate, Scottish partnerships and unincorporated associations

19.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

- (2) In paragraph (1), “relevant individual” means—
- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
 - (b) in relation to a Scottish partnership, a partner; and
 - (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Penalties

- 20.** A person guilty of an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months or both; or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or both.

PART 5

Enforcement

Enforcement authority

- 21.**—(1) These Regulations are enforced by—
- (a) subject to paragraph (2), a local authority; or
 - (b) in relation to a food hygiene establishment, the Scottish Ministers.
- (2) The Scottish Ministers may, in relation to particular cases or cases of particular descriptions, as they may direct, enforce these Regulations in place of the local authority.
- (3) In paragraph (1)(a) “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(a).
- (4) In paragraph (1)(b), “food hygiene establishment” means an establishment referred to in regulation 5(2)(a) of the Food Hygiene (Scotland) Regulations 2006^(b) in respect of which the Food Standards Agency has enforcement functions under those Regulations.
- (5) A body exercising functions by virtue of paragraph (1) or (2) is referred to in these Regulations as an enforcement authority.

Authorised person

- 22.**—(1) An enforcement authority may authorise in writing such persons as the authority considers appropriate to act for the purpose of enforcing these Regulations.
- (2) A person authorised under paragraph (1) is referred to in these Regulations as an authorised person.

Powers of authorised person

- 23.** An authorised person may, on production, if so required, of his or her duly authenticated authorisation, exercise any of the powers specified in regulations 24 and 26.

^(a) 1994 c.39, amended by the Environment Act 1995 (c.25), section 120(1) and Schedule 22, paragraph 232(1).
^(b) S.S.I. 2006/3.

Powers of entry and additional powers

24.—(1) For the purpose of ensuring that the EU Control Regulation, the EU Implementing Regulation and these Regulations are complied with, an authorised person may enter any premises (excluding any premises used only as a private dwelling house) at any reasonable hour.

(2) The authorised person may in relation to the power under paragraph (1)—

- (a) be accompanied by such other persons as the authorised person considers necessary (including, where there is reasonable cause to anticipate any serious obstruction in the execution of the authorised person's duty, a constable);
- (b) take any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) carry out any examination and investigation as may in the circumstances be necessary;
- (d) as regards any premises which the authorised person has power to enter, direct that those premises, or part of them, are left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (e) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) in the case of any articles or substances found in or on any premises which the authorised person has power to enter—
 - (i) take samples;
 - (ii) test any sample or subject any sample to any process, where it appears that it has or is likely to cause harm to human health or to the health of animals or plants;
 - (iii) take possession of any sample and retain it for so long as is necessary for any of the following purposes:—
 - (aa) to examine it and to exercise the power within paragraph (ii);
 - (bb) to ensure that it is not tampered with before examination of it is completed; and
 - (cc) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;
- (g) require the production of or, where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;
- (h) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by this regulation; or
- (i) mark any animal or animal by-product as the authorised person considers necessary.

(3) Where an authorised person proposes to exercise the power in paragraph (2)(f)(ii) in the case of any article or substance found in or on any premises, the authorised person must—

- (a) if so requested by a person who at the time is present and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power, to be done in that person's presence; and
- (b) consult such persons as appear to the authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which is proposed under that power.

(4) Where an authorised person in respect of the power in paragraph (2)(f)(iii)—

- (a) proposes to exercise that power, the authorised person must before taking possession, if it is practicable to do so, give to a responsible person at the premises a portion of the sample, marked in a manner sufficient to identify it; or

- (b) exercises that power, the authorised person must leave a notice giving particulars of the article or substance sufficient to identify it and stating that possession has been taken under that power, such notice to be left either—
 - (i) with a responsible person; or
 - (ii) if that is impracticable, fixed in a conspicuous place at those premises.

(5) Nothing in this regulation compels the production by any person of information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings.

Warrant

25.—(1) If a sheriff or justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises by an authorised person under regulation 24 and either—

- (a) that entry has been refused, or a refusal is reasonably expected, and the authorised person has given notice of his or her intention to apply for an entry warrant to the occupier; or
- (b) a request for entry, or the giving of such a notice, would defeat the object of entry, or entry is urgently required, or the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await the occupier's return,

the sheriff or justice may by signed warrant, valid for one month, authorise the authorised person to enter the premises, if need be by reasonable force.

(2) An authorised person leaving any unoccupied premises which that person has entered by virtue of a warrant must leave them as effectively secured against unauthorised entry as they were found.

Notices served by an authorised person

26.—(1) An authorised person may serve a notice in accordance with paragraph (2) where that person—

- (a) considers that there is a contravention of, or failure to comply with, an animal by-product requirement; or
- (b) reasonably suspects that, as a result of such contravention or failure to comply, premises constitute a risk to human or animal health.

(2) A notice may be served on the occupier of any premises or the person in charge of the premises—

- (a) requiring the disposal and, where applicable, storage pending such disposal of animal by-products and derived products;
- (b) requiring the cleansing and disinfection of any premises and where applicable, the method for such cleansing and disinfection; or
- (c) prohibiting animal by-products and derived products being—
 - (i) brought on to any premises;
 - (ii) brought on to any premises unless in accordance with conditions specified in the notice; or
 - (iii) moved on to or into any premises until the satisfactory completion of the cleansing and disinfection in accordance with a notice as provided in sub-paragraph (b).

(3) A notice served under paragraph (2) must be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an authorised person may arrange for it to be complied with at the expense of that person.

(4) Paragraph (1) does not apply where Article 46(1) of the EU Control Regulation applies.

(5) Failure to comply with notices served under paragraph (2) is an offence.

Power to share information for enforcement purposes

27.—(1) Information sent to, or acquired, in compliance or purported compliance with the obligations of the EU Control Regulation and the EU Implementing Regulation or as a result of enforcing these Regulations may be shared, in accordance with paragraph (2), where it has been so received by—

- (a) the competent authority;
- (b) an enforcement authority; or
- (c) an authorised person.

(2) Where a body within paragraph (1) has received information in accordance with that paragraph, then such a body may share such information with any other—

- (a) competent authority;
- (b) enforcement authority; or
- (c) authorised person,

appointed within the United Kingdom for the purposes of implementing or enforcing the EU Control Regulation and the EU Implementing Regulation.

(3) Information received in accordance with paragraph (2) must only be used for the purposes of enforcing these Regulations.

(4) For the purposes of this regulation, “an enforcement authority” includes the Food Standards Agency.

PART 6

Consequential amendments

Consequential amendments

28. The consequential amendments specified in Schedule 2 to these Regulations have effect.

PART 7

Revocations and saving and transitional provisions

Revocations

29. The instruments specified in column 1 of Schedule 3 to these Regulations are revoked to the extent specified in column 3 of that Schedule.

Saving provisions

30. Notwithstanding their revocation, the Animal By-Products (Scotland) Regulations 2003^(a) continue to have effect in relation to any amendments made by regulation 51(2) of, and paragraph 1 of Part 2 of Schedule 5 to, those Regulations.

Small quantities transitional provision

31.—(1) The collection, transport and disposal of Category 3 material in Article 10(f) of the EU Control Regulation, by way of derogation from Article 14 of the EU Control Regulation, is

(a) S.S.I. 2003/411, amended by S.S.I. 2006/3 and 530, 2007/1 and 2009/7.

authorised under Article 36(3) of the EU Implementing Regulation for the period ending on 31st December 2012, where the requirements of paragraph (2) are satisfied.

(2) The requirements are—

- (a) the material satisfies Article 36(3) of, and paragraphs (a) to (c) of Chapter IV of Annex VI to, the EU Implementing Regulation; and
- (b) the means of disposal for such material, in addition to the means in Article 14 of the EU Control Regulation, is disposal—
 - (i) in an authorised landfill without prior processing; or
 - (ii) where Article 21 of the EU Control Regulation is satisfied, to a biogas or composting plant for transformation in accordance with an authorisation under point 2 of section 2 of Chapter III of Annex V to the EU Implementing Regulation.

St Andrew's House,
Edinburgh
1st March 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE 1

Regulation 17

Animal by-product requirements

<i>Column 1</i> <i>Subject matter of requirement</i>	<i>Column 2</i> <i>Provision(s) containing the basic requirement</i>	<i>Column 3</i> <i>Provisions to be read with the provision(s) mentioned in column 2</i>
1. General Obligation	Article 4(1) or (2) of the EU Control Regulation	Article 5(1) and (2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain for certain derived products)
2. Compliance with general animal health restrictions	Article 6(1) of the EU Control Regulation	Article 6(1) of the EU Control Regulation and Article 4 of the EU Implementing Regulation (serious transmissible diseases)
3. Compliance with restrictions on use for feeding purposes	Article 11 of the EU Control Regulation	Regulations 4 to 6 (access of farmed animals to animal by-products) and 7(2) of these Regulations (subject to regulation 7(3)) (additional waiting period for pigs) Article 11(2) of the EU Control Regulation as read with Article 5(1) of the EU Implementing Regulation (restrictions on use in respect of Article 11(1)(a) of the EU Control Regulation); and Article 5(2) of that Regulation (restrictions on use in respect of Article 11(1)(c) of the EU Control Regulation)
4. Disposal and use of Category 1 material	Article 12 of the EU Control Regulation as read with the following provisions of Article 16 (derogations) of that Regulation:— Article 16(b) (disposal in accordance with Article 17); Article 16(c) (disposal in accordance with Article 18(2)); Article 16(d) (disposal in accordance with Article 19); Article 16(e) (disposal in accordance with Article 20); and Article 7 of the EU	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods) Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 12(a) or (b) of the EU Control Regulation) Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation

<i>Column 1 Subject matter of requirement</i>	<i>Column 2 Provision(s) containing the basic requirement</i>	<i>Column 3 Provisions to be read with the provision(s) mentioned in column 2</i>
	Implementing Regulation	Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal) Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)
5. Disposal and use of Category 2 material	Article 13 of the EU Control Regulation, as read with— Article 15(2)(b) of the EU Control Regulation and the following provisions of Article 16 (derogations) of that Regulation:— Article 16(b) (disposal in accordance with Article 17); Article 16(c) (disposal in accordance with Article 18(1)); Article 16(d) (disposal in accordance with Article 19); Article 16(e) (disposal in accordance with Article 20); Article 16(f) (disposal and use for the preparation and application of bio-dynamic preparations); and Article 16(h) (disposal and use of as a result of surgery on a farm)	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods); Article 15(1)(c) of the EU Control Regulation as read with Article 10(1) of the EU Implementing Regulation (requirements regarding transformation into biogas and composting in respect of Article 13(e) or (f) of the EU Control Regulation) Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 13(a) or (b) of the EU Control Regulation) Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation Article 18(3) of the EU Control Regulation as read with Article 13(1) of the EU Implementing Regulation (special feeding rules) as read with regulation 8 of these Regulations (collection centres for feeding in relation to Article 18(1) of the EU Control Regulation) Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal) Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)

<i>Column 1</i> <i>Subject matter of requirement</i>	<i>Column 2</i> <i>Provision(s) containing the basic requirement</i>	<i>Column 3</i> <i>Provisions to be read with the provision(s) mentioned in column 2</i>
6. Disposal and use of Category 3 material	Article 14 of the EU Control Regulation, as read with the following provisions of Article 16 (derogations) of that Regulation—	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods)
	Article 16(b) (disposal and use in accordance with Article 17);	Article 15(1)(c) of the EU Control Regulation as read with Article 10(1) of the EU Implementing Regulation (requirements regarding transformation into biogas and composting in respect of Article 14(f) or (g) of the EU Control Regulation)
	Article 16(c) (disposal and use in accordance with Article 18(1));	
	Article 16(d), (disposal and use in accordance with Article 19); Article 16(e) (disposal and use in accordance with Article 20); Article 16(f) (disposal and use for the preparation and application of bio-dynamic preparations); and Article 16(h) (disposal and use of as a result of surgery on a farm)	Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 14(a) or (b) of the EU Control Regulation)
		Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation
	Article 7 of the EU Implementing Regulation	Article 18(3) of the EU Control Regulation as read with Article 13(2) of the EU Implementing Regulation (special feeding rules)
		Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal)
		Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)
7. Collection and identification as regards category and transport		Article 36(3) of the EU Implementing Regulation (transitional measures) as read with regulation 31 of these Regulations (small quantities transitional provision)
	Article 21(1) to (4) of the EU Control Regulation	Article 21(5) and (6) of the EU Control Regulation as read with Article 17 of the EU Implementing Regulation (requirements of collection, transport, identification and traceability)

<i>Column 1</i> <i>Subject matter of requirement</i>	<i>Column 2</i> <i>Provision(s) containing the basic requirement</i>	<i>Column 3</i> <i>Provisions to be read with the provision(s) mentioned in column 2</i>
8. Traceability	Article 22(1) and (2) of the EU Control Regulation	Article 22(3) of the EU Control Regulation; Article 17 of the EU Implementing Regulation (requirements of collection, transport, identification and traceability)
9. Registration of operators, establishments and plants	Article 23(1) of the EU Control Regulation (subject to Article 23(4)); and Article 23(2) of that Regulation as read with Article 55 of that Regulation	Regulation 11 of these Regulations (procedure for registration) Article 23(3) and Article 27 of the EU Control Regulation as read with Article 20(1) and (2) (subject to paragraph (3)) of the EU Implementing Regulation (requirements of certain registered establishments and plants) Article 47(2) of the EU Control Regulation as read with Article 32(7) of the EU Implementing Regulation (format requirements for lists of registered operators)
10. Approval of establishments and plants	Article 24 of the EU Control Regulation as read with Article 44(3) of the EU Control Regulation as read with Article 55 of that Regulation	Regulation 13 of these Regulations (procedure for approval) Article 27 (implementing measures) of the EU Control Regulation as read with Article 19 of the EU Implementing Regulation (requirements concerning certain approved establishments and plants) and Article 33 of that Regulation (re-approval of plants and establishments after the grant of a temporary approval) Article 47(2) of the EU Control Regulation as read with Article 32(7) of the EU Implementing Regulation (format requirements for lists of registered operators)
11. General hygiene requirements	Article 25 of the EU Control Regulation	Article 27 of the EU Control Regulation as read with Article 9(a) of the EU Implementing Regulation (hygiene and processing requirements) and Article 19 of that Regulation (requirements in relation to certain approved plants in Article 24 of the EU Control Regulation) and Article 20 of that Regulation (requirements in relation to certain registered plants)
12. Handling of animal by-products within food businesses	Article 26 of the EU Control Regulation	

<i>Column 1</i> <i>Subject matter of requirement</i>	<i>Column 2</i> <i>Provision(s) containing the basic requirement</i>	<i>Column 3</i> <i>Provisions to be read with the provision(s) mentioned in column 2</i>
13. Own checks	Article 28 of the EU Control Regulation	
14. Hazard analysis and critical control points	Article 29(1) to (3) of the EU Control Regulation	
15. Placing on the market animal by-products and derived products for feeding to farmed animals excluding fur animals	Article 31(1) of the EU Control Regulation	Article 31(2) of the EU Control Regulation as read with Article 21 of the EU Implementing Regulation (placing on the market for feeding to farmed animals) and Article 24(2) (petfood and other derived products) of that Regulation
16. Placing on the market and use of organic fertilisers and soil improvers	Article 32(1) and (2) of the EU Control Regulation	Regulation 7(1) of these Regulations (subject to regulation 7(3)) (application of fertilisers) Article 32(3) of the EU Control Regulation as read with Article 22(1) to (3) of the EU Implementing Regulation (placing on the market of fertilisers) Article 36(1) of the EU Implementing Regulation (transitional measures)
17. Collection and movement for manufacture of derived products	Article 34 of the EU Control Regulation (manufacture) except insofar as that relates to import	Article 33 of the EU Control Regulation and Article 23 of the EU Implementing Regulation (intermediate products)
18. Compliance with prohibition on use for manufacture for products not within Article 33 or 36 of the EU Control Regulation	Article 24(1) of the EU Implementing Regulation	Article 33 of the EU Control Regulation (placing on the market of certain derived products regulated by Community legislation) Article 36 of that Regulation (placing on the market of other derived products)
19. Placing on the market of pet food	Article 35 of the EU Control Regulation	Article 5(2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain) Article 40 of the EU Control Regulation as read with Article 24(3) of the EU Implementing Regulation (petfood and other derived products)

