
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 360

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

PART III

GRANTING OF PERMITS

CHAPTER 2

Schedule 1 activities

Schedule 1 activities

20. Schedule 1 has effect.

[^{F1}Schedule 1A: Energy Efficiency Directive

20A. Schedule 1A has effect.]

Textual Amendments

F1 Reg. 20A inserted (30.10.2014) by [The Pollution Prevention and Control \(Scotland\) Amendment Regulations 2014 \(S.S.I. 2014/267\)](#), regs. 1(1), 6

[^{F2}Schedule 1B: Medium Combustion Plant Directive

20B. Schedule 1B has effect.]

Textual Amendments

F2 Reg. 20B inserted (19.12.2017) by [The Pollution Prevention and Control \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/446\)](#), regs. 1(1), 7

Schedule 1: general principles

21.—(1) SEPA must on determining the conditions of a permit—

- (a) take account of the general principles in paragraph (2), and
- (b) in the case of a Part A installation, the additional general principles in paragraph (3).

(2) The general principles are that Part A installations, Part B installations and mobile plant should be operated in such a way that—

- (a) all the appropriate preventative measures are taken against pollution, in particular through application of the best available techniques, and

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- (b) no significant pollution is caused.
- (3) The additional general principles are that—
 - (a) installations should be operated in such a way that—
 - (i) waste generation is prevented, and where waste is produced it is, in order of priority and in accordance with the Waste Framework Directive prepared for re-use, recycled recovered or, where that is technically and economically impossible, disposed of while avoiding or reducing any impact on the environment,
 - (ii) energy is used efficiently, and
 - (iii) the necessary measures are taken to prevent accidents and limit their consequences, and
 - (b) the necessary measures are taken on final cessation of activities to avoid any pollution risk, and to return the site of the installation to a satisfactory state.

Schedule 1 conditions : best available techniques

22.—(1) It is a condition of a permit for a Part A or Part B installation or any mobile plant that the operator must use the best available techniques for preventing or, where that is not practicable, reducing emissions from an installation or mobile plant.

(2) Paragraph (1) does not apply to the extent that any other condition of a permit, or a standard rule which has effect as a standard rules condition, has the same effect.

[^{F3}(3) Paragraph (1) does not apply to a permit for a Part B installation at which no activity is carried out other than an activity described in either or both—

- (a) paragraph (c) of Part B of Section 1.1 of Part 1 of schedule 1; or
- (b) paragraph (d) of Part B of Section 1.1 of Part 1 of schedule 1.]

Textual Amendments

F3 [Reg. 22\(3\)](#) inserted (19.12.2017) by [The Pollution Prevention and Control \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/446\)](#), regs. 1(1), 8

Schedule 1 conditions: general provisions

23.—(1) SEPA must include in a permit for—

- (a) a Part A installation the conditions SEPA considers appropriate—
 - (i) to comply with paragraph (2), and
 - (ii) to ensure, when taken with regulation 22, a high level of protection for the environment as a whole taking particular account for that purpose of the general principles in regulation 21, and
 - (b) a Part B installation or any mobile plant, the conditions SEPA considers appropriate, when taken with regulation 22, for the purpose of preventing or, where that is not practicable, reducing emissions into the air, taking particular account for that purpose of the general principles set out in regulation 21(2).
- (2) A permit for a Part A installation must include conditions—
- (a) aimed at minimising long distance or trans-boundary pollution,

- (b) ensuring, where necessary, appropriate protection of the soil and groundwater including requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater,
 - (c) ensuring, where necessary, appropriate monitoring and management of waste produced by the installation,
 - (d) setting out the steps to be taken prior to the operation of the installation and after the definitive cessation of operations,
 - (e) relating to any period when the installation will not operate normally, including as required conditions relating to start up and shut down operations, leaks, malfunctions, momentary stoppages and definitive cessation of operations,
 - (f) setting out suitable emission monitoring requirements specifying measurement methodology, frequency, and evaluation procedure, including in particular—
 - (i) appropriate requirements in respect of the surveillance of measures taken to prevent emissions to soil and groundwater,
 - (ii) appropriate requirements in respect of the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found on the site, having regard for that purpose to the possibility of soil and groundwater contamination at the site,
 - (iii) ensuring, where regulation 25(7) applies, that results of emission monitoring are available for the same periods of time and for the same reference conditions as for the emission levels associated with the best available techniques,
 - (g) requiring the operator to supply SEPA regularly, and at least annually, with—
 - (i) the results of the monitoring of emissions, and
 - (ii) the other required data that enables SEPA to verify compliance with the permit conditions, and
 - (iii) where regulation 25(7) applies, a summary of the results of emission monitoring which allows a comparison with the emission levels associated with the best available techniques,
 - (h) requiring the operator to inform SEPA, without delay, of any incident or accident significantly affecting the environment, and
 - (i) in respect of assessment of compliance with the emission limit values.
- (3) For the purposes of paragraph (2)(f)—
- (a) emission monitoring requirements must where applicable be based on conclusions on monitoring as described in BAT conclusions, and
 - (b) periodic monitoring of—
 - (i) groundwater must be carried out at least every 5 years, and
 - (ii) soil must be carried out at least every 10 years,unless such monitoring is based on a systematic appraisal of the risks of contamination of groundwater and soil.

