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## SCOTTISH STATUTORY INSTRUMENTS

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# 2007 No. 251

## The National Waste Management Plan for Scotland Regulations 2007

### PART 1

#### General

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Waste Management Plan for Scotland Regulations 2007 and come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

#### Interpretation

2. In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990 <sup>M1</sup>;

“hazardous waste” has the same meaning as in Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste <sup>M2</sup>;

“the National Planning Framework” means the document “the National Planning Framework for Scotland” published by the Scottish Executive on 1 April 2003 <sup>M3</sup>;

“National Planning Policy Guideline 10” means the document “National Planning Policy Guideline (NPPG) 10 – Planning and Waste Management” published by the Scottish Office in March 1996 <sup>M4</sup>;

“national waste management plan” means the plan mentioned in regulation 3(1);

“the National Waste Plan” means the document “the National Waste Plan 2003” published by the Scottish Executive and SEPA in February 2003;

“the Packaging Waste Directive” means the European Parliament and Council Directive [94/62/EC](#) of 20th December 1994 on packaging and packaging waste <sup>M5</sup>;

“Planning Advice Note 63” means the document “Planning Advice Note (PAN) 63 – Waste Management Planning” published by the Scottish Executive in February 2002 <sup>M6</sup>;

“public consultees” means the persons to whose attention proposals for the national waste management plan are brought by the Scottish Ministers pursuant to regulation 6(1)(b);

“SEPA” means the Scottish Environment Protection Agency; and

“the Waste Data Digest” means any of the following documents published by SEPA—

(a) Waste Data Digest 1 2001 <sup>M7</sup>;

(b) Waste Data Digest 2 2002 <sup>M8</sup>;

(c) Waste Data Digest 3 2003 <sup>M9</sup>;

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- (d) Waste Data Digest 4 2004 <sup>M10</sup>;
- (e) Waste Data Digest 5 2005 <sup>M11</sup>;
- (f) Waste Data Digest 6 2006 <sup>M12</sup>.

#### Marginal Citations

- M1** 1990 c. 43.
- M2** O.J. No. L 377, 13.12.1991, p.20; as amended by Council Directive 94/31/EC (O.J. No. L 168, 2.7.1994, p.28), Corrigendum to Directive 91/689/EC (O.J. No. L 23, 30.1.1998, p.39) and Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18th January 2006 (O.J. No. L 33, 04.02.2006, p.1).
- M3** ISBN 0-7 559-4195-0.
- M4** ISBN 0 7480 5153 8.
- M5** O.J. No. L 365, 31.12.1994, p.10; as amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council (O.J. No. L 284, 31.10.2003, p.1), Directive 2004/12/EC of the European Parliament and of the Council (O.J. No. L 47, 18.2.2004, p.26) and Directive 2005/20/EC of the European Parliament and of the Council (O.J. No. L 70, 16.03.2005, p.17).
- M6** ISBN 0 7559 3330 3.
- M7** ISBN 1-901322-18-1.
- M8** ISBN 1-901322-25-4.
- M9** ISBN 1-901322-43-2.
- M10** ISBN 1-901322-52-1.
- M11** A complete copy of this document can be found at [www.sepa.org.uk/pdf/publications/wds/wdd\\_5.pdf](http://www.sepa.org.uk/pdf/publications/wds/wdd_5.pdf).
- M12** ISBN 1-901322-66-1.

## PART 2

### National waste management plan for Scotland

#### National waste management plan for Scotland

**3.—(1)** The Scottish Ministers must have a national waste management plan containing their policies in relation to the recovery and disposal of waste in Scotland.

- (2) The national waste management plan or any modification of it must consist of—
  - (a) a statement which relates to the whole of Scotland; or
  - (b) two or more statements which together relate to the whole of Scotland.
- (3) The national waste management plan or any modification of it must include—
  - (a) a statement of the Scottish Ministers' policies for attaining the objectives specified in the Schedule to these Regulations;
  - (b) in pursuance of the objectives and measures referred to in the Packaging Waste Directive, a chapter on the management of packaging and packaging waste, including measures taken pursuant to Articles 4 and 5 of that Directive; and
  - (c) provisions relating to the following—
    - (i) the type, quantity and origin of waste to be recovered or disposed of;
    - (ii) general technical requirements;
    - (iii) any special arrangements for particular wastes;

- (iv) suitable disposal sites or installations;
  - (v) the management of hazardous waste.
- (4) The Scottish Ministers may from time to time modify the national waste management plan.
- (5) In preparing the national waste management plan, or any modification of it, the Scottish Ministers must consult—
- (a) SEPA;
  - (b) Scottish Natural Heritage;
  - (c) such bodies or persons appearing to them to be representative of the interests of local government and industry respectively as they think fit; and
  - (d) such other persons as they think fit.
- (6) Until the Scottish Ministers have prepared a plan which is to constitute the national waste management plan, the national waste management plan is taken to be constituted by policies or other text which satisfy paragraphs (2) and (3) and which are set out in the following documents—
- (a) a statement under section 44B of the 1990 Act <sup>M13</sup>;
  - (b) the National Waste Plan;
  - (c) National Planning Policy Guideline 10;
  - (d) Planning Advice Note 63;
  - (e) the Waste Data Digest;
  - (f) the National Planning Framework.