<i>Column 1</i> <i>Subject matter of requirement</i>	<i>Column 2</i> <i>Provision(s) containing the basic requirement</i>	<i>Column 3</i> <i>Provisions to be read with the provision(s) mentioned in column 2</i>
20. Placing on the market of other derived products	Article 36 of the EU Control Regulation	<p>Regulation 10 of these Regulations (placing on the market)</p> <p>Article 5(2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain)</p> <p>Article 40 of the EU Control Regulation as read with Article 24(1), (2) and (4) of the EU Implementing Regulation (petfood and other derived products)</p>
21. Safe sourcing	Article 37(2) of the EU Control Regulation	
22. Export	Article 43 of the EU Control Regulation	
23. Controls for dispatch to other Member States	Article 48(1), (4) and (5), as read with Article 48(6), of the EU Control Regulation	Article 48(7) of the EU Control Regulation as read with Article 11(3) of the EU Implementing Regulation (special rules on research and diagnostic samples), Article 12(3) of that Regulation (special rules on trade samples and display items) and Article 31 of that Regulation (models of health certificates and declarations for importation and transit)

SCHEDULE 2

Regulation 28

Consequential amendments

The Animal By-Products (Identification) Regulations 1995

1. The Animal By-Products (Identification) Regulations 1995(a) are amended as follows.
2. In regulation 2(1) (interpretation)—
 - (a) omit the definition of “the 2003 Regulations”;
 - (b) in the definition of “approved incineration plant”, for “regulation 14 of the 2003 Regulations” substitute “Articles 24 and 44 of the Community Regulation”;
 - (c) in the definition of “approved rendering plant”, for “regulation 14 of the 2003 Regulations” substitute “Articles 24 and 44 of the Community Regulation”; and
 - (d) for the definition of “the Community Regulation” substitute ““the Community Regulation” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)(b);”.
3. In regulation 4 (scope), omit “the 2003 Regulations or”.
4. In regulation 5(2) (exemptions)—
 - (a) in sub-paragraph (c), for “the 2003 Regulations” substitute “Articles 13, 16, 17, 18 and 19 of the Community Regulation”; and
 - (b) in sub-paragraph (d), for “the 2003 Regulations” substitute “Articles 12, 13, 14 and 17 of the Community Regulation”.
5. In regulation 9(3) (storage and packaging of animal by-products)—
 - (a) in sub-paragraph (d), for “2.1(c)”, substitute “9”; and
 - (b) in sub-paragraph (e), for “2.1(d)”, substitute “10”.

The Products of Animal Origin (Import and Export) Regulations 1996

6. The Products of Animal Origin (Import and Export) Regulations 1996(c) are amended as follows.
7. In regulation 1(2) (interpretation)—
 - (a) omit the definition of “Directive 90/667”;
 - (b) in the definition of “product of animal origin”, for “Directive 90/667” substitute “Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011”; and
 - (c) after the definition of “Regulation 1274/91” insert—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulations (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EU) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products

(a) S.I. 1995/614, relevantly amended by S.S.I. 2003/53 and 411 and 2006/3.

(b) O.J. L 300, 14.11.2009, p.1, amended by Directive 2010/63/EU (O.J. L 276, 20.10.2010, p.33).

(c) S.I. 1996/3124, relevantly amended by S.I. 1996/3000 and S.S.I. 2003/568.

not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

8. In regulation 10 (exports to other member states)—

- (a) after each reference to “Directive 92/118” insert “or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011”; and
- (b) in paragraph (1)(a)(i), after “provisions” insert “of any”.

9. In regulation 11(1) (registration of certain establishments which produce, process or store products of animal origin)—

- (a) after each reference to “Directive 92/118” insert “or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011”; and
- (b) for “15 of Schedule 3, under Directive 90/667” substitute “16 of Schedule 3”.

10. In regulation 12(1) (notification of certain establishments which supply or store products of animal origin)—

- (a) after each reference to “Directive 92/118” insert “or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011”; and
- (b) in sub-paragraph (a), for “15 of Schedule 3, under Directive 90/667” substitute “16 of Schedule 3”.

11. In Schedule 1 (amendments to directives), in paragraph 3, omit “Council Directive 90/667/EEC (OJ No. L 363, 27.12.90, p.51);”.

12. In Schedule 3 (community measures relevant to intra-community trade)—

- (a) at the end of the heading to paragraph 12, insert “and also not subject to Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011”; and
- (b) after paragraph 15 (wild game), insert—

“Animal by-products

16. Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011.”.

The Pollution Prevention and Control (Scotland) Regulations 2000

13. The Pollution Prevention and Control (Scotland) Regulations 2000(a) are amended as follows.

14. In Part 1 (activities) of Schedule 1 (activities and installations and mobile plant)—

- (a) in Section 5.1 (incineration and co-incineration of waste) of Chapter 5 (waste management), in the paragraph Interpretation of Section 5.1, in the definition of “excluded plant”, for “Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products not intended for human consumption”, substitute “Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) and Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive”; and

(a) S.S.I. 2000/323, relevantly amended by S.S.I. 2003/146, 170 and 235, 2005/101, 340 and 510, 2008/410 and 2010/236.

- (b) in Section 6.8 (the treatment of animal and vegetable matter and food industries) of Chapter 6 (other activities), in the paragraph Interpretation of Section 6.8, in the definition of “exempt activity”, for “regulation 26 of the Animal By-Products (Scotland) Regulations 2003”, substitute “Article 18(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)”.

The Rendering (Fluid Treatment) (Scotland) Order 2001

15. The Rendering (Fluid Treatment) (Scotland) Order 2001(a) is amended as follows.

16. In article 2 (interpretation), in the definition of “animal by-product”, for “Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption” substitute “Article 3(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);”.

The Older Cattle (Disposal) (Scotland) Regulations 2006

17. The Older Cattle (Disposal) (Scotland) Regulations 2006(b) are amended as follows.

18. In regulation 2 (interpretation), in the definition of “rendering plant”, for “processing plant as defined in Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by products not intended for human consumption”, substitute “within the meaning of paragraph 58 of Annex I to Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the boarder under that Directive”.

The Foot-and-Mouth Disease (Scotland) Order 2006

19. The Foot-and-Mouth Disease (Scotland) Order 2006(c) is amended as follows.

20. In article 2 (interpretation)—

- (a) in the definition of “dispose”, for “1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption and the Animal By-Products (Scotland) Regulations 2003”, substitute “Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011”; and

- (b) after the definition of “raw milk”, insert—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

(a) S.S.I. 2001/189, relevantly amended by S.S.I. 2002/255, 2003/411 and 2010/177.

(b) S.S.I. 2006/4.

(c) S.S.I. 2006/44, relevantly amended by S.S.I. 2007/455.

21. In article 25(2)(b) (slaughter: control of faecal material), for “point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption, as amended”, substitute “Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011”.

22. In article 26(2)(c) (slaughter: isolation of things liable to spread disease) for “1774/2002” substitute “1069/2009”.

23. In Schedule 4 (measures applicable in protection zones and surveillance zones)—

- (a) in paragraph 20(4) (transport, treatment and spreading of dung and manure produced in a protection zone) for “point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011”; and
- (b) in paragraph 33(4) (transport, treatment and spreading of dung and manure produced in a surveillance zone), for “point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011”.

24. In Schedule 5 (treatment of products to ensure the destruction of disease virus)—

- (a) in paragraph 2 (hides and skins), for “article 20 of and points A(2)(c) or (d) of Chapter VI of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Article 35 of Regulation (EC) No 1069/2009 and point 28(c) and (d) of Regulation (EU) No 142/2011”;
- (b) in paragraph 3 (wool, ruminant hair and pig bristles), for “article 20 of and point A(1) of Chapter VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Article 36 of Regulation (EC) No 1069/2009 and Article 24(4) of Regulation (EU) No 142/2011”;
- (c) in paragraph 5 (blood and blood products), for “point B(3)(e)(ii) of Chapter IV of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “point 2(b)(ii) of Chapter IV of Annex XIII to Regulation (EU) No 142/2011”;
- (d) in paragraph 6 (lard and rendered fats), for “point B(2)(d)(iv) of Chapter IV of Annex VII to Regulation (EC) No. 1774/2002, as amended” substitute “section 3(d) of Chapter 1 of Annex XIV to Regulation (EU) No 142/2011”;
- (e) in paragraph 7 (petfood and dog chews), for “points B(2), (3) or (4) of Chapter II of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Chapter II of Annex XIII to Regulation (EU) No 142/2011”; and
- (f) in paragraph 8 (game trophies of ungulates), for “points A(1), (3) or (4) of Chapter VII of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Chapter VI of Annex XIII to Regulation (EU) No 142/2011”.

The Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006

25. The Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006(a) are amended as follows.

26. In regulation 2 (interpretation)—

- (a) in the definition of “dispose”, for “1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption and the Animal By-Products (Scotland) Regulations 2003” substitute “Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011”; and

(a) S.S.I. 2006/45.

- (b) after the definition of “reactor premises” insert—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

27. In Part 3 (products other than fresh meat) of the Schedule (measures applicable in respect of a vaccination zone), in paragraph 18 (transport, treatment and distribution of dung and manure) for “point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended” substitute “Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011”.

The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007

28. The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007(a) are amended as follows.

- 29.** In regulation 2 (interpretation)—

- (a) omit the definition of “Regulation (EC) No. 1774/2002”; and

- (b) after the definition of “Regulation (EC) No 136/2004” insert—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

- 30.** In regulation 4 (exemption for authorised products and personal imports)—

- (a) in paragraph (1), at the end, insert “other than products to which Article 17 of Regulation (EC) No 1069/2009 and Articles 11(2) and 12(2) of Regulation (EU) No 142/2011 apply”;

- (b) in paragraph (4)(b), for “Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003”, substitute “Regulation (EC) No 1069/2009, Regulation (EU) No 142/2011 and the Animal By-Products (Enforcement) (Scotland) Regulations 2011”; and

- (c) in paragraph (5)(b), for “1774/2002” substitute “1069/2009”.

31. In regulation 5(1)(a) (enforcement authorities and exchange of information), for “1774/2002” substitute “1069/2009”.

32. In regulation 6(1)(a) (appointment of official veterinary surgeons and official fish inspectors), for “1774/2002”, substitute “1069/2009”.

(a) S.S.I. 2007/1, amended by S.S.I. 2007/304, 2009/228 and 2010/225.

- 33.** In regulation 21 (products which fail veterinary checks)—
- (a) in paragraph (3)(b), for “1774/2002” substitute “1069/2009”; and
 - (b) in paragraph (5)(b), for “1774/2002” substitute “1069/2009”.
- 34.** In regulation 22 (treatment as animal by-products)—
- (a) in paragraph (1) for “regulation 26 of the Animal By-Products (Scotland) Regulations 2003” substitute “Articles 17 and 18 of Regulation (EC) No 1069/2009 and Articles 11(2), 12(2) and 14 of Regulation (EU) No 142/2011”; and
 - (b) in paragraph (3), for “regulation 26 of the Animal By-Products (Scotland) Regulations 2003” substitute “Articles 17 and 18 of Regulation (EC) No 1069/2009”.
- 35.** In regulation 24(4) (consignments and products illegally brought in), for “1774/2002” substitute “1069/2009”.
- 36.** In regulation 43(1)(b) (disposal of returned transit products), for “1774/2002” substitute “1069/2009”.
- 37.** In Schedule 1 (import conditions), in Part VIII (miscellaneous products)—
- (a) for paragraph 13 substitute—

“13. Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011”; and
 - (b) omit paragraphs 14, 15 and 16.

The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007

- 38.** The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007(**a**) is amended as follows.
- 39.** In article 2 (interpretation)—
- (a) in the definition of “bird by product” for “Articles 4, 5 or 6 of Regulation (EC) No. 1774/2002” substitute “Article 8, 9 or 10 of Regulation (EC) No 1069/2009”; and
 - (b) for the definition of “Regulation (EC) No. 1774/2002” substitute—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.
- 40.** In article 13(1)(c) (designation of premises to which things may be moved), for “regulation 14 (approval of premises) of the Animal By-Products (Scotland) Regulations 2003” substitute “Articles 24 and 44 of Regulation (EC) No 1069/2009”.
- 41.** In Schedule 1 (measures applicable in respect of a wild bird control area)—
- (a) in paragraph 13 (restriction on the movement of bird by products or products derived from bird by products from premises in a wild bird control area)—

(a) S.S.I. 2007/61.

(i) for sub-paragraph (2), substitute—

“(2) A veterinary inspector may not grant or direct the grant of a licence under sub paragraph (1) unless it is for a movement of—

- (a) processed animal protein within the meaning of paragraph 5 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;
- (b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;
- (c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 3 of Section II of Annex X to that Regulation;
- (d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;
- (e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;
- (f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;
- (i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (j) processed petfood within the meaning of paragraph 20 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of Chapter II of Annex XIII to that Regulation;
- (k) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of Chapter II of Annex XIII to that Regulation;
- (l) processed manure and processed manure products which comply with, the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011;
- (m) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures within the meaning of Chapter VI of Annex XIII to Regulation (EU) No 142/2011;
- (n) those by-products which are transported to designated incineration plants, processing plants, oleochemical plants, biogas and composting plants, petfood plants or technical plants for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;
- (o) those by-products which are transported to users or collection centres authorised and registered in accordance with Articles 24 and 44 of Regulation (EC) No 1069/2009 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;
- (p) untreated feathers or parts of untreated feathers produced from poultry within the meaning of paragraph 30 of Annex I to Regulation (EU) No 142/2011 and which

comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation; or

- (q) poultry feathers, feathers from wild game bird or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus.”; and
- (ii) in sub-paragraph (5) for “Chapter X of Annex II to Regulation (EC) No. 1774/2002” substitute “Chapter III of Annex VIII to Regulation (EU) No 142/2011”;
- (b) in paragraph 14(a) (prohibition on movement of poultry manure) for “1774/2002” substitute “1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011”; and
- (c) in paragraph 15(a) (prohibition on the spread of poultry manure) for “1774/2002” substitute “1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011”.

The Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007

42. The Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007(a) is amended as follows.

43. In article 2 (interpretation)—

- (a) in the definition of “bird by-product” for “Articles 4, 5 or 6 of Regulation (EC) No. 1774/2002” substitute “Article 8, 9 or 10 of Regulation (EC) No 1069/2009”; and
- (b) for the definition of “Regulation (EC) No. 1774/2002”, substitute—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

44. In article 3(6)(c) (licences, notices and designations under this Order), for “regulation 14 of the Animal By-Products (Scotland) Regulations 2003” substitute “Articles 24 and 44 of Regulation (EC) No 1069/2009”.

