SCOTTISH STATUTORY INSTRUMENTS

2004 No. 541 (C. 40)

ENVIRONMENTAL PROTECTION

The Environment Act 1995 (Commencement No. 22) (Scotland) Order 2004

Made - - - - 15th December 2004

The Scottish Ministers in exercise of the powers conferred by section 125(3) of the Environment Act 1995(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and extent

1.—(1) This Order may be cited as the Environment Act 1995 (Commencement No. 22) (Scotland) Order 2004.

(2) This Order extends to Scotland only.

Provisions coming into force on 1st January 2005

2. The following provisions of the Environment Act 1995 shall (in so far as not already in force) come into force on 1st January 2005–

(a) section 120(1), in so far as it relates to paragraphs 27(b) and (c), 88(**2**) and 95 of Schedule 22; and

(b) section 120(3), in so far as it relates to the repeal in Schedule 24 of–

(i) the words from "and for the purposes" of to the end of section 30(1) of the Control of Pollution Act 1974(**3**); and

(ii) section 75(3) of the Environmental Protection Act 1990(**4**).

(**1**) 1995 c. 25. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) Paragraph 88 of Schedule 22 to the Environment Act 1995 (c. 25) was commenced for the purposes only of the Landfill (Scotland) Regulations 2003 (S.S.I. 2003/235) by virtue of article 2(b) of the Environment Act 1995 (Commencement No 21) (Scotland) Order 2003 (S.S.I. 2003/206).

(**3**) 1974 c. 40.

(**4**) 1990 c. 43.

St Andrew's House, Edinburgh
15th December 2004

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 2005, section 120(1) of the Environment Act 1995 ("the 1995 Act") insofar as it relates to paragraphs 27(b) and (c), 88 and 95 of Schedule 22 (insofar as those provisions are not already in force).

Paragraphs 27(b) and (c) respectively make amendments to section 30(1) of the Control of Pollution Act 1974 ("the 1974 Act") concerning the definition of "waste" and in order that the words which provide a presumption that anything discarded is waste unless the contrary is proved cease to have effect. Paragraph 88 amends section 75 of the Environmental Protection Act 1990 ("the 1990 Act") (meaning of "waste" and household, commercial and industrial waste and special waste).

Paragraph 95 inserts a new Schedule 2B (categories of waste) to the 1990 Act in relation to section 75 of that Act.

In consequence of the commencement of section 120(1) of the 1995 Act and the relevant paragraphs of Schedule 22, this Order also brings into force on the same date section 120(3) (minor and consequential amendments, transitional and transitory provisions, savings and repeals) of the 1995 Act in so far as it relates to the repeal of the words in section 30(1) of the 1974 Act and section 75(3) of the the 1990 Act which provides a presumption that anything discarded is waste unless the contrary is proved.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 1995 Act have been brought into force by commencement order made before the date of this Order–

Provision	*Date of commencement*	*S.I. No.*
Section 1	28.7.1995	1995/1983
Section 2	1.4.1996	1996/186
Section 3(1)	1.4.1996	1996/186
Section 3(2) to (8)	28.7.1995	1995/1983
Section 4	28.7.1995	1995/1983
Section 5	1.2.1996	1996/186
	and 1.4.1996	
Section 6	1.4.1996	1996/186
Section 7	28.7.1995	1995/1983
Section 8	1.4.1996	1996/186
Section 9	28.7.1995	1995/1983
Sections 10 and 11	1.4.1996	1996/186