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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 2 of the Pollution Prevention and Control Act (1999 c. 24). They implement in Scotland the provisions of Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations (“the Solvent Emissions Directive”) (O.J No. L 85, 29.3.1999, p.1).

The Solvent Emissions Directive requires all installations (“SED installations”) carrying out activities listed in Annex I thereof above the thresholds in Annex IIA thereof to comply with certain emission limit values.

The majority of SED installations are already regulated under either the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) (“the 2000 Regulations”) or Part 1 of the Environmental Protection Act 1990 (1990c.43) (“the 1990 Act”). These Regulations use the existing pollution control regime under the 2000 Regulations to deliver the requirements of the Solvent Emissions Directive. As a result, these Regulations adjust the transitional provisions under the 2000 Regulations to align them with the requirements of that Directive.

Regulations 3 to 8 deal with transitional arrangements to incorporate the requirements of the Solvent Emissions Directive into the existing pollution control regime either under the 1990 Act (as a precursor to full incorporation into the regime set out in the 2000 Regulations) or the 2000 Regulations.

Regulation 3 deals with applications for variations of conditions of existing permits or authorisations granted under the 2000 Regulations or the 1990 Act respectively for installations which contain new or existing SED installations with the purpose of incorporating the requirements of the Solvent Emissions Directive into those permits or authorisations.

Regulation 4 sets out transitional provisions dealing with the extensions of existing permits under the 2000 Regulations covering part of an SED installation mentioned in paragraph 18(5) of Part 4 of Schedule 3 to the 2000 Regulations (as inserted by regulation 19(c)) with the purpose of extending the scope of those permits to incorporate the whole of the SED installation.

Regulation 5 provides for the variation of existing authorisations under the 1990 Act covering part of an SED installation mentioned in paragraph 18(7) of Part 4 of Schedule 3 to the 2000 Regulations (as inserted by regulation 19(c)) with the purpose of extending the scope of those authorisations to incorporate the whole of the SED installation.

Regulation 6 enables the operator of an installation to make a supplementary application modifying an application for a permit which has already been made under regulation 7 of the 2000 Regulations in the circumstances specified in paragraphs (1)(a) to (c) of that regulation.

Regulation 7 makes provision to enable SEPA to grant a permit under the 2000 Regulations in respect of an SED installations where, following an application for a variation of an authorisation under section 6 of the 1990 Act, an application for a permit is deemed to have been made in accordance with paragraph 9 of Schedule 3 to the 2000 Regulations.

Regulation 8 sets out the duties of operators wishing to operate an SED installation in accordance with the requirements of a reduction scheme as defined in regulation 2 of the 2000 Regulations as amended by these Regulations. This is in accordance with Article 4(3) and Annex IIB of the Solvent Emissions Directive.

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

Regulations 9 to 21 and Schedules 1 and 2 make amendments to the 2000 Regulations to incorporate the requirements of the Solvent Emissions Directive.

Regulation 10 amends regulation 2(1) of the 2000 Regulations to incorporate all the relevant definitions in Article 2 of the Solvent Emissions Directive. Further definitions in this Article are also transposed through paragraph 17 of the new Part 3 and paragraph 19 of the new Part 4 of

Schedule 3 to the 2000 Regulations, as inserted by regulation 19(c) of and Schedule 2 to these Regulations.

Regulation 12 amends the definition of “prescribed date” in regulation 6 of the 2000 Regulations to take account of the dates by which all SED installations must have a permit under the 2000 Regulations to be legitimately operated. The amendment takes into account the provisions setting out the prescribed dates for SED installations in Parts 3 and 4 of Schedule 3 to the 2000 Regulations, as inserted by regulation 19(c) of and Schedule 2 to these Regulations.

Regulations 13 and 14 respectively amend regulations 7 and 9 of the 2000 Regulations whilst regulation 15 inserts a new regulation 9C into the 2000 Regulations. This is to ensure that permits authorising the operation of an SED installation include such conditions as SEPA considers necessary to give effect to the provisions of the Solvent Emissions Directive and, in particular, the substantive requirements in Articles 5, 8 and 9 thereof. Regulation 17, which amends regulation 13 of the 2000 Regulations, makes similar provision in respect of the variation of existing permits authorised under the 2000 Regulations.

Regulation 16 amends regulation 10 of the 2000 Regulations to enable provision to be made for SED installations by the Scottish Ministers through general binding rules, where that is appropriate as an alternative to inclusion of conditions in permits, as envisaged by Article 5(1) of the Solvent Emissions Directive.

Regulation 18(a) and Schedule 1 insert a new Chapter 7 into Schedule 1 to the 2000 Regulations. The new Chapter 7 provides for the activities (“SED activities”) listed in the table in that chapter when operated above the solvent consumption thresholds for those activities to be Part B activities under the 2000 Regulations as required by Annexes I and IIA of the Solvent Emissions Directive.

Regulation 19(c) and Schedule 2 amend the transitional arrangements (“prescribed dates”) in Schedule 3 to the 2000 Regulations and inserts new Parts 3 and 4 to that Schedule.

Regulation 20 amends Schedule 4 to the 2000 Regulations to make provision for the content of applications for permits under the 2000 Regulations in respect of SED installations. In particular, a new paragraph 1C is inserted by regulation 20(d) to require applications to contain all the necessary information to show how the requirements of the Solvents Emissions Directive will be met.

Regulation 21 amends Schedule 7 to the 2000 Regulations to make provision for the content of applications for variations of existing permits under the 2000 Regulations in respect of SED installations.

Regulation 22 amends the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (“the 1991 Regulations”) to enable SEPA to regulate fugitive emissions of volatile organic compounds into the environment at large, in relation to activities currently designated as Part B processes under the 1991 Regulations.

These Regulations extend to Scotland only.

A regulatory impact assessment in relation to these Regulations has been prepared and copies of this can be obtained from the SEPA Sponsorship and Waste Unit, Scottish Executive Environment and Rural Affairs Department (SEERAD), Victoria Quay, Leith, EH6 6QQ.