
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

ENVIRONMENTAL PROTECTION

The Environmental Authorisations (Scotland) Regulations 2018

Made - - - - 2018

Coming into force 1st September 2018

**THE ENVIRONMENTAL AUTHORISATIONS
(SCOTLAND) REGULATIONS 2018**

PART 1

1. Citation and commencement
2. Interpretation
3. Interpretation: regulated activity
4. Interpretation: radioactive substances activity
5. Interpretation: authorised person
6. Interpretation: technical schedule
7. Prohibition
8. Responsibility of authorised person
9. General aims

PART 2

10. General binding rules

PART 3

11. Notification and application of general binding rules
12. Notifications
13. Effect and cessation of notifications
14. Surrender of notifications

PART 4

15. Registrations
16. Application for a registration
17. Form and content of a registration
18. Grant of a registration

19. Variation of registrations

PART 5

- 20. Permits
- 21. Applications for permits
- 22. Form and content of permits
- 23. Grant of permit
- 24. Review of permits
- 25. Variation of permits

PART 6

- 26. Schedule 1
- 27. Transfer of a registration or permit
- 28. Effect of transfer
- 29. Transfer of revocation notice
- 30. Surrender of registration or permit
- 31. Revocation of permits and registrations
- 32. Subsistence of a registration or permit

PART 7

- 33. Determining and revising standard conditions
- 34. Standard conditions: consultation
- 35. Standard conditions: publication
- 36. Notification of revisions of standard conditions

PART 8

- 37. Power to require the provision of information
- 38. Register
- 39. Register – exclusions
- 40. Commercially confidential information
- 41. Application for commercial confidentiality
- 42. Review of decision on commercial confidentiality
- 43. Effect of decision
- 44. Information relating to criminal proceedings
- 45. Register – exclusion of information affecting national security

PART 9

- 46. Regulatory notices
- 47. SEPA: regulatory notices requiring cessation
- 48. Withdrawing regulatory notices
- 49. Regulatory notices: off-site conditions
- 50. Enforcement by the courts

PART 10

- 51. Costs recovery notices
- 52. Payment requirements for costs recovery notices
- 53. Recovery of payments

PART 11

54. Notices – general provisions

PART 12

55. Appeals to the Scottish Ministers
56. Determination of appeals
57. Effect of notices etc. during consideration of appeal
58. Appeals – miscellaneous

PART 13

SEPA

59. Duty on SEPA to exercise its functions in accordance with the technical schedule
60. Power of SEPA to impose authorisations
61. Power of SEPA to escalate or de-escalate authorisations
62. Action by SEPA
63. Accelerated applications
64. Consolidation of permits and registrations
65. Communication of consolidation

PART 14

SEPA

66. SEPA guidance
67. SEPA's public participation statement
68. SEPA guidance – fit and proper person

PART 15

69. Offences
70. Offences by bodies corporate
71. Offences — acts or default of third person
72. Offences – more than one authorised person
73. Offences – defences
74. Admissibility of evidence
75. Power of court to order offence to be remedied

PART 16

76. Guidance to SEPA
77. Application of the Regulations to SEPA

PART 17

78. Crown application
79. Transitional and savings provisions
80. Consequential amendments
81. Repeals and revocations
Signature

SCHEDULE 1 — REGISTRATIONS AND PERMITS: PROCEDURES

PART 1 — General provisions

1. Form of application
2. Accompanying information
3. Withdrawing an application
4. Modifying an application
5. Notifications relating to certain applications
6. Further information in respect of an application
7. Public Consultation: scope
8. Public consultation requirements
9. Duty to determine an application
10. Time limits for determining applications
11. Extension of determination periods
12. Calculating the determination period
13. Variation Notices
14. Surrender applications
15. Notice of surrender
16. Revocation of permits or registrations
17. Interpretation: satisfactory state

PART 2 — Call-in procedure

18. (1) This Part applies to— (a) an application for—
19. (1) The Scottish Ministers may direct SEPA that an application...
20. Before granting an application or issuing a variation to which...
21. SEPA must not determine an application or SEPA initiated variation...
22. The days specified are— (a) where every person who made...

PART 3 — Determinations of applications by the Scottish Ministers

23. (1) This paragraph applies where Scottish Ministers have directed SEPA...
24. In this schedule— “application” or “applications” includes reference to any...

SCHEDULE 2 — OFF-SITE CONDITIONS

PART 1 — Procedure

1. For the purposes of this schedule SEPA imposes an off-site...
2. (1) SEPA may impose an off-site condition for any of...
3. (1) Before imposing an off-site condition, SEPA must (so far...
4. Where SEPA imposes an off-site condition, it must provide a...
5. A person (“person A”) whose consent is required for a...

PART 2 — Compensation for off-site conditions

6. This Part applies in any case where either—
7. The person to whom an off-site right has been granted...
8. But where a person (other than SEPA) has failed to...
9. Subject to paragraph 12, compensation is payable for—
10. (1) Subject to sub-paragraph (2), an entitlement to compensation under...
11. (1) An application for compensation under this schedule must be...
12. (1) The amount to be paid by way of compensation...
13. (1) Compensation payable carries interest at the rate for the...
14. (1) Compensation that is determined to be due is payable—...
15. In this schedule— “1963 Act” means the Land Compensation (Scotland)...

