
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 209

**ENVIRONMENTAL PROTECTION
WATER**

**The Water Environment (Controlled
Activities) (Scotland) Regulations 2011**

Made - - - - 15th March 2011

Coming into force 31st March 2011

**THE WATER ENVIRONMENT (CONTROLLED
ACTIVITIES) (SCOTLAND) REGULATIONS 2011**

PART I

General

1. Citation and commencement
2. Interpretation
3. Application of the Regulations
4. Prohibition
5. Duty to use water efficiently

PART II

Authorisations

6. General binding rules
7. Registration
8. Water use licence
9. Groundwater Directive
10. Power of SEPA to impose authorisation

PART III

Applications and Application Procedure

11. Form and content of applications for authorisation
12. Consultation with public authorities
13. Advertisement of application
14. Further information etc.

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

15. Determination of application
16. Consideration of third party representations
17. Time limits for determining applications
18. Accelerated determination of applications, variations and suspensions
19. Directions to SEPA regarding accelerated applications, variations and suspensions
20. Determinations of applications by the Scottish Ministers

PART IV

Modification and termination of authorisations

21. Review of authorisations
22. Variation of authorisation
23. Procedure for variation
24. Request for variation
25. Transfer of authorisation
26. Conditions of transferred authorisations
27. Surrender of authorisation
28. Determination of application for surrender
29. Suspension and revocation of authorisation
30. Consolidated authorisations

PART V

Enforcement and other powers

31. Powers and duty to monitor, enforce etc.
32. Enforcement notices
33. Power of SEPA to carry out works
34. Enforcement notices — rights of entry, compensation etc.
35. Enforcement by the courts

PART VI

Information and Register

36. Power of the Scottish Ministers and SEPA to obtain information
37. Public register of information
38. Confidential information
39. Application for determination of commercial confidentiality
40. Procedure relating to information which might be confidential
41. Review of determination of commercial confidentiality
42. Effect of determination
43. Directions to SEPA concerning confidential information

PART VII

Offences

44. Offences
45. Offences by bodies corporate
46. Offences — acts or default of third person
47. Admissibility of evidence
48. Defence to principal offences
49. Power of court to order offence to be remedied

PART VIII

Appeals

50. Appeals to the Scottish Ministers
51. Determination of appeals
52. Effect of notices etc. during consideration of appeal
53. Appeals – miscellaneous

PART IX

General

54. Application to the Crown
 55. Application to SEPA
 56. Guidance to SEPA
 57. Notices
 58. Revocations, transitional and savings provisions, and amendments
- Signature

SCHEDULE 1 Indicative list of the main pollutants

1. Organohalogen compounds and substances which may form such compounds in...
2. Organophosphorous compounds.
3. Organotin compounds.
4. Substances and preparations, or the breakdown products of such, which...
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
6. Cyanides.
7. Metals and their compounds.
8. Arsenic and its compounds.
9. Biocides and plant protection products.
10. Materials in suspension.
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)...
12. Substances which have an unfavourable influence on the oxygen balance...

SCHEDULE 2 Hazardous Substances

1. SEPA must identify— (a) substances or groups of substances which...
2. In identifying the substances referred to in paragraph 1, SEPA...
3. SEPA must publish and maintain a list of the substances...
4. The list must be published in a manner SEPA considers...

SCHEDULE 3 General binding rules

PART 1

PART 2

In this Schedule— “application” means the spreading, spraying, incorporating or...

PART 3 ...

SEPA must take any equipment (including, in particular, storage containers...

In paragraph (1)— (a) “EEA Standard” means—

SCHEDULE 4 Relevant legislation

PART 1

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

PART 2

Part 2 of the Nature Conservation (Scotland) Act 2004
The Conservation (Natural Habitats &c) Regulations 1994
The Urban Waste Water Treatment (Scotland) Regulations 1994

...
...
...
...
...

The Bathing Waters (Scotland) Regulations 2008

...
...

SCHEDULE 5 Charging Scheme

1. In the case of an authorisation under these Regulations, SEPA...
2. Charges may be made in respect of:
3. A charging scheme may impose: (a) a single charge in...
4. A charging scheme may provide for charges as are reasonable...
5. A charging scheme: (a) must specify, in relation to any...
6. In making a charging scheme SEPA must secure that the...
7. Without prejudice to paragraph 5(b), if it appears to SEPA...
8. A charging scheme may: (a) make different provision for different...
9. SEPA must not make a charging scheme unless the provisions...
10. Before submitting a proposed charging scheme to the Scottish Ministers...
11. If any proposed charging scheme is submitted to the Scottish...
12. It is the duty of SEPA to take such steps...