45. In article 14 (restrictions on the movement of bird by-products)—

- (a) for paragraph (2) substitute—

“(2) But a veterinary inspector or an inspector acting under the direction of a veterinary inspector may license the movement of any of the following bird by-products:—

 - (a) processed animal protein within the meaning of paragraph 5 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;
 - (b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;
 - (c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 3 of Section II of Annex X to that Regulation;

(a) S.S.I. 2007/62.

- (d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;
- (e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;
- (f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;
- (i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No 142/2011;
- (j) processed petfood within the meaning of paragraph 20 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of Chapter II of Annex XIII to that Regulation;
- (k) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of Chapter II of Annex XIII to that Regulation;
- (l) processed manure and processed manure products which comply with, the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011;
- (m) by-products to a designated incineration plant, processing plant, oleochemical plant, biogas and composting plant, petfood plant or technical plant for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;
- (n) by-products to users or collection centres authorised and registered in accordance with Articles 24 and 44 of Regulation (EC) No 1069/2009 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;
- (o) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures;
- (p) poultry feathers or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus; or
- (q) untreated feathers or parts of untreated feathers produced from poultry or wild game birds from a restricted zone within the meaning of paragraph 30 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation.”;
- (b) in paragraph (3), for “Annex V to Regulation (EC) No. 1774/2002” substitute “Regulation (EC) No 1069/2009 and Annex IV to Regulation (EU) No 142/2011”; and
- (c) in paragraph (4), for “Chapter X of Annex II to Regulation (EC) No. 1774/2002”, substitute “Chapter III of Annex VIII to Regulation (EU) No 142/2011”.

The Animals and Animal Products (Import and Export) (Scotland) Regulations 2007

46. The Animals and Animal Products (Import and Export) (Scotland) Regulations 2007^(a) are amended as follows.

47. In Part 1 (legislation in relation to intra-Community trade) of Schedule 3 (intra-Community trade: legislation and additional requirements), for paragraph 7 substitute—

“Animal by-products

7.—(1) Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation).

(2) Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive.”.

The Zoonoses and Animal By-Products (Fees) (Scotland) Regulations 2009

48. The Zoonoses and Animal By-Products (Fees) (Scotland) Regulations 2009^(b) are amended as follows.

49. In regulation 2 (interpretation), omit the definition of “the 2003 Regulations”.

50. In the Schedule, wherever it appears, omit “regulation 21 of the 2003 Regulations or”.

The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

51. The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010^(c) are amended as follows.

52. In regulation 2 (interpretation)—

(a) omit the definition of “Regulation (EC) No. 1774/2002”; and

(b) before the definition of “slaughterhouse”, insert—

““Regulation (EC) No 1069/2009” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules concerning animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

“Regulation (EU) No 142/2011” means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;”.

53. In regulation 4(2) (exception for research), for “1774/2002” substitute “1069/2009”.

54. In Schedule 1, omit paragraph (b).

^(a) S.S.I. 2007/194, relevantly amended by S.S.I. 2010/343.

^(b) S.S.I. 2009/230, amended by S.S.I. 2009/416 and 2010/88.

^(c) S.S.I. 2010/177.

55. In paragraph 14(2)(b)(i) of Schedule 2 (TSE sampling of sheep, goats and deer), for “the Animal By-Products (Scotland) Regulations 2003” substitute “Articles 24 and 44 of Regulation (EC) No 1069/2009”.

56. In Schedule 6 (feedingstuffs)—

(a) in paragraph 3 (exceptions)—

(i) for “Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003”, substitute “Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011”; and

(ii) for “regulation 11(1) of the Animal By-Products (Scotland) Regulations 2003”, substitute “Article 11(1) of Regulation (EC) No 1069/2009, Article 5(2) and Chapter II of Annex II to Regulation (EU) No 142/2011 and regulation 7 of the Animal By-Products (Enforcement) (Scotland) Regulations 2011”; and

(b) in paragraph 18(2), for “Regulation (EC) No. 1774/2002”, substitute “Article 43 of Regulation (EC) No 1069/2009 and Article 25 of Regulation (EC) No 142/2011”; and

(c) omit paragraph 19 (fertilisers).

SCHEDULE 3

Regulation 29

Revocations

<i>Column 1 – instrument</i>	<i>Column 2 – citation</i>	<i>Column 3 – extent of revocation</i>
The Animal By-Products (Scotland) Regulations 2003	S.S.I. 2003/411	The whole Regulations
The Food Hygiene (Scotland) Regulations 2006	S.S.I. 2006/3	Schedule 7 (consequential amendments), paragraph 44
The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006	S.S.I. 2006/530	Schedule 8 (miscellaneous amendments), paragraph 1(a)
The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007	S.S.I. 2007/1	Regulations 29-33 (the disposal and burial of unused on-board catering supplies and other material) and 71(f) (revocations)
The Animal By-Products (Scotland) Amendment Regulations 2009	S.S.I. 2009/7	The whole Regulations

(a) Regulation 23 of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 (S.S.I. 2010/177) revoked S.S.I. 2006/530; however, regulation 22 of those regulations saved the miscellaneous amendment in Schedule 8, paragraph 1 of the revoked instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enforce Regulation (EC) No 1069/2009 of the European Parliament and of the Council on laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (“the EU Control Regulation”).

These Regulations also enforce Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (“the EU Implementing Regulation”) that provides technical supplementation of those requirements of the EU Control Regulation.

The EU Control Regulation places obligations on operators in relation to animal by-products, including obligations as to disposal and use, prohibitions on feeding, and placing on the market. In addition, there are requirements for operators, plants and establishments to be registered or approved. The obligations vary according to the categorisation of the material, the higher risk animal by-product is categorised as Category 1 material, next in risk is Category 2 and then Category 3 material. The EU Control Regulation allows the Member State to derogate from the obligations and also enable the competent authority to make authorisations in relation to specified obligations. The EU Implementing Regulation sets out a framework for the categorisation and use of animal by-products and supplements the EU Control Regulation by containing detailed provisions for the disposal and use of animal by-products.

These Regulations provide for the following:—

1. The Scottish Ministers are designated as the competent authority (regulation 3). Certain areas are designated as remote for the purposes of Article 19(1)(b) of the EU Control Regulation (regulation 9). Access by farmed animals to animal by-products is restricted in relation to Article 11 of the EU Control Regulation (regulations 4-7) (Part 2).

2. Procedure and appeals in respect of registration and approval (Part 3).

3. Enforcement of the requirements by providing for offences including breach of the requirements of the EU Control Regulation as identified in Schedule 1 which sets out the requirements of the EU Control Regulation as supplemented by the requirements of the EU Implementing Regulation and these Regulations, where applicable. The EU Control Regulation enables the competent authority to make authorisations in respect of such requirements. Such authorisations enable the competent authority to determine whether or not a product is a risk to human or animal health, for example. A full list of all the authorisations that are provided for under the requirements will be made available on the Scottish Government website at (www.scotland.gov.uk). In addition, that website will also make available the authorisations exercised by the Scottish Ministers (Part 4).

4. Enforcement powers by appointing enforcement authorities (Part 5).

5. Consequential provisions (Part 6) and revocations (Part 7). In particular, these Regulations revoke the Animal By-Products (Scotland) Regulations 2003 and amending instruments.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Rural and Environment Directorate, Animal Health and Welfare Division, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD.

SCOTTISH STATUTORY INSTRUMENTS

2011 No. 155

WILDLIFE

COUNTRYSIDE

**The Conservation (Natural Habitats, &c.) Amendment
(Scotland) Regulations 2011**

Made - - - - - *22nd February 2011*

Laid before the Scottish Parliament *24th February 2011*

Coming into force - - - *6th April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972^(a) and section 26A of the Wildlife and Countryside Act 1981^(b), and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act of 1972, and it appears to the Scottish Ministers that it is expedient for references to EU instruments, or provisions of those instruments, in these Regulations to be construed as references to those instruments or provisions as amended from time to time.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2011 and come into force on 6th April 2011.

(2) These Regulations extend to Scotland only.

Amendment of the Conservation (Natural Habitats, &c.) Regulations 1994

2. The Conservation (Natural Habitats, &c.) Regulations 1994^(c) are amended in accordance with regulations 3 to 6.

-
- (a) 1972 c.68. Section 2(2) of the European Communities Act 1972 (the “1972 Act”) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (the “1998 Act”), section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (the “2006 Act”), and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) (the “2008 Act”). Paragraph 1A of Schedule 2 to the 1972 Act was inserted by section 28 of the 2006 Act, and amended by Part 1 of Schedule 1 to the 2008 Act. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (b) 1981 c.69. Section 26A of the Wildlife and Countryside Act 1981 was inserted by paragraph 22 of schedule 6 to the Nature Conservation (Scotland) Act 2004 (asp 6), and amended by section 44(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). This power is exercised to the extent that S.I. 1994/2716 as amended by this instrument provides for an offence punishable on summary conviction with imprisonment for a term not exceeding six months, despite the restriction in paragraph 1(1)(d) of Schedule 2 to the 1972 Act.
- (c) S.I. 1994/2716; relevant amendments are made by S.I. 2007/1843 and 2009/1307 and 2438, and by S.S.I. 2004/475, 2007/80, 349, 485, 517 and 570, 2008/17, 425 and 427, and 2009/222 and 343.

Interpretation

3. In regulation 2 (interpretation)(a)—

- (a) in paragraph (1), for the definition of “the Wild Birds Directive” substitute—

““the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(b), as amended from time to time;”, and
- (b) after paragraph (2), insert—

“(2ZA) Unless the context otherwise requires, expressions used in the Wild Birds Directive and in these Regulations have the same meaning as in that Directive.”.

Special protection areas

4. After regulation 9 (consultation as to inclusion of site omitted from the list)(c) insert—

“Special protection area: classification of sites

9A.—(1) The Scottish Ministers must classify as special protection areas such sites (including sites in the Scottish inshore region) as they consider necessary to ensure that the objective specified in paragraph (2) is attained.

(2) The objective referred to in paragraph (1) is that those sites across the United Kingdom’s territory which are most suitable in number and size for—

- (a) the conservation of species listed in Annex 1 to the Wild Birds Directive which naturally occur in that territory, and
- (b) the conservation of naturally occurring migratory species of birds not listed in Annex 1 which naturally occur in that territory,

are classified as special protection areas, in so far as they consist of sites in Scotland.

(3) The Scottish Ministers must make their decision as to the sites to be classified under paragraph (1) only on the basis of relevant scientific information and—

- (a) in the case of a site to be classified for the purpose mentioned in paragraph 2(a), on the basis of criteria set out in Article 4(1) of the Wild Birds Directive, and
- (b) in the case of a site to be classified for the purpose mentioned in paragraph 2(b), on the basis of criteria set out in Article 4(2) of that Directive.

(4) In this regulation—

- (a) a reference to a provision of the Wild Birds Directive is to be construed as a reference to that provision as amended from time to time, and
- (b) “Scottish inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to Scotland.

Special protection area: notification of proposal

9B.—(1) The Scottish Ministers must if they propose to classify a site as a special protection area give to the appropriate nature conservation body(d)—

- (a) notice of that proposal, and
- (b) an accompanying statement of the reasons for that proposal.

(a) Regulation 2 was relevantly amended by S.I. 2007/1843 and S.S.I. 2004/475 and 2007/80 and 570.
(b) O.J. No. L 20, 26.1.2010, p.7. This instrument codifies, with minor amendments, Council Directive 1979/409/EEC as amended.
(c) Regulation 9 was substituted by S.I. 2007/1843.
(d) Regulation 4(1) of S.I. 1994/2716 provides that in relation to Scotland “the appropriate nature conservation body” means Scottish Natural Heritage. Regulation 4(1) was inserted by S.I. 2007/1843.

(2) The appropriate nature conservation body must on being given notice of a proposal, provide a copy of the proposal and the accompanying statement—

- (a) to such persons as the Scottish Ministers may direct, and
- (b) where, in their opinion, it is appropriate to do so to—
 - (i) any other person (including owners or occupiers of land or premises), and
 - (ii) every competent authority which exercises functions in relation to the site, or in relation to an area adjacent to the site.

(3) The appropriate nature conservation body must when they provide a copy of a proposal and accompanying document to any such person or authority specify the period of not less than 12 weeks (the “consultation period”) during which representations may be made to them with respect to the proposal by that person or authority.

(4) The appropriate nature conservation body must as soon as reasonably practicable after expiry of the consultation period provide to the Scottish Ministers a report (the “consultation report”)—

- (a) describing any representations made in that period, or
- (b) stating that no representations have been made.

(5) The Scottish Ministers must consider the consultation report when determining whether to classify a site as a special protection area.

(6) The Scottish Ministers may—

- (a) give guidance to the appropriate nature conservation body for the purpose of the exercise by them of functions under this regulation, and
- (b) vary or revoke a direction under paragraph (2)(a).

(7) The appropriate nature conservation body must have regard to any guidance under paragraph (6)(a) in discharging a function referred to in that paragraph.

Special protection area: hearing and representations in respect of a proposal

9C.—(1) The Scottish Ministers may give any person the opportunity of—

- (a) making written representations to, or
- (b) being heard by,

a person appointed by them for the purpose of deciding whether to classify a site as a special protection area.

(2) Any person being heard by the appointed person may—

- (a) be represented by another person,
- (b) call persons to give evidence,
- (c) make written representations before or at the hearing,
- (d) put questions to any person who gives evidence at the hearing, including any person who gives expert evidence.

(3) The Scottish Ministers must have regard to the report of an appointed person when deciding whether to so classify a site.”.

Modification of the Nature Conservation (Scotland) Act 2004

5. In regulation 20 (Chapter 2 of Part 2 of the 2004 Act)(a), paragraph (a), for sub-paragraph (i) substitute—

“(i) in subsection 2(a) for “special interest,” there were substituted—

“significance in relation to the objectives of—

- (i) Council Directive 92/34/EEC on the conservation of natural habitats and of wild fauna and flora(b), as amended from time to time, and
- (ii) Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, as amended from time to time.””.

Delegation by the Scottish Ministers of licensing functions

6. After regulation 44 (grant of licences for certain purposes)(c) insert—

“Delegation of licence granting power: Scotland

44A.—(1) The Scottish Ministers may delegate their functions in relation to licences under regulation 44 to the appropriate nature conservation body.

(2) A delegation may be, to any degree, general or specific and may in particular relate to—

- (a) a particular type of animal or plant,
- (b) a particular licence or type of licence, or
- (c) a particular area.

(3) Unless it specifies otherwise, a delegation relating to a particular licence (or type of licence) includes the power to modify or revoke the licence (or licences of that type) where granted before the delegation.

(4) A delegation is to be made by written direction.

(5) The Scottish Ministers may modify or revoke a direction under paragraph (4).

(6) The requirement on the Scottish Ministers under regulation 44(5) to take advice from the appropriate nature conservation body does not apply in the period when a direction under paragraph (4) has effect, in respect of any licence granted under the direction.

(7) Where a direction is revoked, any existing licence granted under the direction continues to have effect (unless the revoking direction provides otherwise).”.

R CUNNINGHAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
22nd February 2011

(a) Regulation 20 was substituted by S.S.I. 2004/475.

(b) O.J. No. L 206, 22.7.1992, p.7, as last amended by Council Directive 2006/105/EC (O.J. No. L 363, 20.12.2006, p.368).