SCHEDULE 3 — REGISTER

1. In this schedule, “fixed monetary penalty”, “variable monetary penalty”, “VMP...

SCHEDULE 4 — PROVISIONS RELATING TO APPEALS

PART 1 — Appeals procedure

1. A person who wishes to appeal under regulation 55 must...
2. The documents specified are— (a) a written statement of the...
3. An appellant may withdraw an appeal by notice to the...
4. Subject to paragraph 5, notice of appeal in accordance with...
5. The Scottish Ministers may in a particular case allow notice...
6. SEPA must, within 14 days of receipt of the copy...
7. A notice under paragraph 6 must— (a) describe the subject...
8. SEPA must within 14 days of sending a notice under...
9. In the event of an appeal being withdrawn, SEPA must...
10. SEPA must make any written representations to the Scottish Ministers...
11. The appellant must make any further written representations by way...
12. When SEPA or the appellant makes any representations to the...
13. The Scottish Ministers must send to the appellant and SEPA...
14. The Scottish Ministers may require exchanges of written representations between...

PART 2 — Public hearings

15. Before determining an appeal under regulation 56, the Scottish Ministers...
16. A hearing may, if the appointed person so decides, be...
17. Where the Scottish Ministers cause a hearing to be held,...
18. Where any part of a hearing is to be held...
19. The Scottish Ministers may vary the date fixed for the...
20. The persons entitled to be heard at a hearing are—...
21. Nothing in paragraph 20 prevents the appointed person from allowing...
22. The appointed person must cause notice of the time and...
23. The appointed person may— (a) by notice in writing require—...
24. But the appointed person may not require any person to...
25. (1) A person who is required to give evidence at...
26. (1) The Scottish Ministers or the appointed person may treat...
27. (1) The Scottish Ministers or the appointed person may make...
28. (1) Where the Scottish Ministers or the appointed person make...
29. After the conclusion of a hearing, the appointed person must...

PART 3 — Determination of appeals

30. (1) The Scottish Ministers must— (a) give written notice to...

SCHEDULE 5 — TRANSITIONAL AND SAVINGS PROVISIONS

PART 1 — General

1. Interpretation
2. (1) An existing licence which— (a) is in effect immediately...
3. (1) If before the relevant date a person—
4. (1) This paragraph applies to a person (“A”) carrying on...
5. (1) This paragraph applies to a person (“A”) who has...
6. The 1993 Act continues to have effect notwithstanding its repeal...

PART 2 — Metal contamination

7. (1) A permit for a Part A installation at which...

SCHEDULE 6 — CONSEQUENTIAL AMENDMENTS

PART 1 — Public general acts

1. Nuclear Installations Act 1965

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Environmental Authorisations (Scotland) Regulations 2018 No. 219

2. Environmental Protection Act 1990
3. Environment Act 1995
4. Food Standards Act 1999
5. Energy Act 2004
- PART 2 — Subordinate legislation
6. Special Waste Regulations 1996
7. Ionising Radiations Regulations 2017
8. Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000
9. Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003
10. Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003
11. Waste Management Licensing (Scotland) Regulations 2011
12. Water Environment (Controlled Activities) (Scotland) Regulations 2011
13. Environmental Regulation (Significant Environmental Harm) (Scotland) Order 2014
14. Environmental Regulation (Relevant Offences) (Scotland) Order 2014
15. The Environmental Regulation (Liability where Activity Carried Out by Arrangement with Another) (Scotland) Order 2014
16. Environmental Regulation (Enforcement Measures) (Scotland) Order 2015
17. Scottish Landfill Tax (Administration) Regulations 2015
18. Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

SCHEDULE 7 — REPEALS AND REVOCATIONS

PART 1 — Public general acts

1. The enactments listed in column 1 of the Table are...
- ##### PART 2 — Subordinate legislation
2. The enactments listed in column 1 of the Table are...

SCHEDULE 8 — RADIOACTIVE SUBSTANCES ACTIVITIES

PART 1 — Scope and interpretation

1. Scope
2. (1) “Radioactive substances activity” does not include—
3. Interpretation
4. Interpretation: this schedule and schedule 9
5. Interpretation: radioactive material and radioactive waste
6. NORM industrial activity
7. Processed radionuclides of natural terrestrial or cosmic origin
8. Radionuclides not of natural terrestrial or cosmic origin
9. Radionuclides with a short half-life
10. Radionuclides not of natural terrestrial or cosmic origin in background radioactivity
11. Substances or articles after disposal
12. Historic radium contamination
- PART 2 — Amendments to common framework provisions
13. General Binding Rules – disapplication
14. Authorisation by permit or registration
15. Applications
16. Consultation: local authorities and relevant water authorities
17. Consultation: security of sealed sources
18. Refusal of applications
19. SEPA must refuse to grant an authorisation for a radioactive...

20. Authorisation conditions: general
21. Authorisation conditions: discharge limits
22. Authorisation conditions: monitoring
23. Authorisation conditions: high-activity sealed sources
24. Authorisation conditions: manufacture and supply of high-activity sealed sources
25. Authorisation conditions: records of high-activity sealed sources
- PART 3 — Duties of SEPA
26. Optimisation and dose limits
27. Dose constraints
28. Estimation of doses to the members of the public
29. SEPA must— (a) identify radioactive substances activities for which an...
30. Where it has specified that an assessment must be carried...
31. Inspections
32. Record keeping
33. Sealed sources
34. Orphan Sources
35. (1) SEPA must have plans, preparations or provisions in place...
36. (1) Where SEPA is satisfied that radioactive waste ought to...
- PART 4 — Local authorities
37. Where an authorisation requires or permits radioactive waste to be...
38. Where a local authority or relevant water authority takes any...
- PART 5 — Radioactivity to be disregarded for purposes of certain statutory provisions
39. Statutory provisions
- PART 6 — Tables

- SCHEDULE 9 — GENERAL BINDING RULES
- PART 1 — General binding rules
- PART 2 — Interpretation of general binding rules
1. In this schedule— “barium eluting source” means a source which—...
2. Interpretation: NORM
3. Interpretation: radioactive substances common rules
- PART 3 — Tables

Explanatory Note