
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out a pollution control regime for landfills for the purpose of implementing Council Directive 99/31/EC on the landfill of waste (“the Landfill Directive”) in Scotland. Landfills have previously been subject to either the Waste Management Licensing Regulations 1994 or the Pollution Prevention and Control (Scotland) Regulations 2000 (“the 2000 Regulations”) (which in turn implemented Council Directive 96/61/EC concerning integrated pollution prevention and control (“the IPPC Directive”)).

Part I of the Regulations sets out the preliminary provisions. Regulation 2 provides definitions for the purposes of the Regulations. “Waste” is defined by reference to controlled waste within the meaning of section 75(4) of the Environmental Protection Act 1990 as amended for the purposes of these regulations by paragraph 88 of Schedule 22 to the Environment Act 1995 by S.S.I. []. The effect of this amendment is to import all waste which is set out in the new Schedule 2B to the Environment Act 1995 into the definition of controlled waste. One of the main changes which will be effected by this amendment is to import agricultural waste into the scope of these Regulations.

Regulation 3 sets out the scope of the Regulations (subject to the certain exceptions contained in regulation 4). Regulation 5 requires planning authorities to take the location requirements of these Regulations into consideration when granting planning permission.

Regulation 6 sets out the requirements for landfill sites which will be exempt from the provisions of these regulations set out in Schedule 1. Regulation 7 requires SEPA to maintain a list of those landfill sites which are exempt.

Regulation 8 amends the 2000 Regulations so that all landfills covered by these Regulations are Part A installations for the purposes of those Regulations and therefore require a permit under those Regulations. The powers to set conditions in permits under the 2000 Regulations are disapplied for landfills as alternative powers are included in these Regulations.

Part II deals with landfill permits. Regulation 9 requires SEPA to classify landfills as landfills for hazardous waste, non-hazardous waste or inert waste respectively. Regulation 10 sets out the requirements for conditions to be incorporated in landfill permits. These include conditions for ensuring compliance by landfill operators with the relevant requirements of these Regulations which are set out in remaining regulations in this Part and Schedules 2 (waste acceptance criteria), 3 (general requirements) and 4 (monitoring procedures).

Regulation 11 prohibits the acceptance of certain types of waste at landfills and regulation 12 sets out waste which may be accepted in the different classes of landfill. Regulation 13 deals with the costs of disposal of waste in landfill and provides for the operator of a landfill to ensure that the charges which are made by the operator cover certain defined costs, including aftercare.

Regulation 14 lists the waste acceptance procedures which the operator of a landfill site must carry out including a visual inspection, tests, keeping a register of certain information. It also places an obligation on an operator to inform SEPA in the event waste is not accepted at a landfill.

Regulation 15 prevents an operator commencing disposal operations before SEPA has inspected the site to ensure that it complies with the relevant conditions of the landfill permit and regulation 16 lists the control and monitoring procedures which the operator must ensure are carried out from the start of the operational phase until closure.

Status: This is the original version (as it was originally made).

Regulation 17 provides for closure and after care procedures for landfills which may related to the whole or part of the landfill. Regulation 18 provides for closure notices which may be used by SEPA to initiate closure of landfills.

Part III of these Regulations contains miscellaneous provisions. Regulation 19 creates offences where waste is accepted contrary to the requirements which apply directly to landfill operators under paragraph 3 of Schedule 5. Regulation 20 gives effect to the transitional provisions in Schedule 5 and regulation 21 gives effect to the amendments contained in Schedule 6.

Schedule 5 contains transitional provisions for existing landfills. It sets up a procedure for operators of landfills that will remain operational after the relevant date to bring their operations into compliance with the relevant requirements of these Regulations. Sites which cannot comply will be closed, while the remainder will be granted new permits in accordance with these Regulations as soon as possible within a transitional period up to either 31st March 2007 or 16th July 2009 depending on the size of the landfill.

Schedule 6 makes amendments to other legislation. An amendment is made to section 41 of the Environment Act 1995 so as to enable SEPA to make any charges relating to the carrying out of its functions under these Regulations. Amendments are also made to the 2000 Regulations and the Waste Management Licensing Regulations 1994 (which cover those landfills previously not subject to the 2000 Regulations) to deal with the introduction of the requirements of these Regulations. Amendments are also made to the “fit and proper person” test applied by regulation 4 of the 2000 Regulations relating to arrangements an operator has to have in place to ensure the landfill is properly managed and financed.

A regulatory impact assessment has been prepared and copies can be obtained from Miss Fiona Mackay, SEPA Sponsorship and Waste Unit, Waste Regulation Team, 1-J(N) Victoria Quay, Edinburgh, EH6 6QQ.

These Regulations replace the Landfill (Scotland) Regulations 2003 ([S.S.I. 2003/208](#)) as those Regulations were a nullity.