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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2011 No.**

**ENVIRONMENTAL PROTECTION  
WATER**

**The Water Environment (Controlled  
Activities) (Scotland) Regulations 2011**

*Made - - - - 2011*

*Coming into force 31st March 2011*

**THE WATER ENVIRONMENT (CONTROLLED  
ACTIVITIES) (SCOTLAND) REGULATIONS 2011**

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- Signature
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### SCHEDULE 1 — Indicative list of the main pollutants

1. Organohalogen compounds and substances which may form such compounds in...
2. Organophosphorous compounds.
3. Organotin compounds.
4. Substances and preparations, or the breakdown products of such, which...
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
6. Cyanides.
7. Metals and their compounds.
8. Arsenic and its compounds.
9. Biocides and plant protection products.
10. Materials in suspension.
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)...
12. Substances which have an unfavourable influence on the oxygen balance...

### SCHEDULE 2 — Hazardous Substances

1. SEPA must identify— (a) substances or groups of substances which...
2. In identifying the substances referred to in paragraph 1, SEPA...
3. SEPA must publish and maintain a list of the substances...
4. The list must be published in a manner SEPA considers...

### SCHEDULE 3 — General binding rules

- PART 1
- PART 2

### SCHEDULE 4 — Relevant legislation

- PART 1
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### SCHEDULE 5 — Charging Scheme

1. In the case of an authorisation under these Regulations, SEPA...
2. Charges may be made in respect of:
3. A charging scheme may impose: (a) a single charge in...
4. A charging scheme may provide for charges as are reasonable...
5. A charging scheme: (a) must specify, in relation to any...
6. In making a charging scheme SEPA must secure that the...
7. Without prejudice to paragraph 5(b), if it appears to SEPA...
8. A charging scheme may: (a) make different provision for different...
9. SEPA must not make a charging scheme unless the provisions...

10. Before submitting a proposed charging scheme to the Scottish Ministers...
11. If any proposed charging scheme is submitted to the Scottish...
12. It is the duty of SEPA to take such steps...

#### SCHEDULE 6 — Enforcement and other powers

##### PART 1 — Powers

1. To enter at any reasonable time (or, in an emergency,...
2. On entering any premises by virtue of paragraph 1, to...
3. To examine and investigate as may in the circumstances be...
4. As regards any premises which that person has power to...
5. To take such measurements and photographs and make such recordings...
6. To obtain and to take samples, or cause samples to...
7. To monitor— (a) the water environment or any part of...
8. To take steps for the measurement and recording of precipitation....
9. To install and maintain gauges, or other apparatus and works...
10. To take such steps as may be necessary in order...
11. In the case of any article or substance found in...
12. In the case of any such article or substance as...
13. (1) Subject to sub paragraph (2), to require any person...
14. To require the production of, or if the information is...
15. To require any person to afford such facilities and assistance...
16. To carry out borings or other works on any premises...

##### PART 2 — Procedures etc.

17. Any person authorised by SEPA under regulation 31(4) must produce...
18. Except in an emergency, in any case where it is...
19. Except in an emergency, if an authorised person proposes to...
20. If an authorised person proposes to exercise the power conferred...
21. Before exercising the power conferred by paragraph 11 in the...
22. No answer given by a person in pursuance of a...
23. Nothing in this schedule will be taken to compel the...
24. A person who enters any premises in the exercise of...

##### PART 3 — Issue of warrants

25. If a sheriff or justice of the peace is satisfied...
26. The conditions mentioned in paragraph 25 are—
27. In a case where paragraph 25 applies, a justice of...
28. Every warrant under this Schedule will continue in force until...

##### PART 4 — Evidence

29. In any legal proceedings it will be presumed until the...
30. Subject to paragraph 22, information obtained in consequence of the...
31. Without prejudice to the generality of paragraph 30, information obtained...

##### PART 5 — Compensation

32. (1) SEPA must compensate any person who has sustained loss...

#### SCHEDULE 7 — Compensation for grant of rights

1. Interpretation
2. Period for making an application
3. Form of application
4. Loss and damage for which compensation payable
5. Basis on which compensation assessed
6. Payment of compensation and determination of disputes

#### SCHEDULE 8 — Register

1. The register maintained by SEPA under regulation 37 must contain...

2. If an application is withdrawn by the applicant at any...
3. Nothing in paragraph 1 will require SEPA to keep in...
4. Paragraph 3(a) does not apply to any aggregated monitoring data...

#### SCHEDULE 9 — Procedures in connection with appeals to the Scottish Ministers

1. A person who wishes to appeal to the Scottish Ministers...
2. The documents mentioned in paragraph 1 are—
3. An appellant may withdraw an appeal by notifying the Scottish...
4. Subject to paragraph 5, notice of appeal in accordance with...
5. The Scottish Ministers may in a particular case allow notice...
6. Subject to paragraph 9, SEPA must, within 14 days of...
7. A notice under paragraph 6 must— (a) state that the...
8. SEPA must, within 14 days of sending a notice under...
9. In the event of an appeal being withdrawn, SEPA must...
10. Hearing procedure
11. A hearing held under paragraph 10 may, if the appointed...
12. If the Scottish Ministers cause a hearing to be held...
13. In the case of a hearing which is to be...
14. The Scottish Ministers may vary the date fixed for the...
15. The Scottish Ministers may also vary the time or place...
16. The persons entitled to be heard at any hearing are...
17. Nothing in paragraph 16 prevents the appointed person from permitting...
18. After the conclusion of a hearing, the appointed person must...
19. Subsections (3) to (8) of section 210 of the Local...
20. Procedure for written representations
21. The appellant must make any further representations by way of...
22. Any representations made by the appellant or SEPA must bear...
23. When SEPA or the appellant submits any representations to the...
24. The Scottish Ministers must send to the appellant and SEPA...
25. The Scottish Ministers may in a particular case—
26. Determination and publication of appeal
27. The Scottish Ministers must at the same time send a...

#### SCHEDULE 10 — Transitional and Savings Provisions

##### PART 1 — Water Environment

1. If on 31st March 2011 an authorisation under regulation 8...
2. For the avoidance of doubt, paragraph 1 applies to any...
3. If on or before 31st March 2011 a person—
4. Notwithstanding the revocation of the 2005 Regulations by regulation 58,...
5. If an authorisation is granted in respect of an application...
6. Notwithstanding the revocation of the 2005 Regulations by regulation 58

—...

##### PART 2 — Pollution Control

7. If on 31st March 2011 a relevant authorisation is in...
8. The relevant authorisation referred to in paragraph 7 will be...
9. SEPA must, insofar as it has not done so under...
10. When carrying out a review in accordance with paragraph 9,...
11. The review required under paragraph 9, and the steps required...
12. Where an application for a relevant authorisation in respect of...
13. SEPA must, when considering an application referred to in paragraph...
14. If an application is granted in accordance with paragraph 13,...
15. If, on or after 31st March 2011, an application for...
16. SEPA must, when considering an application referred to in paragraph...

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Water Environment (Controlled Activities) (Scotland) Regulations 2011 No. 209*

17. If an application is granted in accordance with paragraph 16,...
18. In this Part— (a) “authorised activity” means an activity referred...

SCHEDULE 11 — Amendments

1. Amendments to the Town and Country Planning (Scotland) Act 1997
2. Amendments to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992
3. Amendment to the Environmental Impact Assessment (Scotland) Regulations 1999
4. In column 2 of the table referred to in paragraph...
5. Savings Provision

Explanatory Note