(c) Regulation 44 was relevantly amended by S.I. 2007/1843, and by S.S.I. 2004/475 and 2007/80.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716) (“the 1994 Regulations”).

They make provision for the transposition of Council Directive 92/34/EEC on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22.7.1992, p.7) (the “Habitats Directive”), and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds (O.J. No. L 20, 26.1.2010, p.7) (the “new Wild Birds Directive”).

Regulation 3 provides for the meaning of terms used both in the 1994 Regulations and the new Wild Birds Directive, and replaces the definition of Council Directive 79/409/EEC on the conservation of wild birds (O.J. No. L 103, 25.4.1979, p.1) (the “old Wild Birds Directive”) with a definition of the new Wild Birds Directive. It provides for the reference to the new Wild Birds Directive to be construed as a reference to that instrument as amended from time to time.

Regulation 4 inserts new regulations 9A to 9C into the 1994 Regulations, as follows:—

- (a) Regulation 9A of the 1994 Regulations has the effect that the Scottish Ministers must classify as a special protection area all sites up to territorial sea limit adjacent to Scotland that require to be classified pursuant to Articles 4(1) and 4(2) of the new Wild Birds Directive,
- (b) Regulation 9B of the 1994 Regulations provides for notification of a proposed special protection area to the appropriate nature conservation body (Scottish Natural Heritage), and for onward notification of the proposal by that body, and
- (c) Regulation 9C of the 1994 Regulations enables the Scottish Ministers to appoint a person to hear, or consider written representations from, any person for the purpose of deciding whether or not to classify a special protection area.

The Scottish Ministers are also subject to a duty to classify special protection areas in the Scottish offshore region as provided for by the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (S.I. 2007/1842).

Regulation 5 provides for references to the Habitats Directive and old Wild Birds Directive in regulation 20 of the 1994 Regulations to be substituted for references to the Habitats Directive and the new Wild Birds Directive as they are amended from time to time. Regulation 20 modifies the application of Chapter 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) in respect of special nature conservation orders as provided for by the 1994 Regulations.

Regulation 6 inserts a new regulation 44A into the 1994 Regulations. It has the effect that Ministers are able to delegate the exercise of their functions under regulation 44(2)(e) to (g) and (2A) of the 1994 Regulations to the appropriate nature conservation body.

A business and regulatory impact assessment has not been prepared for these Regulations.

SCOTTISH STATUTORY INSTRUMENTS

2011 No. 147

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES

The Radioactive Substances Exemption (Scotland) Order 2011

Made - - - - - *21st February 2011*
Laid before the Scottish Parliament *23rd February 2011*
Coming into force - - - *1st October 2011*

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The Scottish Ministers make the following Order in exercise of the powers conferred by sections 8(6) and (7), 11(1) and (2) and 15(2) of the Radioactive Substances Act 1993(a) and all other powers enabling them to do so.

(a) 1993 c.12. The functions of the Secretary of State were transferred to the Scottish Ministers by the Scotland Act 1998 (c.46), section 53.

PART 1

General

Citation, commencement and extent

1.—(1) This Order may be cited as the Radioactive Substances Exemption (Scotland) Order 2011 and comes into force on 1st October 2011.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“the Act” means the Radioactive Substances Act 1993;

“Ba-137m eluting source” means a source which consists of Cs-137 in a sealed container which is designed and constructed to allow the elution of Ba-137m, and which is radioactive material or radioactive waste solely because of that Cs-137;

“Bq” means becquerels;

“Class A gaseous tritium light device” means such a device where the activity of the device does not exceed 2×10^{10} Bq of tritium;

“Class B gaseous tritium light device” means such a device which is installed or intended to be installed on premises and where the activity—

(a) in each sealed container in the device does not exceed 8×10^{10} Bq of tritium; and

(b) of the device does not exceed 1×10^{12} Bq of tritium;

“Class C gaseous tritium light device” means such a device installed or intended to be installed—

(a) in a vessel or aircraft; or

(b) in a vehicle or other equipment used or intended to be used by the armed forces of the Crown;

“disposal permit” means—

(a) an authorisation under the Act to dispose of waste;

(b) a permit under the Environmental Permitting (England and Wales) Regulations 2010(a) in relation to the radioactive substances activity described in paragraph 5(2)(b) of Part 2 of Schedule 23 to those Regulations;

“electrodeposited source” means an article where radionuclides are electrodeposited onto a metal substrate and which is radioactive material or radioactive waste solely because it contains Ni-63 or Fe-55;

“gaseous tritium light device” means a sealed source in a device which is an illuminant, instrument, sign or indicator which—

(a) incorporates tritium in one or more sealed containers constructed to prevent dispersion of that tritium in normal use; and

(b) is radioactive material solely because it contains that tritium;

“landfill” has the meaning given to that term in Article 2(g) of Council Directive 1999/31/EC on the landfill of waste(b);

(a) S.I. 2010/675.

(b) O.J. L 182, 16.7.1999, p.1, as last amended by Directive 2008/98/EC of the European Parliament and of the Council (O.J. L 312, 22.11.2008, p.3).

“luminised article” means an article which is made wholly or partly from a luminescent substance in the form of a film or a paint and which—

- (a) is radioactive material or radioactive waste solely because it contains Pm-147 or H-3; and
- (b) is not a sealed source;

“recovery” has the same meaning as given to that term in Article 3(15) of Directive 2008/98/EC of the European Parliament and of the Council on waste^(a);

“relevant river” means a river or a part of a river which—

- (a) is not a part of the sea; and
- (b) which at the time of any disposal into it of aqueous radioactive waste from a sewage treatment works or directly from premises, has a flow rate which is not less than $1\text{m}^3\text{s}^{-1}$;

“relevant sewer” means—

- (a) a public sewer; or
- (b) a private sewer which leads to a sewage treatment works that—
 - (i) has the capacity to handle a minimum of 100m^3 of sewage per day; and
 - (ii) discharges treated sewage only to the sea or to a relevant river,

and “sewer”, “public sewer”, “private sewer”, “sewage treatment works” and “sewage” have the same meanings as in the Sewerage (Scotland) Act 1968^(b);

“relevant standard conditions” has the meaning given in paragraph 2 of Schedule 2;

“sea” includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

“sealed source” means a radioactive source containing radioactive material where the structure is designed to prevent, under normal use, any dispersion of radioactive substances, excluding such a source where it is an electrodeposited source or a tritium foil source;

“stored in transit” means the storage in the course of transit of radioactive material or radioactive waste, but does not include any storage of such material or waste where it is removed from its container;

“Table 1”, “Table 2”, “Table 3”, “Table 4” or “Table 5” means the table with that number in Schedule 1;

“a tritium foil source” means an article which—

- (a) has a mechanically tough surface into which tritium is incorporated; and
- (b) is radioactive material or radioactive waste solely because of that tritium;

“uranium or thorium compound” means a substance or article which is radioactive material or radioactive waste solely because it is or contains metallic uranium or thorium or prepared compounds of uranium or thorium, and in respect of which metal or compound the proportion of—

- (a) U-235 in the uranium it contains is no more than 0.72% by mass; and
- (b) any isotope of thorium it contains is present in the isotopic proportions found in nature;

“waste permitted person” means, in respect of the radioactive waste where the term appears, a person who holds—

- (a) an authorisation under the Act to dispose of or accumulate that waste;
- (b) a permit in respect of that waste under the Environmental Permitting (England and Wales) Regulations 2010 in relation to the radioactive substances activity described in paragraph 5(2)(b) or (c) of Part 2 of Schedule 23 to those Regulations;

(a) O.J. L 312, 22.11.2008, p.3.

(b) 1968 c. 47, as relevantly amended by the Water Industry (Scotland) Act 2002 (asp 3), schedule 5, paragraph 41(b)(iv) and the Water Environment and Water Services (Scotland) Act 2003 (asp 3), schedule 3, paragraph 23(a).

“week” means any period of seven consecutive days; and

“year” means a calendar year.

(2) In this Order, where any radionuclide carries the suffix “+” or “sec”—

- (a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 5 adjacent to that parent radionuclide; and
- (b) a concentration or activity value given in respect of such a parent radionuclide is the value for the parent radionuclide alone, but already takes into account the daughter radionuclides in column 2 that are present.

(3) In this Order, where any reference is made to radioactive material or radioactive waste possessing a concentration or quantity of radioactivity which does not exceed the value shown in a particular column in Table 1 or Table 4, that value is not exceeded if—

- (a) where only one radionuclide which is listed or described in the relevant table is present in the material or waste, the concentration or quantity of that radionuclide does not exceed the concentration or quantity specified in the appropriate entry of that column in that table; or
- (b) where more than one radionuclide which is listed or described in the relevant table is present, the sum of the quotient values of all such radionuclides in the material or waste, as determined by the summation rule following that table that applies to that column, is less than or equal to one.

(4) References in this Order to a section are to that section of the Act.

Interpretation: NORM

3.—(1) In this Order, “NORM waste” means a substance or article which is solid radioactive waste under—

- (a) section 1B; or
- (b) section 1C, where—
 - (i) the waste arises from the remediation of land; and
 - (ii) except where paragraph (2) applies, that land was contaminated by the process described in section 1C.

(2) Land is not contaminated under paragraph (1)(b)(ii) where the land is on a site in respect of which a nuclear site licence is or has been in force and the contamination occurred—

- (a) when that licence was in force; or
- (b) before that licence was granted, when the site was used for the purpose of installing or operating an installation described in subsection (1) of section 1 (restriction of certain nuclear installations to licensed sites) of the Nuclear Installations Act 1965(a) or in regulations made under that subsection.

(3) In this Order, “NORM waste concentration” means, in respect of radionuclides contained in NORM waste, the sum of the concentrations of the single radionuclide with the highest concentration in each of the natural decay chains beginning with—

- (a) U-238;
- (b) U-235; and
- (c) Th-232.

(a) 1965 c.57, as relevantly amended by S.I. 1974/2056 and 1990/1918, Schedule 1, paragraph 1.

Tables of radionuclides and descriptions of radioactive material and radioactive waste

4.—(1) Schedule 1 (tables of radionuclides and descriptions of radioactive material and radioactive waste) has effect.

(2) Schedule 2 (relevant standard conditions under Parts 2 and 3 of this Order) has effect.

PART 2

Exemption from registration under section 7 and authorisation under section 14

Exemption from registration under section 7

5.—(1) A person (“A”) is exempt from registration under section 7 (registration of users of radioactive material) in respect of—

- (a) subject to paragraph (2), the radioactive material described in article 7, where A complies with the relevant standard conditions, and any conditions in article 8 that apply to the material;
- (b) radioactive material stored in transit.

(2) A is not exempt from registration under paragraph (1)(a) in respect of a high-activity source where A takes possession of it.

Exemption from authorisation under section 14

6.—(1) A person (“A”) is exempt from authorisation under section 14 (accumulation of radioactive waste) in respect of—

- (a) subject to paragraph (2)(a), radioactive waste described in article 7—
 - (i) where A has received the waste for accumulation (with a view to its subsequent disposal by A) on premises on which A manages, treats or disposes of radioactive waste mixed with substantial quantities of waste which is not radioactive waste, provided that A disposes of the radioactive waste as soon as is practicable; or
 - (ii) except where head (i) applies, where A complies with any conditions in article 8 that apply to that waste and the relevant standard conditions;
- (b) subject to paragraph (2), radioactive waste consisting of a sealed source, an electrodeposited source or a tritium foil source, which—
 - (i) contains a quantity of radionuclides which exceeds the value specified in column 2 of Table 2 in respect of the relevant type of source; and
 - (ii) immediately before it became radioactive waste, was radioactive material in the form of a sealed source, an electrodeposited source or a tritium foil source (as appropriate),where A complies with the relevant standard conditions; or
- (c) radioactive waste stored in transit.

(2) A is not exempt from authorisation—

- (a) under paragraph (1)(a) or (b) in respect of a high-activity source where A accumulates it and it is waste when A takes possession of it; or
- (b) under paragraph (1)(b) where A has received the waste for the purpose of A disposing of it.

Radioactive substances exempted under articles 5 and 6

7.—(1) Subject to paragraph (2), articles 5 and 6(1)(a) apply to—

- (a) a substance or article described in an entry in column 1 of Table 2 which contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 2 in respect of that substance or article; or
- (b) any substance or article which is not described in an entry in column 1 of Table 2.

(2) Paragraph (1) does not apply to NORM waste with a NORM waste concentration which is less than or equal to 10 Bq/g.

Conditions in respect of the total quantity or concentration of radioactive substances on any premises

8.—(1) Paragraph (2) applies to a person (“A”) to whom article 5(1)(a) or 6(1)(a) applies in respect of an article described in article 7(1)(a).

(2) A must ensure that, in respect of the total amount of such substances or articles on the premises (including any such article which is on the premises and which is mobile radioactive apparatus), the quantity of radionuclides does not exceed the value for that substance or article in column 3 of Table 2.

(3) Paragraph (4) applies to a person (“B”) to whom article 5(1)(a) or 6(1)(a) applies in respect of a substance or article described in article 7(1)(b).

(4) B must ensure that—

- (a) in respect of the total amount of such substances and articles on the premises, the quantity of radioactivity does not exceed the value specified in column 2 of Table 1; or
- (b) no such substance or article on the premises contains a concentration of radioactivity that exceeds the value specified in column 3 of Table 1.

Exemption from authorisation under section 14 for NORM waste

9.—(1) Subject to paragraph (2), a person (“A”) is exempt from authorisation under section 14 in respect of the accumulation on premises of NORM waste with a NORM waste concentration that does not exceed 10Bq/g where—

(a) A has received the waste—

- (i) from another person under a disposal permit held by that person or under an exemption from holding such a permit that applied in respect of the transfer from that person; and
- (ii) for accumulation by A with a view to its subsequent disposal on those premises by A; or

(b) except where paragraph (a) applies, A complies with the relevant standard conditions.

(2) In respect of premises in respect of which A holds an authorisation under section 14 for the accumulation of NORM waste with a NORM waste concentration which exceeds 10Bq/g, the exception in paragraph (1) does not apply to A in respect of NORM waste with a NORM waste concentration which exceeds 5 Bq/g which is accumulated on those premises.

PART 3

Exemption from registration under section 10

Exemption from registration under section 10

10. A person (“A”) is exempt from registration under section 10 (registration of mobile radioactive apparatus) in respect of—

- (a) a mobile radioactive apparatus described in an entry in column 1 of Table 2 which contains a quantity of radionuclides that does not exceed the value specified in column 2 of Table 2 in respect of that apparatus, where A complies with paragraph (2);
 - (b) mobile radioactive apparatus stored in transit.
- (2) Where this paragraph applies, A must—
- (a) ensure that in relation to the total amount of all such mobile radioactive apparatus that A holds, the quantity of radionuclides does not exceed the value specified in respect of that apparatus in column 3 of Table 2; and
 - (b) comply with the relevant standard conditions.

PART 4

Exemption from authorisation under section 13: solid radioactive waste

Exemption from authorisation under section 13: solid radioactive waste

11.—(1) A person (“A”) is exempt from authorisation under section 13 (disposal of radioactive waste) in respect of the disposal on premises of solid radioactive waste described in article 12(1)(a) where—

- (a) A receives the waste for the purpose of it being disposed of by A and on those premises;
- (b) in respect of those premises A manages, treats or disposes of substantial quantities of waste which is not radioactive waste; and
- (c) the radioactive waste will be disposed of by A as soon as is practicable and whilst dispersed in non-radioactive waste.