SCHEDULE 6 Enforcement and other powers

PART 1 Powers

1. To enter at any reasonable time (or, in an emergency,...
2. On entering any premises by virtue of paragraph 1, to...
3. To examine and investigate as may in the circumstances be...
4. As regards any premises which that person has power to...
5. To take such measurements and photographs and make such recordings...
6. To obtain and to take samples, or cause samples to...
7. To monitor— (a) the water environment or any part of...
8. To take steps for the measurement and recording of precipitation....
9. To install and maintain gauges, or other apparatus and works...
10. To take such steps as may be necessary in order...
11. In the case of any article or substance found in...
12. In the case of any such article or substance as...
13. (1) Subject to sub paragraph (2), to require any person...
14. To require the production of, or if the information is...
15. To require any person to afford such facilities and assistance...
16. To carry out borings or other works on any premises...

PART 2 Procedures etc.

17. Any person authorised by SEPA under regulation 31(4) must produce...
18. Except in an emergency, in any case where it is...
19. Except in an emergency, if an authorised person proposes to...
20. If an authorised person proposes to exercise the power conferred...
21. Before exercising the power conferred by paragraph 11 in the...
22. No answer given by a person in pursuance of a...
23. Nothing in this schedule will be taken to compel the...
24. A person who enters any premises in the exercise of...

PART 3 Issue of warrants

25. If a sheriff or justice of the peace is satisfied...
26. The conditions mentioned in paragraph 25 are—
27. In a case where paragraph 25 applies, a justice of...
28. Every warrant under this Schedule will continue in force until...

PART 4 Evidence

29. In any legal proceedings it will be presumed until the...
30. Subject to paragraph 22, information obtained in consequence of the...
31. Without prejudice to the generality of paragraph 30, information obtained...

PART 5 Compensation

32. (1) SEPA must compensate any person who has sustained loss...

SCHEDULE 7 Compensation for grant of rights

1. Interpretation
2. Period for making an application
3. Form of application
4. Loss and damage for which compensation payable
5. Basis on which compensation assessed
6. Payment of compensation and determination of disputes

SCHEDULE 8 Register

1. The register maintained by SEPA under regulation 37 must contain...
2. If an application is withdrawn by the applicant at any...
3. Nothing in paragraph 1 will require SEPA to keep in...
4. Paragraph 3(a) does not apply to any aggregated monitoring data...

SCHEDULE 9 Procedures in connection with appeals to the Scottish Ministers

1. A person who wishes to appeal to the Scottish Ministers...
2. The documents mentioned in paragraph 1 are—
3. An appellant may withdraw an appeal by notifying the Scottish...
4. Subject to paragraph 5, notice of appeal in accordance with...
5. The Scottish Ministers may in a particular case allow notice...
6. Subject to paragraph 9, SEPA must, within 14 days of...
7. A notice under paragraph 6 must— (a) state that the...
8. SEPA must, within 14 days of sending a notice under...
9. In the event of an appeal being withdrawn, SEPA must...
10. Hearing procedure
11. A hearing held under paragraph 10 may, if the appointed...
12. If the Scottish Ministers cause a hearing to be held...
13. In the case of a hearing which is to be...
14. The Scottish Ministers may vary the date fixed for the...
15. The Scottish Ministers may also vary the time or place...
16. The persons entitled to be heard at any hearing are...
17. Nothing in paragraph 16 prevents the appointed person from permitting...
18. After the conclusion of a hearing, the appointed person must...
19. Subsections (3) to (8) of section 210 of the Local...

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

20. Procedure for written representations
21. The appellant must make any further representations by way of...
22. Any representations made by the appellant or SEPA must bear...
23. When SEPA or the appellant submits any representations to the...
24. The Scottish Ministers must send to the appellant and SEPA...
25. The Scottish Ministers may in a particular case—
26. Determination and publication of appeal
27. The Scottish Ministers must at the same time send a...
 - SCHEDULE 10 Transitional and Savings Provisions
 - PART 1 Water Environment
 1. If on 31st March 2011 an authorisation under regulation 8...
 2. For the avoidance of doubt, paragraph 1 applies to any...
 3. If on or before 31st March 2011 a person—
 4. Notwithstanding the revocation of the 2005 Regulations by regulation 58,...
 5. If an authorisation is granted in respect of an application...
 6. Notwithstanding the revocation of the 2005 Regulations by regulation 58—...
 - PART 2 Pollution Control
 7. If on 31st March 2011 a relevant authorisation is in...
 8. The relevant authorisation referred to in paragraph 7 will be...
 9. SEPA must, insofar as it has not done so under...
 10. When carrying out a review in accordance with paragraph 9,...
 11. The review required under paragraph 9, and the steps required...
 12. Where an application for a relevant authorisation in respect of...
 13. SEPA must, when considering an application referred to in paragraph...
 14. If an application is granted in accordance with paragraph 13,...
 15. If, on or after 31st March 2011, an application for...
 16. SEPA must, when considering an application referred to in paragraph...
 17. If an application is granted in accordance with paragraph 16,...
 18. In this Part— (a) “authorised activity” means an activity referred...
- SCHEDULE 11 Amendments
1. Amendments to the Town and Country Planning (Scotland) Act 1997
2. Amendments to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992
3. Amendment to the Environmental Impact Assessment (Scotland) Regulations 1999
4. In column 2 of the table referred to in paragraph...
5. Savings Provision
- Explanatory Note

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011.