#### Marginal Citations

**M13** [Section 44B](#) was inserted into the 1990 Act by section 92(1) of the [Environment Act 1995 \(c. 25\)](#).

#### Directions to SEPA

- 4.—(1) Without prejudice to any power to give directions conferred by section 40 of the Environment Act 1995 <sup>M14</sup>, the Scottish Ministers may give directions to SEPA requiring it—
- (a) to advise them on the policies which are to be included in the national waste management plan or any modification of it;
  - (b) to carry out a survey or investigation into any other matter in connection with the Scottish Ministers' preparation of that plan or any modification of it and to report its findings to them;
  - (c) to provide such other advice and assistance as Ministers consider appropriate as regards the promotion, development, implementation, monitoring and review of that plan or any modification of it.
- (2) A direction under paragraph (1)(b)—
- (a) must specify or describe the matters or the areas which are to be the subject of the survey or investigation;
  - (b) may specify bodies or persons to be consulted before carrying out the survey or investigation; and
  - (c) may make provision in relation to the manner in which—
    - (i) the survey or investigation is to be carried out, or
    - (ii) the findings are to be reported or made available.

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(3) Where a direction is given under paragraph (1)(b), SEPA may also consult any body or person that it considers appropriate but is not specified in the direction.

(4) SEPA must make its findings available to any bodies or persons it consults.

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**Marginal Citations**

**M14** 1995 c. 25.

## PART 3

### Procedures for the preparation or modification of the national waste management plan

#### Application of this Part

**5.—(1)** This Part applies to the modification of the national waste management plan as it applies to the preparation of such a plan.

(2) This Part does not apply to—

- (a) a national waste management plan or any part of such a plan designed for the sole purpose of serving national defence or civil emergencies; or
- (b) a national waste management plan for which a public participation procedure is carried out under the Environmental Assessment (Scotland) Act 2005 <sup>M15</sup>.

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**Marginal Citations**

**M15** asp 15.

#### Public participation procedures

**6.—(1)** As soon as reasonably practicable after preparing proposals for the national waste management plan or its modification the Scottish Ministers must—

- (a) send a copy of the proposals to the persons or bodies mentioned in regulation 3(5);
- (b) take such steps as they consider appropriate to bring the proposals to the attention of the persons who in their opinion—
  - (i) are affected by,
  - (ii) are likely to be affected by; or
  - (iii) have an interest in,
 the plan;
- (c) inform the public consultees of the address (which may include a website)—
  - (i) at which a copy of the proposals may be viewed,
  - (ii) from which a copy of the proposals may be obtained;
- (d) invite the persons or bodies mentioned in regulation 3(5) and the public consultees to express their opinion on the proposals, specifying the address to which, and the period within which, opinions must be sent.

(2) The period referred to in paragraph (1)(d) must be of such length as will ensure that the persons or bodies mentioned in regulation 3(5) and the public consultees are given an early and effective opportunity to express their opinion on the proposals.

(3) During the period referred to in paragraph (1)(d), the Scottish Ministers must keep a copy of the proposals for inspection by the public at all reasonable times free of charge.

(4) Nothing in paragraph (1)(c) requires the Scottish Ministers to provide copies free of charge; but where a charge is made, it must be of a reasonable amount.

### **Procedures following public participation**

7.—(1) Before decisions on the national waste management plan or its modification are made the Scottish Ministers must take account of any opinions expressed in accordance with regulation 6(1)(d).

(2) As soon as reasonably practicable after making decisions on the national waste management plan the Scottish Ministers must—

(a) inform—

(i) the persons or bodies mentioned in regulation 3(5), and

(ii) the public consultees,

of the matters set out in paragraph (3);

(b) take such steps as they consider appropriate to bring the matters in paragraph (3) to the attention of the public;

(c) if they have adopted the national waste management plan, make a copy of the plan available for inspection by the public at all reasonable times and free of charge.

(3) The matters are—

(a) the decisions made by the Scottish Ministers on the national waste management plan;

(b) the reasons and considerations upon which those decisions are based; and

(c) information about the public participation procedures.

## **PART 4**

### **Consequential repeals and amendments**

#### **Consequential repeals and amendments**

8.—(1) In the 1990 Act—

(a) section 44B of, and Schedule 2A to, that Act<sup>M16</sup> are repealed; and

(b) in section 44ZA<sup>M17</sup>—

(i) in subsection (2)(a), for “the National Waste Strategy” substitute “ national waste management plan ”; and

(ii) in subsection (6), for the definition of “National Waste Strategy” there is substituted the following definition—

““national waste management plan” means the plan mentioned in regulation 3(1) of the National Waste Management Plan for Scotland Regulations 2007 (S.S.I. 2007/251), however constituted at the time and as modified from time to time.”.

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(2) In Part I of Schedule 4 to the Waste Management Licensing Regulations 1994 <sup>M18</sup>(waste framework directive etc.)–

- (a) in paragraph 1, in the definition of “plan-making provisions”,
  - (i) omit “section 44B of that Act”, and
  - (ii) substitute “ the National Waste Management Plan for Scotland Regulations 2007 (S.S.I. 2007/ 251) ”; and
- (b) in paragraph 3, in Table 5–
  - (i) in the first column of the second row of that table, at the end insert “ or the Scottish Ministers ”, and
  - (ii) in the second column of the second row of that table–
    - (aa) omit “or 44B”, and
    - (bb) at the end insert “ and preparing the national waste management plan, or any modification of it, in accordance with the National Waste Management Plan for Scotland Regulations 2007 (S.S.I. 2007/251) ”.

#### **Marginal Citations**

**M16** 1990 c. 43. Section 44B and Schedule 2A were inserted into the 1990 Act by section 92(1) of the [Environment Act 1995 \(c. 25\)](#).

**M17** [Section 44ZA](#) was inserted into the 1990 Act by section 34(1) of the [Local Government in Scotland Act 2003 \(asp 1\)](#).

**M18** [S.I. 1994/1056](#); the definition of “plan-making provisions” has been amended by paragraph 10(5)(a) of [Schedule 2 to S.I. 1996/593](#).

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22nd March 2007

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A member of the Scottish Executive

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