(2) A person (“B”) to whom paragraph (1) does not apply is exempt from authorisation under section 13 in respect of the disposal from premises of solid radioactive waste described in article 12 where B complies with the conditions in article 13 that apply in respect of that waste.

Solid radioactive waste

12.—(1) Solid radioactive waste referred to in article 11 means—

- (a) subject to paragraph (2), solid radioactive waste described in an entry in column 1 of Table 3 which does not contain a concentration of radionuclides that exceeds the value specified in column 2 of that Table in respect of that kind of waste; or
 - (b) a sealed source, electrodeposited source or tritium foil source which is not described in sub-paragraph (a).
- (2) Paragraph (1) does not apply to waste—
- (a) where, prior to the disposal of that waste, a person has diluted it with the intention of ensuring that paragraph (1)(a) is met; or
 - (b) which is NORM waste with a NORM waste concentration which is less than or equal to 10 Bq/g.

Conditions in respect of solid radioactive waste

13.—(1) A person to whom article 11(2) applies in respect of a waste which is—

- (a) described in article 12(1)(a); and
- (b) not a sealed source, an electrodeposited source or a tritium foil source,

must ensure that the quantity of the waste or, as applicable, the quantity of any radionuclide which that waste contains, does not exceed the value specified in column 3 of Table 3 in respect of the total quantity of that waste disposed of on or from the premises during the period stated in that column.

(2) A person to whom article 11(2) applies must—

- (a) keep an adequate record of the solid radioactive waste which the person disposes of on or from any premises under that article;
- (b) dispose of the waste by a route identified in paragraph (3);
- (c) where the disposal route in paragraph (3)(a) is used, ensure that where practicable any marking or labelling of the waste or its container is removed before the person disposes of that waste;
- (d) where the waste is or was a high-activity source, notify the details of the disposal to SEPA within 14 days of the disposal (including the information required by Annex II of the HASS Directive), in such form as may be required by SEPA; and
- (e) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions that apply in respect of that article are complied with.

(3) The routes referred to in paragraph (2)(b) are by transfer to—

- (a) subject to paragraph (4), a person who disposes of substantial quantities of non-radioactive waste for burial in landfill, incineration or recovery and where the radioactive waste will be mixed with such non-radioactive waste for the purposes of such burial, incineration or recovery;
- (b) a waste permitted person; or
- (c) where the waste is a sealed source, an electrodeposited source or a tritium foil source, to a licensee of a nuclear site or to a person situated in another State who is lawfully entitled to receive such waste.

(4) The route in paragraph (3)(a) only applies in respect of waste described in article 12(1)(a)—

- (a) which is not a sealed source, an electrodeposited source or a tritium foil source; or
- (b) which is such a source, where in respect of the total amount of such sources which are disposed of on or from the premises under article 11(2), the quantity of the waste or, as applicable, the quantity of any radionuclide which that waste contains, does not exceed the value specified in column 3 of Table 3 in respect of that source during the period stated in that column.

PART 5

Exemption from authorisation under section 13: aqueous radioactive waste

Exemption from authorisation under section 13: aqueous radioactive waste in Table 3

14.—(1) Subject to paragraph (2), a person (“A”) is exempt from authorisation under section 13 in respect of an aqueous radioactive waste described in an entry in column 1 of Table 3, where A complies with the conditions in paragraph (3).

(2) Paragraph (1) does not apply to waste where the person who generated that waste did not take all practicable measures available to minimise the quantity of radionuclides generated as waste.

- (3) The conditions referred to in paragraph (1) are that A must—
- (a) ensure that in respect of the total amount of a waste described in that paragraph that is disposed of on or from the premises under that paragraph in a year, the quantity of the waste or, as applicable, the quantity of any radionuclide which that waste contains, does not exceed the value specified in column 3 of Table 3 in respect of that waste;
 - (b) dispose of the waste described in that paragraph to a relevant sewer or to a waste permitted person;
 - (c) keep an adequate record of the waste which A disposes of from the premises under that paragraph; and
 - (d) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions in this paragraph are complied with.

Exemption from authorisation under section 13: other aqueous radioactive waste

15.—(1) Subject to paragraph (2), a person (“A”) is exempt from authorisation under section 13 in respect of the waste described in paragraph (3) where A disposes of that waste in accordance with the conditions in article 16 that apply to A.

(2) Paragraph (1) does not apply to A in respect of premises in respect of which A holds an authorisation under section 13 in respect of aqueous radioactive waste.

(3) Subject to paragraph (4), the waste referred to in paragraph (1) is aqueous radioactive waste—

- (a) which is not described in an entry in column 1 of Table 3; and
- (b) with a total concentration of radioactivity which does not exceed 100 Bq/ml.

(4) Paragraph (3) does not apply to waste—

- (a) where a person has diluted it with the intention that—
 - (i) the waste has a concentration of radioactivity which is below the value in paragraph (3)(b); or
 - (ii) the condition in article 16(3)(a) or 16(4)(b) is complied with in respect of that waste; or
- (b) where the person who generated that waste did not take all practicable measures available to minimise the quantity of radionuclides generated as waste.

Conditions in respect of aqueous radioactive waste in article 15

16.—(1) A person (“A”) to whom article 15(1) applies must—

- (a) subject to paragraph (2), dispose of the waste in respect of which that article applies—
 - (i) directly into a relevant river or the sea;
 - (ii) to a relevant sewer; or
 - (iii) to a waste permitted person.
- (b) keep an adequate record of the waste which A disposes of from any premises under that article; and
- (c) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions that apply to A in respect of that article are complied with.

(2) In respect of disposals of aqueous non-Table 3 waste disposed of from the premises, A may not use both of the disposal routes described in paragraph (1)(a)(i) or (ii) in a year and where—

- (a) A uses the route in paragraph (i), the conditions in paragraph (3) apply to A; or
- (b) A uses the route in paragraph (ii), or A does not use the route in either paragraph (i) or paragraph (ii), the conditions in paragraph (4) apply to A.

- (3) Where this paragraph applies, A must ensure that—
- (a) in respect of any aqueous non-Table 3 waste which A disposes of, the concentration of radioactivity does not exceed the value shown in column 2 of Table 4; and
 - (b) in respect of the total amount of aqueous non-Table 3 waste which A disposes of from the premises in a year, the quantity of radioactivity does not exceed the value shown in column 4 of Table 4.
- (4) Where this paragraph applies—
- (a) where any of the aqueous non-Table 3 waste disposed of from the premises in a year has a concentration of radioactivity which exceeds the value shown in column 2 of Table 4, A must not, in respect of the total amount of aqueous non-Table 3 waste which is disposed of from those premises in a year, dispose of a quantity of radionuclides which exceeds—
 - (i) 1×10^8 Bq for the sum of the following radionuclides: H-3, C-11, C-14, F-18, P-32, P-33, S-35, Ca-45, Cr-51, Fe-55, Ga-67, Sr-89, Y-90, Tc-99m, In-111, I-123, I-125, I-131, Sm-153, Tl-201; and
 - (ii) 1×10^6 Bq for the sum of all other radionuclides;
 or
 - (b) where all of the aqueous non-Table 3 waste disposed of from the premises in a year has a concentration of radioactivity which does not exceed the value shown in column 2 of Table 4, A must ensure that, in respect of the total amount of such waste disposed of from the premises in a year, the quantity of radioactivity does not exceed—
 - (i) the value shown in column 3 of Table 4; or
 - (ii) the quantity in sub-paragraph (a).
- (5) In this article, “aqueous non-Table 3 waste” means aqueous radioactive waste which is not described in an entry in column 1 of Table 3.

PART 6

Exemption from authorisation under section 13: gaseous radioactive waste

Exemption from authorisation under section 13: gaseous radioactive waste

17.—(1) Subject to paragraph (2), a person (“A”) is exempt from authorisation under section 13 in respect of—

- (a) gaseous radioactive waste where the only radionuclide contained in that waste is Kr-85, where that person complies with the conditions in article 18; or
- (b) subject to paragraph (3), gaseous radioactive waste—
 - (i) which is released from within a container at the time that the container is opened; and
 - (ii) that has been emitted by solid or liquid radioactive material within the container, where that person complies with the conditions in article 18(2).

(2) Paragraph (1) does not apply to waste where the person who generated that waste did not take all practicable measures available to minimise the quantity of radionuclides generated as waste.

(3) Paragraph (1)(b) does not apply in respect of any gas which arises as a result of a process applied by a person to the contained radioactive material.

Conditions in respect of gaseous radioactive waste

18.—(1) A person to whom article 17(1)(a) applies must ensure that in respect of the total amount of waste described in that sub-paragraph which is disposed of from the premises in a year, the total quantity of radioactivity does not exceed 10^{11} Bq.

(2) A person to whom article 17(1) applies must—

- (a) to the extent that is reasonably practicable, in respect of gaseous radioactive waste to which that article applies—
 - (i) which arises in a building, cause the waste to be disposed of by an extraction system which removes the waste from the area where it arose and which vents the waste into the atmosphere; and
 - (ii) prevent the entry or, where paragraph (i) applies, the re-entry, of the gaseous radioactive waste into a building; and
- (b) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions that apply to that person in respect of that article are complied with.

PART 7

Exemption from authorisation under section 13: NORM waste

Exemption from authorisation under section 13 for NORM waste

19.—(1) A person (“A”) is exempt from authorisation under section 13 in respect of the disposal on premises of NORM waste with a NORM waste concentration that does not exceed 10 Bq/g where A receives the waste—

- (a) from another person under a disposal permit held by that person or under an exemption from holding such a permit that applied in respect of the transfer from that person; and
- (b) for the purpose of its disposal by A on those premises.

(2) A person (“B”) to whom paragraph (1) does not apply is exempt from authorisation under section 13 in respect of the disposal on or from premises of—

- (a) NORM waste with a NORM waste concentration that does not exceed 5 Bq/g where—
 - (i) the quantity of radionuclides in the total amount of such NORM waste disposed of per year by B on or from those premises does not exceed 5×10^{10} Bq and B complies with the conditions in article 20(1); or
 - (ii) subject to paragraph (3), the quantity exceeds that number and B complies with the conditions in article 20 which apply to B; or
- (b) subject to paragraph (3), NORM waste with a NORM waste concentration that exceeds 5 Bq/g but does not exceed 10 Bq/g where B complies with the conditions in article 20.

(3) The exemptions in paragraphs (1), (2)(a)(ii) and (2)(b) do not apply to a person in respect of premises in respect of which that person holds an authorisation under section 13 for the disposal on or from those premises of NORM waste with a NORM waste concentration which exceeds 10 Bq/g.

Conditions in respect of NORM waste

20.—(1) A person (“B”) to whom article 19(2)(a) or (b) applies must—

- (a) keep an adequate record of the NORM waste which B disposes of on or from any premises under that article;
- (b) where the disposal route in sub-paragraph (c)(i) or (ii) is used, ensure that where practicable any marking or labelling of the waste or its container is removed before B disposes of that waste;

- (c) dispose of the NORM waste in respect of which that article applies—
 - (i) subject to paragraph (3) where it applies, by burial in landfill (or transfer to a person for such burial);
 - (ii) by incineration (or transfer to a person for such incineration), but only to the extent that—
 - (aa) none of the incinerated waste has a NORM waste concentration in excess of 5 Bq/g; and
 - (bb) the quantity of radionuclides in the total amount of NORM waste incinerated per year does not exceed 1×10^8 Bq; or
 - (iii) to a waste permitted person; and
 - (d) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions that apply to B in respect of that article are complied with.
- (2) Paragraph (3) applies to a person (“B”) to whom article 19(2)(a)(ii) or (b) applies where B intends to dispose of NORM waste under one of those exemptions by burial in landfill.
- (3) B must—
- (a) make a written radiological assessment of the reasonably foreseeable pathways for the exposure of workers and the public to radiation in respect of the disposal of that waste at the place of disposal;
 - (b) be satisfied that the assessment demonstrates that radiation doses are not expected to exceed—
 - (i) 1mSv per year to workers at the place of disposal; and
 - (ii) 300µSv per year to the public;
 - (c) provide that assessment to SEPA at least 28 days before the first disposal is made; and
 - (d) not dispose of that waste or continue to do so if SEPA objects in writing to that assessment.

PART 8

Transitional Provisions

Previously exempt activity in relation to keeping or using radioactive material

21.—(1) This article applies to a person (“A”) carrying on an activity immediately before 1st October 2011 in relation to radioactive material (the “continuing activity”) where—

- (a) the activity is described in section 6 (prohibition of use of radioactive material without registration); and
- (b) immediately before 1st October 2011 A was exempted from the duty to hold a registration granted under section 7 (registration of users of radioactive material) in relation to that activity under one of the Orders listed in Schedule 3 to this Order.

(2) In relation to the continuing activity, the exemption described in paragraph (1)(b) continues to have effect in relation to A, subject to any conditions specified in the Order in which that exemption is contained, until the date calculated in accordance with paragraph (3).

(3) The date referred to in paragraph (2) is—

- (a) where, in relation to the continuing activity, A does not become exempted under article 5 of this Order from the duty to hold a registration before 1st April 2012—
 - (i) where A applies for a registration under section 7 in relation to that activity before 1st April 2012—
 - (aa) if the application is granted, the date of grant;

- (bb) if the application is refused and A appeals against the refusal under section 26 (registrations, authorisations and notices: appeals from decisions of the appropriate agency), the date on which the appeal is determined or withdrawn;
- (cc) if the application is refused and A is entitled to appeal against the refusal in accordance with section 26 of the Act, but does not do so, the date which is the day after the last day on which an appeal could have been brought, determined in accordance with the appeals regulations; or
- (dd) if the application is refused and A is not entitled to appeal against the refusal in accordance with section 26, the date of the refusal; or
- (ii) where A does not so apply, the earlier of—
 - (aa) 1st April 2012; or
 - (bb) the day on which A ceases to carry out the activity;
- (b) where A does become so exempted under that article before 1st April 2012, the day on which A first becomes so exempted.

(4) Where A—

- (a) on 1st October 2011, holds a registration under section 7 in respect of an activity described in paragraph (1) to which paragraph (1)(b) does not apply; and
- (b) in relation to that continuing activity, applies for a variation of that registration instead of applying for a new registration,

then paragraph (3) applies to A in relation to the calculation of the duration of the exemption, but with references in that paragraph to an application for a variation of a registration under section 12 (cancellation and variation of registrations) substituted for references to an application for registration under section 7.

(5) In this Part, “the appeals regulations” means the Radioactive Substances (Appeals) Regulations 1990(a).

Previously exempt activity in relation to mobile radioactive apparatus

22.—(1) This article applies to a person (“A”) carrying on an activity immediately before 1st October 2011 in relation to mobile radioactive apparatus (the “continuing activity”) where—

- (a) the activity is described in section 9 (prohibition of use of mobile radioactive apparatus without registration); and
- (b) immediately before 1st October 2011 A was exempted from the duty to hold a registration granted under section 10 (registration of mobile radioactive apparatus) in relation to that activity under one of the Orders listed in Schedule 3 to this Order.

(2) In relation to the continuing activity the exemption described in paragraph (1)(b) continues to have effect in relation to A, subject to any conditions specified in the Order in which that exemption is contained, until the date calculated in accordance with paragraph (3).

