
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 60

The Management of Extractive
Waste (Scotland) Regulations 2010

PART 8

CLOSURE AND AFTER-CLOSURE OF WASTE FACILITIES

Closure procedures: duties of operator

25. An operator shall only commence the closure of a waste facility if at least one of the following conditions is met—

- (a) the relevant conditions stated in the planning permission are met;
- (b) authorisation is granted by the planning authority, at the request of the operator;
- (c) the planning authority issues a reasoned decision to that effect.

Closure and after-closure procedures: duties of planning authority

26.—(1) Where an operator requests that a waste facility be regarded as finally closed, the planning authority shall without undue delay—

- (a) carry out an on-site inspection;
- (b) assess all reports provided by the operator; and
- (c) where satisfied that the closure procedure has been carried out correctly—
 - (i) certify that the land affected by the waste facility has been rehabilitated;
 - (ii) communicate to the operator in writing its approval for closure of the facility; and
 - (iii) provide the operator with a written statement releasing that operator from obligations in respect of any financial guarantee required under regulation 15(1), other than any obligations under regulation 27 (after-closure procedures: duties of operator).

(2) The waste facility shall not be regarded as closed until the planning authority has communicated to the operator its approval of the closure of the waste facility, which communication shall in no way reduce the operator's obligations under the conditions of the planning permission or otherwise in law.

(3) The planning authority shall determine the period of time the operator is to remain responsible, following the closure of a waste facility, for the maintenance, monitoring, control and corrective measures and in doing it so shall take into account the nature and duration of any hazard or potential hazard.

(4) Where it considers it appropriate, the planning authority may determine that it shall take over the responsibilities in paragraph (3) from the operator.

(5) The planning authority shall determine whether it is necessary for the operator to carry out any of the activities described in regulation 27(b) and if so shall notify the operator of what it has determined to be necessary.

(6) The planning authority shall determine whether the operator is to provide reports under regulation 27(f) and, if so, what the frequency of those reports is to be.

After-closure procedures: duties of operator

27. Following closure of a waste facility the operator shall—

- (a) remain responsible for the maintenance, monitoring, control and corrective measures for as long as the planning authority requires;
- (b) where considered necessary by the planning authority, in order to fulfil relevant environmental requirements, as set out in Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#), the operator shall control the physical and chemical stability of the facility and minimise any negative environmental effect, in particular with respect to surface and groundwater, by ensuring that—
 - (i) all the structures pertaining to the facility are monitored and conserved, with control and measuring apparatus always ready for use; and
 - (ii) where applicable, overflow channels and spillways are kept clean and free;
- (c) evaluate the leachate generation potential, including contaminant content of the leachate, of the deposited waste, and determine the water balance of the waste facility;
- (d) prevent or minimise leachate generation and surface water or groundwater and soil from being contaminated by the waste and collect and treat contaminated water and leachate from the waste facility to the appropriate standard required for their discharge, unless the planning authority reduces or waives these requirements in accordance with regulation 23(2);
- (e) without delay, notify the planning authority of any events or developments likely to affect the stability of the waste facility and any significant adverse environmental effects revealed by the relevant control and monitoring procedures and where applicable the operator shall—
 - (i) implement the internal emergency plan;
 - (ii) follow any instructions from the planning authority as to the corrective measures to be taken; and
 - (iii) accept financial liability for the costs of the measures in sub-paragraphs (i) and (ii); and
- (f) report to the planning authority, if it so requires and at a frequency determined by it, on the basis of aggregated data, all monitoring results for the purposes of demonstrating compliance with planning conditions and increasing knowledge of waste and waste facility behaviour.

Inventory of closed waste facilities

28.—(1) The planning authority shall prepare and maintain an inventory of closed waste facilities, including abandoned waste facilities, in its area which cause serious negative environmental impacts or have the potential of becoming in the medium or short term a serious threat to human health or the environment.

(2) The inventory shall be made available to the public.

(3) The inventory shall be prepared by 1st May 2012 and shall take into account the methodologies referred to in Article 21 of Directive [2006/21/EC](#) on the management of waste from extractive industries, if these are available.