
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

PART III

GRANTING OF PERMITS

CHAPTER 1

General

Permits: fit and proper person

18.—(1) SEPA may grant a permit in respect of a specified waste management activity only if it is satisfied—

- (a) that the applicant is a fit and proper person to carry out that activity, and
- (b) planning permission is in force under the 1997 Act where the use of the site for the activity requires such permission.

(2) A certificate under section 150 of the 1997 Act in relation to such use of the site is to be treated as if it were planning permission for that use.

(3) SEPA must determine whether a person is a fit and proper person by reference to ability of a person to fulfil the conditions of the permit which apply, or will apply, to the carrying out of that activity.

(4) A person is not a fit and proper person if, in particular, it appears to SEPA that—

- (a) the person or a relevant person has been convicted of a relevant offence,
- (b) the person has not made adequate financial provision (by way of security or an equivalent arrangement) to ensure that—
 - (i) obligations (including after-care provisions) arising from the permit in relation to the activity are met, and
 - (ii) any closure procedures required under the permit in relation to that activity are followed,
- (c) the person and all staff engaged in carrying out such an activity will not be provided with adequate professional technical development and training, or
- (d) the management of such an activity will not be in the hands of a technically competent person.

(5) Paragraph (4)(a) does not apply where SEPA considers it appropriate to treat the person as being a fit and proper person.

(6) Paragraph (4)(b) does not apply in respect of landfill sites specified in regulation 6 of the Landfill Regulations.

(7) In this regulation—

“1997 Act” means the Town and Country Planning (Scotland) Act 1997⁽¹⁾,

“relevant person” means, in relation to the holder or proposed holder of a permit—

- (a) any person who has been convicted of a relevant offence carried out—
 - (i) in the course of that person’s employment by the holder or proposed holder, or
 - (ii) in the course of the carrying on of any business by a partnership, one of the members of which was the holder or proposed holder,
- (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder was a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members), or
- (c) where the holder or proposed holder is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members) and who—
 - (i) has been convicted of a relevant offence, or
 - (ii) was a person holding such an office in another body corporate at a time when a relevant offence for which that body corporate has been convicted was committed, and

“relevant offence” means an offence prescribed under section 74(6) of the 1990 Act⁽²⁾ for the purposes of section 74(3)(a) of that Act.

(1) 1997 c.8.

(2) 1990 c.43; see regulation 3 of S.S.I. 2011/228.