(3) The date referred to in paragraph (2) is—

- (a) where, in relation to the continuing activity, A does not become exempted under article 10 of this Order from the duty to hold a registration before 1st April 2012—
 - (i) where A applies for a registration under section 10 in relation to that activity before 1st April 2012—
 - (aa) if the application is granted, the date of grant;
 - (bb) if the application is refused and A appeals against the refusal under section 26, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and A is entitled to appeal against the refusal in accordance with section 26, but does not do so, the date which is the day after

(a) S.I. 1990/2504.

- the last day on which an appeal could have been brought, determined in accordance with the appeals regulations; or
- (dd) if the application is refused, and A is not entitled to appeal against the refusal in accordance with section 26, the date of the refusal; or
- (ii) where A does not so apply, the earlier of—
 - (aa) 1st April 2012; or
 - (bb) the day on which A ceases to carry out the activity;
- (b) where A does become so exempted under that article before 1st April 2012, the day on which A first becomes so exempted.
- (4) Where A—
 - (a) on 1st October 2011, holds a registration under section 10 in respect of an activity described in paragraph (1) to which paragraph (1)(b) does not apply; and
 - (b) in relation to that continuing activity, applies for a variation of that registration instead of applying for a new registration,
 then paragraph (3) applies to A in relation to the calculation of the duration of the exemption, but with references in that paragraph to an application for a variation of a registration under section 12 substituted for references to an application for a registration under section 10.

Previously excluded activity in relation to disposal of radioactive waste

23.—(1) This article applies to a person (“A”) carrying on an activity immediately before 1st October 2011 in relation to radioactive waste (the “continuing activity”) where—

- (a) the activity is described in section 13 (disposal of radioactive waste); and
- (b) immediately before 1st October 2011 A was excluded from the duty to hold an authorisation granted under that section in relation to that activity under one of the Orders listed in Schedule 3 to this Order.

(2) In relation to the continuing activity the exclusion described in paragraph (1)(b) continues to have effect in relation to A, subject to any conditions specified in the Order in which that exclusion is contained, until the date calculated in accordance with paragraph (3).

(3) The date referred to in paragraph (2) is—

- (a) where, in relation to the continuing activity, A does not become exempted under article 11, 14, 15, 17 or 19 of this Order from the duty to hold an authorisation before 1st April 2012—
 - (i) where A applies for an authorisation under section 13 in relation to that activity before 1st April 2012—
 - (aa) if the application is granted, the date of grant;
 - (bb) if the application is refused and A appeals against the refusal under section 26, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and A is entitled to appeal against the refusal in accordance with section 26, but does not do so, the date which is the day after the last day on which an appeal could have been brought, determined in accordance with the appeals regulations; or
 - (dd) if the application is refused, and A is not entitled to appeal against the refusal in accordance with section 26, the date of the refusal; or
 - (ii) where A does not so apply, the earlier of—
 - (aa) 1st April 2012; or
 - (bb) the day on which A ceases to carry out the activity;
- (b) where A does become so exempted under any of those articles before 1st April 2012, the day on which A first becomes so exempted.

(4) Where A—

- (a) on 1st October 2011, holds an authorisation under section 13 in respect of an activity described in paragraph (1) to which paragraph (1)(b) does not apply; and
- (b) in relation to that continuing activity, applies for a variation of that authorisation instead of applying for a new authorisation,

then paragraph (3) applies to A in relation to the calculation of the duration of the exclusion, but with references in that paragraph to an application for a variation of an authorisation under section 17 (revocation and variation of authorisations) substituted for references to an application for an authorisation under section 13.

Previously excluded activity in relation to accumulation of radioactive waste

24.—(1) This article applies to a person (“A”) carrying on an activity immediately before 1st October 2011 in relation to radioactive waste (the “continuing activity”) where—

- (a) the activity is described in section 14 (accumulation of radioactive waste); and
- (b) immediately before 1st October 2011 A was excluded from the duty to hold an authorisation granted under that section in relation to that activity under one of the Orders listed in Schedule 3 to this Order.

(2) In relation to the continuing activity the exclusion described in paragraph (1)(b) continues to have effect in relation to A, subject to any conditions specified in the Order in which that exclusion is contained, until the date calculated in accordance with paragraph (3).

(3) The date referred to in paragraph (2) is—

- (a) where, in relation to the continuing activity, A does not become exempted under article 6 or 9 of this Order from the duty to hold an authorisation before 1st April 2012—
 - (i) where A applies for an authorisation under section 14 in relation to that activity before 1st April 2012—
 - (aa) if the application is granted, the date of grant;
 - (bb) if the application is refused and A appeals against the refusal under section 26, the date on which the appeal is determined or withdrawn;
 - (cc) if the application is refused, and A is entitled to appeal against the refusal in accordance with section 26, but does not do so, the date which is the day after the last day on which an appeal could have been brought, determined in accordance with the appeals regulations; or
 - (dd) if the application is refused, and A is not entitled to appeal against the refusal in accordance with section 26, the date of the refusal; or
 - (ii) where A does not so apply, the earlier of—
 - (aa) 1st April 2012; or
 - (bb) the day on which A ceases to carry out the activity;
- (b) where A does become so exempted under either of those articles before 1st April 2012, the day on which A first becomes so exempted.

(4) Where A—

- (a) on 1st October 2011, holds an authorisation under section 14 in respect of an activity described in paragraph (1) to which paragraph (1)(b) does not apply; and
- (b) in relation to that continuing activity, applies for a variation of that authorisation instead of applying for a new authorisation,

then paragraph (3) applies to A in relation to the calculation of the duration of the exclusion, but with references in that paragraph to an application for a variation of an authorisation under section 17 substituted for references to an application for an authorisation under section 14.

PART 9

Revocations and savings

Revocations

25. The instruments in Schedule 3 are revoked.

Savings

26. Despite their revocation, the instruments in Schedule 3 continue in force for the purposes of, and to the extent provided by, Part 8 of this Order.

St Andrew's House,
Edinburgh
21st February 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE 1

Article 4

Tables of radionuclides and descriptions of radioactive material and radioactive waste

Table 1

Radionuclides: values of quantities and concentrations

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
H-3	10^9	10^6
Be-7	10^7	10^3
C-14	10^7	10^4
O-15	10^9	10^2
F-18	10^6	10
Na-22	10^6	10
Na-24	10^5	10
Si-31	10^6	10^3
P-32	10^5	10^3
P-33	10^8	10^5
S-35	10^8	10^5
Cl-36	10^6	10^4
Cl-38	10^5	10
Ar-37	10^8	10^6
Ar-41	10^9	10^2
K-42	10^6	10^2
K-43	10^6	10
Ca-45	10^7	10^4
Ca-47	10^6	10
Sc-46	10^6	10
Sc-47	10^6	10^2
Sc-48	10^5	10
V-48	10^5	10
Cr-51	10^7	10^3
Mn-51	10^5	10
Mn-52	10^5	10
Mn-52m	10^5	10
Mn-53	10^9	10^4
Mn-54	10^6	10
Mn-56	10^5	10
Fe-52	10^6	10
Fe-55	10^6	10^4
Fe-59	10^6	10
Co-55	10^6	10
Co-56	10^5	10
Co-57	10^6	10^2
Co-58	10^6	10
Co-58m	10^7	10^4

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
Co-60	10^5	10
Co-60m	10^6	10^3
Co-61	10^6	10^2
Co-62m	10^5	10
Ni-59	10^8	10^4
Ni-63	10^8	10^5
Ni-65	10^6	10
Cu-64	10^6	10^2
Zn-65	10^6	10
Zn-69	10^6	10^4
Zn-69m	10^6	10^2
Ga-72	10^5	10
Ge-71	10^8	10^4
As-73	10^7	10^3
As-74	10^6	10
As-76	10^5	10^2
As-77	10^6	10^3
Se-75	10^6	10^2
Br-82	10^6	10
Kr-74	10^9	10^2
Kr-76	10^9	10^2
Kr-77	10^9	10^2
Kr-79	10^5	10^3
Kr-81	10^7	10^4
Kr-83m	10^{12}	10^5
Kr-85	10^4	10^5
Kr-85m	10^{10}	10^3
Kr-87	10^9	10^2
Kr-88	10^9	10^2
Rb-86	10^5	10^2
Sr-85	10^6	10^2
Sr-85m	10^7	10^2
Sr-87m	10^6	10^2
Sr-89	10^6	10^3
Sr-90+	10^4	10^2
Sr-91	10^5	10
Sr-92	10^6	10
Y-90	10^5	10^3
Y-91	10^6	10^3
Y-91m	10^6	10^2
Y-92	10^5	10^2
Y-93	10^5	10^2
Zr-93+	10^7	10^3
Zr-95	10^6	10
Zr-97+	10^5	10
Nb-93m	10^7	10^4
Nb-94	10^6	10
Nb-95	10^6	10

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
Nb-97	10 ⁶	10
Nb-98	10 ⁵	10
Mo-90	10 ⁶	10
Mo-93	10 ⁸	10 ³
Mo-99	10 ⁶	10 ²
Mo-101	10 ⁶	10
Tc-96	10 ⁶	10
Tc-96m	10 ⁷	10 ³
Tc-97	10 ⁸	10 ³
Tc-97m	10 ⁷	10 ³
Tc-99	10 ⁷	10 ⁴
Tc-99m	10 ⁷	10 ²
Ru-97	10 ⁷	10 ²
Ru-103	10 ⁶	10 ²
Ru-105	10 ⁶	10
Ru-106+	10 ⁵	10 ²
Rh-103m	10 ⁸	10 ⁴
Rh-105	10 ⁷	10 ²
Pd-103	10 ⁸	10 ³
Pd-109	10 ⁶	10 ³
Ag-105	10 ⁶	10 ²
Ag-108m+	10 ⁶	10
Ag-110m	10 ⁶	10
Ag-111	10 ⁶	10 ³
Cd-109	10 ⁶	10 ⁴
Cd-115	10 ⁶	10 ²
Cd-115m	10 ⁶	10 ³
In-111	10 ⁶	10 ²
In-113m	10 ⁶	10 ²
In-114m	10 ⁶	10 ²
In-115m	10 ⁶	10 ²
Sn-113	10 ⁷	10 ³
Sn-125	10 ⁵	10 ²
Sb-122	10 ⁴	10 ²
Sb-124	10 ⁶	10
Sb-125	10 ⁶	10 ²
Te-123m	10 ⁷	10 ²
Te-125m	10 ⁷	10 ³
Te-127	10 ⁶	10 ³
Te-127m	10 ⁷	10 ³
Te-129	10 ⁶	10 ²
Te-129m	10 ⁶	10 ³
Te-131	10 ⁵	10 ²
Te-131m	10 ⁶	10
Te-132	10 ⁷	10 ²
Te-133	10 ⁵	10
Te-133m	10 ⁵	10
Te-134	10 ⁶	10

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
I-123	10^7	10^2
I-125	10^6	10^3
I-126	10^6	10^2
I-129	10^5	10^2
I-130	10^6	10
I-131	10^6	10^2
I-132	10^5	10
I-133	10^6	10
I-134	10^5	10
I-135	10^6	10
Xe-131m	10^4	10^4
Xe-133	10^4	10^3
Xe-135	10^{10}	10^3
Cs-129	10^5	10^2
Cs-131	10^6	10^3
Cs-132	10^5	10
Cs-134m	10^5	10^3
Cs-134	10^4	10
Cs-135	10^7	10^4
Cs-136	10^5	10
Cs-137+	10^4	10
Cs-138	10^4	10
Ba-131	10^6	10^2
Ba-140+	10^5	10
La-140	10^5	10
Ce-139	10^6	10^2
Ce-141	10^7	10^2
Ce-143	10^6	10^2
Ce-144+	10^5	10^2
Pr-142	10^5	10^2
Pr-143	10^6	10^4
Nd-147	10^6	10^2
Nd-149	10^6	10^2
Pm-147	10^7	10^4
Pm-149	10^6	10^3
Sm-151	10^8	10^4
Sm-153	10^6	10^2
Eu-152	10^6	10
Eu-152m	10^6	10^2
Eu-154	10^6	10
Eu-155	10^7	10^2
Gd-153	10^7	10^2
Gd-159	10^6	10^3
Tb-160	10^6	10
Dy-165	10^6	10^3
Dy-166	10^6	10^3
Ho-166	10^5	10^3
Er-169	10^7	10^4

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
Er-171	10^6	10^2
Tm-170	10^6	10^3
Tm-171	10^8	10^4
Yb-175	10^7	10^3
Lu-177	10^7	10^3
Hf-181	10^6	10
Ta-182	10^4	10
W-181	10^7	10^3
W-185	10^7	10^4
W-187	10^6	10^2
Re-186	10^6	10^3
Re-188	10^5	10^2
Os-185	10^6	10
Os-191	10^7	10^2
Os-191m	10^7	10^3
Os-193	10^6	10^2
Ir-190	10^6	10
Ir-192	10^4	10
Ir-194	10^5	10^2
Pt-191	10^6	10^2
Pt-193m	10^7	10^3
Pt-197	10^6	10^3
Pt-197m	10^6	10^2
Au-198	10^6	10^2
Au-199	10^6	10^2
Hg-197	10^7	10^2
Hg-197m	10^6	10^2
Hg-203	10^5	10^2
Tl-200	10^6	10
Tl-201	10^6	10^2
Tl-202	10^6	10^2
Tl-204	10^4	10^4
Pb-203	10^6	10^2
Pb-210+	10^4	10
Pb-212+	10^5	10
Bi-206	10^5	10
Bi-207	10^6	10
Bi-210	10^6	10^3
Bi-212+	10^5	10
Po-203	10^6	10
Po-205	10^6	10
Po-207	10^6	10
Po-210	10^4	10
At-211	10^7	10^3
Rn-220+	10^7	10^4
Rn-222+	10^8	10
Ra-223+	10^5	10^2
Ra-224+	10^5	10

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
Ra-225	10^5	10^2
Ra-226+	10^4	10
Ra-227	10^6	10^2
Ra-228+	10^5	10
Ac-228	10^6	10
Th-226+	10^7	10^3
Th-227	10^4	10
Th-228+	10^4	1
Th-229+	10^3	1
Th-230	10^4	1
Th-231	10^7	10^3
Th-232 sec	10^3	1
Th-234+	10^5	10^3
Pa-230	10^6	10
Pa-231	10^3	1
Pa-233	10^7	10^2
U-230+	10^5	10
U-231	10^7	10^2
U-232+	10^3	1
U-233	10^4	10
U-234	10^4	10
U-235+	10^4	10
U-236	10^4	10
U-237	10^6	10^2
U-238+	10^4	10
U-238 sec	10^3	1
U-239	10^6	10^2
U-240	10^7	10^3
U-240+	10^6	10
Np-237+	10^3	1
Np-239	10^7	10^2
Np-240	10^6	10
Pu-234	10^7	10^2
Pu-235	10^7	10^2
Pu-236	10^4	10
Pu-237	10^7	10^3
Pu-238	10^4	1
Pu-239	10^4	1
Pu-240	10^3	1
Pu-241	10^5	10^2
Pu-242	10^4	1
Pu-243	10^7	10^3
Pu-244	10^4	1
Am-241	10^4	1
Am-242	10^6	10^3
Am-242m+	10^4	1
Am-243+	10^3	1
Cm-242	10^5	10^2

<i>Radionuclides</i>	<i>Maximum quantity (Bq) on any premises</i>	<i>Maximum concentration (Bq/g)</i>
Cm-243	10 ⁴	1
Cm-244	10 ⁴	10
Cm-245	10 ³	1
Cm-246	10 ³	1
Cm-247	10 ⁴	1
Cm-248	10 ³	1
Bk-249	10 ⁶	10 ³
Cf-246	10 ⁶	10 ³
Cf-248	10 ⁴	10
Cf-249	10 ³	1
Cf-250	10 ⁴	10
Cf-251	10 ³	1
Cf-252	10 ⁴	10
Cf-253	10 ⁵	10 ²
Cf-254	10 ³	1
Es-253	10 ⁵	10 ²
Es-254	10 ⁴	10
Es-254m	10 ⁶	10 ²
Fm-254	10 ⁷	10 ⁴
Fm-255	10 ⁶	10 ³
Any other radionuclide that is: (a) not of natural terrestrial or cosmic origin; or (b) listed in Table 2 of Schedule 1A to the Act.	10 ³ , or the quantity given in respect of that radionuclide in the Health Protection Agency's publication <i>'Exempt Concentrations and Quantities for Radionuclides not Included in the European Basic Safety Standards Directive'</i> (a).	1, or the concentration given in respect of that radionuclide in the document referenced in column 2.

1. "The Table 1 column 2 summation rule" means the sum of the quotient A/B where—
 - (a) "A" means the quantity of each radionuclide listed in column 1 of Table 1 that is present in the material and waste; and
 - (b) "B" means the quantity of that radionuclide specified in column 2 of Table 1.
2. "The Table 1 column 3 summation rule" means the sum of the quotient C/D where—
 - (a) "C" means the concentration of each radionuclide listed in column 1 of Table 1 that is present in the material and waste; and
 - (b) "D" means the concentration of that radionuclide specified in column 3 of Table 1.

(a) NRPB- R306 - Exempt Concentrations and Quantities for Radionuclides not Included in the European Basic Safety Standards Directive (April 1999), ISBN 0-85951-429-3.

Table 2**Radioactive material and accumulated radioactive waste: values of maximum quantities**

<i>Substance or article</i>	<i>Maximum quantity of radionuclides for each substance or article</i>	<i>Maximum quantity of radionuclides: - on any premises in items which satisfy the limit in column 2; or -in mobile radioactive apparatus held by a person</i>
A sealed source of a type not described in any other row of this table.	4×10^6 Bq	2×10^8 Bq
A Class A gaseous tritium light device.	2×10^{10} Bq	5×10^{12} Bq
A Class B gaseous tritium light device.	1×10^{12} Bq	3×10^{13} Bq
A Class C gaseous tritium light device.	1×10^{12} Bq	No limit.
Any sealed source which is solely radioactive material or radioactive waste because it contains tritium.	2×10^{10} Bq	5×10^{12} Bq
A tritium foil source.	2×10^{10} Bq	5×10^{12} Bq
A smoke detector affixed to premises.	4×10^6 Bq	No limit.
An electrodeposited source.	6×10^8 Bq Ni-63 or 2×10^8 Bq Fe-55	6×10^{11} Bq
A luminised article.	8×10^7 Bq Pm-147 or 4×10^9 Bq H-3	4×10^{10} Bq Pm-147 or 2×10^{11} Bq H-3
A Ba-137m eluting source.	4×10^4 Bq Cs-137+	4×10^5 Bq Cs-137+
A substance or article which is or contains magnesium alloy or thoriated tungsten in which the thorium concentration does not exceed 4% by mass.	No limit.	No limit.
A uranium or thorium compound.	Up to a total of 5 kg of uranium and thorium.	Up to a total of 5 kg of uranium and thorium.
A substance or article (other than a sealed source) which is intended for use for medical or veterinary diagnosis or treatment or clinical or veterinary trials.	1×10^9 Bq Tc-99m and in respect of the total for all other radionuclides— (i) 1×10^8 Bq if the substance or article is radioactive material; or (ii) 2×10^8 Bq if the substance or article is radioactive waste.	1×10^9 Bq Tc-99m and 2×10^8 Bq of all other radionuclides, (no more than 1×10^8 Bq of which is contained in radioactive material).

Table 3**Radioactive waste: values of quantities and concentrations**

<i>Radioactive waste</i>	<i>Maximum concentration of radionuclides</i>	<i>Maximum quantity of waste to be disposed of in the period stated</i>
Solid radioactive waste, with no single item $> 4 \times 10^4$ Bq.	4×10^5 Bq for the sum of all radionuclides per 0.1m^3 .	2×10^8 Bq/year
Solid radioactive waste containing tritium and C-14 only, with no single item $> 4 \times 10^5$ Bq.	4×10^6 Bq of tritium and C-14 per 0.1m^3 .	2×10^9 Bq/year
Individual sealed sources.	2×10^5 Bq for the sum of all radionuclides per 0.1m^3 .	1×10^7 Bq/year
Individual sealed sources which are radioactive waste solely because they contain tritium.	2×10^{10} Bq of tritium per 0.1m^3 .	1×10^{13} Bq/year
Luminised articles with no single item containing $> 8 \times 10^7$ Bq of Pm-147 or $> 4 \times 10^9$ of tritium.	8×10^7 Bq per 0.1m^3 of Pm-147 or 4×10^9 Bq per 0.1m^3 for tritium.	2×10^9 Bq/year of Pm-147 or 1×10^{11} Bq/year of tritium.
Solid radioactive waste which consists of magnesium alloy, thoriated tungsten or dross from hardener alloy in which the thorium concentration does not exceed 4% by mass.	No limit.	No limit.
Solid uranium or thorium compound.	No limit.	0.5 kg of uranium or thorium per week.
Aqueous liquid uranium or thorium compound.	No limit.	0.5 kg of uranium or thorium per year.
Radioactive waste in aqueous solution being human excreta.	No limit.	1×10^{10} Bq/year of Tc-99m and 5×10^9 Bq/year for the sum of all other radionuclides.

Table 4**Aqueous radioactive waste values**

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
H-3	10^3	10^{10}	10^{10}
Be-7	1	10^7	10^7
C-14	0.1	10^6	10^6
F-18	0.1	10^6	10^6
Na-22	1	10^6	10^7
Na-24	1	10^7	10^7
Si-31	10	10^8	10^8

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
P-32	0.001	10^4	10^4
P-33	0.001	10^4	10^4
S-35	10	3×10^7	10^8
Cl-36	10	10^7	10^8
Cl-38	0.1	10^6	10^6
K-42	0.01	10^5	10^5
K-43	0.01	10^5	10^5
Ca-45	1	10^7	10^7
Ca-47	0.1	10^6	10^6
Sc-46	0.001	10^4	10^4
Sc-47	0.01	10^5	10^5
Sc-48	0.001	10^4	10^4
V-48	1	10^7	10^7
Cr-51	10	10^8	10^8
Mn-51	0.001	10^4	10^4
Mn-52	0.001	10^4	10^4
Mn-52m	0.001	10^4	10^4
Mn-53	1	10^7	10^7
Mn-54	0.01	10^5	10^5
Mn-56	0.001	10^4	10^4
Fe-52	0.01	10^5	10^5
Fe-55	1	10^7	10^7
Fe-59	0.01	10^5	10^5
Co-55	0.001	10^4	10^4
Co-56	0.001	10^4	10^4
Co-57	0.1	10^6	10^6
Co-58	0.1	10^6	10^6
Co-58m	1	10^7	10^7
Co-60	0.01	10^5	10^5
Co-60m	1	10^7	10^7
Co-61	0.1	10^6	10^6
Co-62m	0.001	10^4	10^4
Ni-59	1	10^7	10^7
Ni-63	10^2	10^9	10^9
Ni-65	0.01	10^5	10^5
Cu-64	0.1	10^6	10^6
Zn-65	0.1	3×10^5	10^6
Zn-69	10	10^8	10^8
Zn-69m	0.1	10^6	10^6
Ga-67	0.1	10^6	10^6
Ga-72	0.001	10^4	10^4
Ge-71	1	10^7	10^7
As-73	10	10^8	10^8
As-74	1	10^7	10^7
As-76	1	10^7	10^7
As-77	1	10^7	10^7

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
Se-75	0.1	3×10^5	10^6
Br-82	0.1	10^6	10^6
Rb-86	0.1	10^6	10^6
Sr-85	0.1	10^6	10^6
Sr-85m	0.1	10^6	10^6
Sr-87m	0.1	10^6	10^6
Sr-89	1	10^7	10^7
Sr-90+	0.1	3×10^5	10^6
Sr-91	0.01	10^5	10^5
Sr-92	0.01	10^5	10^5
Y-90	1	10^7	10^7
Y-91	1	10^7	10^7
Y-91m	0.01	10^5	10^5
Y-92	0.1	10^6	10^6
Y-93	0.1	10^6	10^6
Zr-93	10	10^8	10^8
Zr-95+	0.001	10^4	10^4
Zr-97	0.01	10^5	10^5
Nb-93m	10	10^8	10^8
Nb-94	0.1	10^6	10^6
Nb-95	1	10^7	10^7
Nb-97	1	10^7	10^7
Nb-98	0.1	10^6	10^6
Mo-90	0.1	10^6	10^6
Mo-93	1	10^7	10^7
Mo-99	0.1	10^6	10^6
Mo-101	0.01	10^5	10^5
Tc-96	1	10^7	10^7
Tc-96m	10^2	10^9	10^9
Tc-97	10^2	10^9	10^9
Tc-97m	10	10^8	10^8
Tc-99	10	10^7	10^8
Tc-99m	10	3×10^7	10^8
Ru-97	0.01	10^5	10^5
Ru-103	0.01	10^5	10^5
Ru-105	0.01	10^5	10^5
Ru-106+	0.1	10^6	10^6
Rh-103m	10	10^8	10^8
Rh-105	1	10^7	10^7
Pd-103	0.1	10^6	10^6
Pd-109	0.1	10^6	10^6
Ag-105	1	10^7	10^7
Ag-108m	0.1	10^6	10^6
Ag-110m	0.1	10^6	10^6
Ag-111	10	10^8	10^8
Cd-109	1	10^7	10^7

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
Cd-115	0.1	10 ⁶	10 ⁶
Cd-115m	1	10 ⁷	10 ⁷
In-111	0.01	10 ⁵	10 ⁵
In-113m	0.01	10 ⁵	10 ⁵
In-114m	0.01	10 ⁵	10 ⁵
In-115m	0.01	10 ⁵	10 ⁵
Sn-113	0.1	10 ⁶	10 ⁶
Sn-125	0.01	10 ⁵	10 ⁵
Sb-122	0.1	10 ⁶	10 ⁶
Sb-124	0.1	10 ⁶	10 ⁶
Sb-125	1	10 ⁷	10 ⁷
Te-123m	1	10 ⁷	10 ⁷
Te-125m	1	10 ⁷	10 ⁷
Te-127	10	10 ⁸	10 ⁸
Te-127m	1	10 ⁷	10 ⁷
Te-129	10	10 ⁸	10 ⁸
Te-129m	1	10 ⁷	10 ⁷
Te-131	1	10 ⁷	10 ⁷
Te-131m	1	10 ⁷	10 ⁷
Te-132	0.1	10 ⁶	10 ⁶
Te-133	1	10 ⁷	10 ⁷
Te-133m	1	10 ⁷	10 ⁷
Te-134	1	10 ⁷	10 ⁷
I-123	1	10 ⁷	10 ⁷
I-125	1	10 ⁷	10 ⁷
I-126	0.1	10 ⁶	10 ⁶
I-129	0.1	10 ⁶	10 ⁶
I-130	0.1	10 ⁶	10 ⁶
I-131	0.1	10 ⁶	10 ⁶
I-132	0.1	10 ⁶	10 ⁶
I-133	0.1	10 ⁶	10 ⁶
I-134	0.1	10 ⁶	10 ⁶
I-135	0.1	10 ⁶	10 ⁶
Cs-129	0.01	10 ⁵	10 ⁵
Cs-131	0.1	10 ⁶	10 ⁶
Cs-132	0.01	10 ⁵	10 ⁵
Cs-134	0.01	10 ⁵	10 ⁵
Cs-134m	0.1	10 ⁶	10 ⁶
Cs-135	0.1	10 ⁶	10 ⁶
Cs-136	0.001	10 ⁴	10 ⁴
Cs-137+	0.01	10 ⁵	10 ⁵
Cs-138	0.001	10 ⁴	10 ⁴
Ba-131	0.1	10 ⁶	10 ⁶
Ba-140	0.1	10 ⁶	10 ⁶
La-140	0.001	10 ⁴	10 ⁴
Ce-139	0.1	10 ⁶	10 ⁶

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
Ce-141	0.1	10 ⁶	10 ⁶
Ce-143	0.01	10 ⁵	10 ⁵
Ce-144	0.1	10 ⁶	10 ⁶
Pr-142	0.1	10 ⁶	10 ⁶
Pr-143	10	10 ⁸	10 ⁸
Nd-147	0.01	10 ⁵	10 ⁵
Nd-149	0.01	10 ⁵	10 ⁵
Pm-147	10	10 ⁸	10 ⁸
Pm-149	1	10 ⁷	10 ⁷
Sm-151	10 ²	10 ⁹	10 ⁹
Sm-153	0.1	10 ⁶	10 ⁶
Eu-152	0.01	10 ⁵	10 ⁵
Eu-152m	0.01	10 ⁵	10 ⁵
Eu-154	0.01	10 ⁵	10 ⁵
Eu-155	0.1	10 ⁶	10 ⁶
Gd-153	0.1	10 ⁶	10 ⁶
Gd-159	0.1	10 ⁶	10 ⁶
Tb-160	0.01	10 ⁵	10 ⁵
Dy-165	0.1	10 ⁶	10 ⁶
Dy-166	0.1	10 ⁶	10 ⁶
Ho-166	0.1	10 ⁶	10 ⁶
Er-169	10	10 ⁸	10 ⁸
Er-171	0.01	10 ⁵	10 ⁵
Tm-170	1	10 ⁷	10 ⁷
Tm-171	10	10 ⁸	10 ⁸
Yb-175	0.1	10 ⁶	10 ⁶
Lu-177	0.1	10 ⁶	10 ⁶
Hf-181	0.01	10 ⁵	10 ⁵
Ta-182	0.001	10 ⁴	10 ⁴
W-181	0.1	10 ⁶	10 ⁶
W-185	1	10 ⁷	10 ⁷
W-187	0.01	10 ⁵	10 ⁵
Re-186	1	10 ⁷	10 ⁷
Re-188	1	10 ⁷	10 ⁷
Os-185	0.01	10 ⁵	10 ⁵
Os-191	0.1	10 ⁶	10 ⁶
Os-191m	1	10 ⁷	10 ⁷
Os-193	0.1	10 ⁶	10 ⁶
Ir-190	0.001	10 ⁴	10 ⁴
Ir-192	0.01	10 ⁵	10 ⁵
Ir-194	0.1	10 ⁶	10 ⁶
Pt-191	0.01	10 ⁵	10 ⁵
Pt-193m	1	10 ⁷	10 ⁷
Pt-197	0.1	10 ⁶	10 ⁶
Pt-197m	0.1	10 ⁶	10 ⁶
Au-198	1	10 ⁷	10 ⁷

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
Au-199	1	10^7	10^7
Hg-197	1	10^7	10^7
Hg-197m	0.1	10^6	10^6
Hg-203	0.1	10^6	10^6
Tl-200	0.01	10^5	10^5
Tl-201	0.1	10^6	10^6
Tl-202	0.01	10^5	10^5
Tl-204	0.1	10^6	10^6
Pb-203	0.01	10^5	10^5
Pb-210	0.001	10^4	10^4
Pb-212	0.1	10^6	10^6
Bi-206	0.01	10^5	10^5
Bi-207	0.1	10^6	10^6
Bi-210	10	10^8	10^8
Bi-212	1	10^7	10^7
Po-203	0.001	10^4	10^4
Po-205	0.001	10^4	10^4
Po-207	0.001	10^4	10^4
Po-210	0.001	10^4	10^4
At-211	1	10^7	10^7
Ra-223	0.01	10^5	10^5
Ra-224+	0.01	10^5	10^5
Ra-225	0.01	10^5	10^5
Ra-226+	0.01	10^5	10^5
Ra-227	1	10^7	10^7
Ra-228	0.01	10^5	10^5
Ac-227	0.1	10^6	10^6
Ac-228	0.001	10^4	10^4
Th-226	0.1	10^6	10^6
Th-227	0.01	10^5	10^5
Th-228	1	10^7	10^7
Th-229	0.01	10^5	10^5
Th-230	1	10^7	10^7
Th-231	0.1	10^6	10^6
Th-232	1	10^6	10^7
Th-234	0.1	10^6	10^6
Pa-230	0.01	10^5	10^5
Pa-231	0.01	10^5	10^5
Pa-233	0.1	10^6	10^6
U-230	0.1	10^6	10^6
U-231	10	10^8	10^8
U-232	0.1	10^6	10^6
U-233	0.1	10^6	10^6
U-234	0.1	10^6	10^6
U-235+	0.1	10^6	10^6
U-236	0.1	10^6	10^6

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
U-237	10	10^8	10^8
U-238+	0.1	10^6	10^6
U-239	10	10^8	10^8
U-240	10	10^8	10^8
Np-237	0.1	10^6	10^6
Np-239	1	10^7	10^7
Np-240	0.1	10^6	10^6
Pu-234	0.01	10^5	10^5
Pu-235	0.01	10^5	10^5
Pu-236	1	10^7	10^7
Pu-237	0.1	10^6	10^6
Pu-238	0.1	10^6	10^6
Pu-239	0.1	10^6	10^6
Pu-240	0.1	10^6	10^6
Pu-241	10	10^8	10^8
Pu-242	0.1	10^6	10^6
Pu-243	0.1	10^6	10^6
Pu-244	0.1	10^6	10^6
Am-241	0.1	10^6	10^6
Am-242	0.1	10^6	10^6
Am-242m	0.1	10^6	10^6
Am-243	0.1	10^6	10^6
Cm-242	1	10^7	10^7
Cm-243	0.1	10^6	10^6
Cm-244	0.1	10^6	10^6
Cm-245	0.01	10^5	10^5
Cm-246	0.1	10^6	10^6
Cm-247	0.01	10^5	10^5
Cm-248	0.1	10^6	10^6
Bk-249	10^2	10^9	10^9
Cf-246	1	10^7	10^7
Cf-248	1	10^7	10^7
Cf-249	0.01	10^5	10^5
Cf-250	0.1	10^6	10^6
Cf-251	0.01	10^5	10^5
Cf-252	0.1	10^6	10^6
Cf-253	10	10^8	10^8
Cf-254	0.0001	10^3	10^3
Es-253	1	10^7	10^7
Es-254	0.1	10^6	10^6
Es-254m	0.01	10^5	10^5
Fm-254	1	10^7	10^7
Fm-255	0.1	10^6	10^6

<i>Radionuclide</i>	<i>Concentration in Bq/litre</i>	<i>Maximum annual quantity of radionuclides to a relevant sewer (Bq/year)</i>	<i>Maximum annual quantity of radionuclides directly to a relevant river or the sea (Bq/year)</i>
Any other radionuclide that is not of natural terrestrial or cosmic origin.	0.0001, or that concentration which gives rise to a dosage of 10 µSv/year calculated in accordance with the methodology used to calculate other concentrations in this table(a).	10 ³ , or that quantity which corresponds to 3000m ³ of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2.	10 ³ , or that quantity which corresponds to 10000m ³ of aqueous radioactive waste up to the appropriate concentration as calculated in accordance with column 2.

1. "The Table 4 column 2 summation rule" means the sum of the quotients A/B where—
 - (a) "A" means the quantity in Bq/litre of each radionuclide listed in column 1 of Table 4 that is present in the aqueous waste which is not described in a row in column 1 of Table 3; and
 - (b) "B" means the concentration of that radionuclide specified in column 2 of Table 4.
2. "The Table 4 column 3 summation rule" means the sum of the quotients C/D where—
 - (a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 4 that is present in the aqueous waste which is not described in a row of column 1 of Table 3 which is disposed of in the year; and
 - (b) "D" means the quantity of that radionuclide specified in column 3 of Table 4.
3. "The Table 4 column 4 summation rule" means the sum of the quotients C/E where—
 - (a) "C" means the quantity in Bq of each radionuclide listed in column 1 of Table 4 that is present in the aqueous waste which is not described in a row in column 1 of Table 3 which is disposed of in the year; and
 - (b) "E" means the quantity of that radionuclide specified in column 4 of Table 4.

Table 5

Radionuclides in secular equilibrium

<i>Parent radionuclide</i>	<i>Daughter radionuclides</i>
Sr-90+	Y-90
Zr-93+	Nb-93m
Zr-95+	Nb-95
Zr-97+	Nb-97
Ru-106+	Rh-106
Ag-108m+	Ag-108
Cs-137+	Ba-137m
Ba-140+	La-140
Ce-144+	Pr-144

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- (a) The concentrations in this table were calculated using methods adopted by the Health Protection Agency in their document HPA-CRCE-005 - Derivation of Liquid Exclusion or Exemption Levels to Support the RSA93 Exemption Order Review, published in August 2010 (ISBN 0-978-85951-673-0).

<i>Parent radionuclide</i>	<i>Daughter radionuclides</i>
Pb-210+	Bi-210, Po-210
Pb-212+	Bi-212, Tl-208, Po-212
Bi-212+	Tl-208, Po-212
Rn-220+	Po-216
Rn-222+	Po-218, Pb-214, Bi-214, Po-214
Ra-223+	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224+	Where Ra-224+ is referred to in table 1: Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212 Where Ra-224+ is referred to in table 4: Pb-212
Ra-226+	Where Ra-226+ is referred to in table 1: Rn-222, Po-218, Pb-214, Bi-214, Pb-210, Bi-210, Po-210, Po-214 Where Ra-226+ is referred to in table 4: Rn-222, Po-218, Pb-214, Bi-214, Po-214
Ra-228+	Ac-228
Th-226+	Ra-222, Rn-218, Po-214
Th-228+	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-229+	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-232 sec	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-234+	Pa-234m
U-230+	Th-226, Ra-222, Rn-218, Po-214
U-232+	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
U-235+	Th-231
U-238+	Th-234, Pa-234m, Pa-234
U-238 sec	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Pb-210, Bi-210, Po-210, Po-214
U-240+	Np-240
Np-237+	Pa-233
Am-242m+	Am-242
Am-243+	Np-239

SCHEDULE 2

Article 4

Relevant standard conditions under Parts 2 and 3 of this Order

Introduction

1. In this Schedule, “radioactive substances” means radioactive material, mobile radioactive apparatus and radioactive waste, and “exempt radioactive substances” means such radioactive substances in respect of which an exemption in Part 2 or 3 of this Order applies.

Relevant standard conditions

2.—(1) In respect of a person (“A”) to whom—

- (a) article 5(1)(a) applies, the relevant standard conditions are those contained in paragraphs 3 and 4;
- (b) article 6(1)(a)(ii) or (b) or 9(1)(b) applies, the relevant standard conditions are those contained in paragraphs 3, 4 and 6;
- (c) article 10(1)(a) applies, the relevant standard conditions are those contained in—
 - (i) paragraph 3 (except sub-paragraphs (e)(ii) and (f)); and
 - (ii) paragraph 5.

(2) In respect of an article referred to in sub-paragraph (1), A is not required to comply with a condition in this Part unless that condition is a relevant standard condition for the purposes of that article.

General conditions

3. A must—

- (a) keep an adequate record of any exempt radioactive substances which A holds, and—
 - (i) in respect of exempt radioactive substances which are mobile radioactive apparatus, the locations at which they are kept or used;
 - (ii) in respect of other exempt radioactive substances, the location within the premises where A holds them;
- (b) ensure that where practicable exempt radioactive substances or the container of such radioactive substances, is marked or labelled as radioactive;
- (c) in respect of exempt radioactive substances which are sealed sources, electrodeposited sources or tritium foil sources, not modify or mutilate those sources or cause a loss of containment such that radioactive material or radioactive waste may be released outside the source;
- (d) allow SEPA access to such records or such premises as SEPA may request in order to determine that all of the conditions in respect of the relevant exemption are complied with;
- (e) hold the exempt radioactive substances safely and securely to prevent, so far as practicable—
 - (i) accidental removal, loss or theft from the premises where they are held; or
 - (ii) loss of containment; and
- (f) in respect of exempt radioactive substances in a container—
 - (i) not modify or mutilate that container; and
 - (ii) prevent any uncontrolled or unintended release of radioactive material or radioactive waste from the container.

Loss or theft conditions

4.—(1) A must, subject to sub-paragraph (2), in respect of an incident of loss or theft (or suspected loss or theft) of exempt radioactive substances (except mobile radioactive apparatus) from the premises where they are held—

- (a) notify the incident to SEPA as soon as practicable; and
- (b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any radioactive substances from those premises over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to SEPA is only necessary where in respect of the aggregated total amount of exempt radioactive substances (excluding mobile radioactive apparatus) lost or stolen (or suspected to have been lost or stolen) from the premises in the incident and in all other such incidents in the 12 months preceding it, the quantity of radioactivity exceeds the value that is ten times the value in column 2 of Table 1.

Loss or theft conditions: mobile radioactive apparatus

5.—(1) A must, subject to sub-paragraph (2), in respect of an incident of loss or theft (or suspected loss or theft) of mobile radioactive apparatus from A—

- (a) notify the incident to SEPA as soon as practicable; and
- (b) include in that notification the details of any other incidents of loss or theft (or suspected loss or theft) of any mobile radioactive apparatus from A over the 12 months preceding the incident being notified.

(2) In respect of an incident described in sub-paragraph (1), a notification to SEPA is only necessary where in respect of the aggregated total amount of mobile radioactive apparatus lost or stolen (or suspected to have been lost or stolen) from A in the incident and in all other such incidents in the 12 months preceding it, the quantity of radioactivity exceeds the value that is ten times the value in column 2 of Table 1.

Condition to dispose of accumulated waste

6. A must dispose of radioactive waste in respect of which the exemption in article 6(1)(a)(ii) or (b) or 9(1)(b) (as appropriate) applies as soon as practicable after it has become waste, and additionally in the case of such waste where it is a sealed source, a tritium foil source or an electrodeposited source, in any event within 26 weeks of that time unless SEPA advises in writing that a longer period of accumulation may take place.

SCHEDULE 3

Article 25

Revocations

<i>Orders revoked</i>	<i>References</i>
The Radioactive Substances (Lead) Exemption (Scotland) Order 1962	S.I. 1962/2762 (S.122)
The Radioactive Substances (Storage in Transit) Exemption (Scotland) Order 1962	S.I. 1962/2765 (S.125)
The Radioactive Substances (Uranium and Thorium) Exemption (Scotland) Order 1962	S.I. 1962/2766 (S.126)
The Radioactive Substances (Exhibitions) Exemption (Scotland) Order 1962	S.I. 1962/2768 (S.128)
The Radioactive Substances (Phosphatic Substances, Rare Earths etc.) Exemption (Scotland) Order 1962	S.I. 1962/2769 (S.129)
The Radioactive Substances (Geological Specimens) Exemption (Scotland) Order 1962	S.I. 1962/2771 (S.131)
The Radioactive Substances (Prepared Uranium and Thorium Compounds) Exemption (Scotland) Order 1962	S.I. 1962/2772 (S.132)
The Radioactive Substances (Waste Closed Sources) Exemption (Scotland) Order 1963	S.I. 1963/1877 (S.94)
The Radioactive Substances (Schools etc.) Exemption (Scotland) Order 1963	S.I. 1963/1878 (S.95)
The Radioactive Substances (Precipitated Phosphate) Exemption (Scotland) Order 1963	S.I. 1963/1882 (S.99)
The Radioactive Substances (Electronic Valves) Exemption (Scotland) Order 1967	S.I. 1967/1803 (S.166)
The Radioactive Substances (Smoke Detectors) Exemption (Scotland) Order 1980	S.I. 1980/1599
The Radioactive Substances (Gaseous Tritium Light Devices) Exemption Order 1985	S.I. 1985/1047
The Radioactive Substances (Luminous Articles) Exemption Order 1985	S.I. 1985/1048
The Radioactive Substances (Testing Instruments) Exemption Order 1985	S.I. 1985/1049
The Radioactive Substances (Substances of Low Activity) Exemption Order 1986	S.I. 1986/1002
The Radioactive Substances (Hospitals) Exemption Order 1990	S.I. 1990/2512
The Radioactive Substances (Smoke Detectors) Exemption (Scotland) Amendment Order 1991	S.I. 1991/563
The Radioactive Substances (Substances of Low Activity) Exemption (Amendment) Order 1992	S.I. 1992/647
The Radioactive Substances (Hospitals) Exemption (Amendment) Order 1995	S.I. 1995/2395
The Radioactive Substances (Natural Gas) Exemption Order 2002	S.I. 2002/1177

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces a series of exemption orders made under the Radioactive Substances Act 1993 (“the Act”) and its predecessor (the Radioactive Substances Act 1960^(a)) in order to rationalise the current system of exemptions and align this more closely with the structure and terminology used in the Basic Safety Standards Directive^(b).

Part 1 contains interpretative provisions and gives effect to Schedules 1 and 2. Special interpretative provisions are included in respect of waste arising from naturally occurring radioactive materials (NORM waste).

Part 2 confers exemptions from the requirement to register under section 7 of the Act (use of radioactive material) and from the requirement to be authorised under section 14 of the Act (accumulation of radioactive waste). Special provision in relation to NORM waste is contained in article 9.

Part 3 confers exemptions from the requirement to register under section 10 of the Act (use etc. of mobile radioactive apparatus).

Parts 4 to 7 create exemptions from the requirement to be authorised under section 13 of the Act in relation to the disposal of radioactive waste. Part 4 deals with disposal of solid radioactive waste, Part 5 with aqueous waste, Part 6 with gaseous waste and Part 7 with NORM waste.

The conditions to which the new exemptions are subject are set out in the relevant Parts. Where those conditions include a requirement to comply with “the relevant standard conditions”, those conditions are set out in Schedule 2.

Previous exemption orders are revoked by article 25 and Schedule 3. Part 8 contains transitional provisions in respect of holders of exemptions and exclusions created by any of the orders listed in that Schedule. Such operators will have a period of six months in which to apply for any registration or authorisation which they may now require if they do not qualify for exemption under this Order, and will continue to be protected pending any appeal.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Scottish Government Environmental Quality Division, Area 1-H North, Victoria Quay, Edinburgh EH6 6QQ.

(a) 8 & 9 Eliz. 2 c.34.

(b) Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (O.J. L 159, 29.6.1996, p.1.)