Schedule 1 conditions: off-site conditions

24.—(1) SEPA may include in a permit for a Part A or Part B installation a condition requiring an operator to carry out works or do other things in relation to land not forming part of the site of the installation (an “off-site condition”), whether or not the operator is not entitled to carry out such works or to do that thing in relation to the land.

Status: Point in time view as at 28/02/2019.

Changes to legislation: There are currently no known outstanding effects for the The Pollution Prevention and Control (Scotland) Regulations 2012, CHAPTER 2. (See end of Document for details)

(2) A person whose consent would be required to carry out such works, or to do that thing, must grant (or join in granting) the operator such rights in relation to the land as will enable the operator to comply with an off-site condition.

(3) Schedule 6 has effect.

Schedule 1 conditions: emission limit values and environmental quality standards

25.—(1) SEPA must ensure that a permit for a Part A or Part B installation or any mobile plant includes such conditions as it considers appropriate to comply with paragraphs (2) to (14).

(2) Subject to paragraph (3), a permit must include emission limit values for—

- (a) polluting substances listed in Schedule 5, and
- (b) other polluting substances,

likely to be emitted in significant quantities from an installation or any mobile plant, having regard for that purpose to the nature of the pollutant, and in the case of a Part A installation the potential for emissions to transfer pollution from one environmental medium to another.

(3) SEPA may supplement or replace an emission limit value by an equivalent parameter or technical measure ensuring an equivalent level of protection for the environment.

(4) An emission limit value must apply at the point at which the emissions leave the installation or mobile plant, any dilution before that point being disregarded for the purpose of determining the value.

(5) An emission limit value may apply to groups of pollutants rather than to individual pollutants.

(6) Where any BAT conclusions contain an emission level associated with the best available techniques described in the conclusions, an emission limit value must—

- (a) ensure that, under normal operating conditions, emissions do not exceed the levels associated with the best available techniques laid down in the BAT conclusions, and
- (b) be expressed for the same or a shorter period of time, and under the same reference conditions, as for the emission levels associated with the best available techniques.

(7) An emission limit value under paragraph (6) may be set at a different value, in terms of values, periods of time, and reference conditions, provided that SEPA—

- (a) assesses the results of emissions monitoring at least annually,
- (b) is satisfied on assessment that emissions under normal operating conditions have not exceeded the levels associated with the best available techniques during that period, and
- (c) ensures that the results of emissions monitoring are available for the same period of time and reference conditions as for the emission levels associated with the best available techniques.

(8) Where any BAT conclusions describe best available techniques, but do not contain an emission level associated with the techniques, an emission limit value must—

- (a) be determined by giving special consideration to the matters specified in Schedule 3, and
- (b) ensure a level of environmental protection equivalent to the techniques described in the BAT conclusions.

(9) SEPA may set stricter permit conditions that those achievable by the use of best available techniques as described in BAT conclusions.

(10) Where there are no BAT conclusions for an activity, an emission limit value must be based on the best available techniques in relation to the installation or mobile plant concerned, as determined by giving special consideration to the matters specified in Schedule 3.

(11) Where an environment quality standard requires stricter conditions than those achievable by the use of best available techniques SEPA—

- (a) must include additional measures or other emission limit values in a permit, and
- (b) may include other measures to comply with the standard.

(12) SEPA may set a less strict emission limit value under paragraph (6) for an installation if—

- (a) an assessment shows that achievement of the emission levels associated with the best available techniques as described in any BAT conclusions would lead to disproportionately higher costs compared to environmental benefits due to the—
 - (i) the geographical location or local environmental conditions of the installation, or
 - (ii) technical characteristics of the installation,
- (b) the value set—
 - (i) does not exceed the emission limit values set out in the Annexes to the Industrial Emissions Directive, and
 - (ii) ensures that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved, and
- (c) the permit specifies the reasons for setting the value, including the result of the assessment and the justification for the conditions imposed.

(13) SEPA may set a less strict emission limit value for an installation or any mobile plant than would otherwise be required under paragraphs (6), (8) or (10) for a total period not exceeding 9 months for the purpose of testing and use of an emerging technique.

(14) SEPA may take into account the effect of a waste water treatment plant when determining the emission limit values applying in relation to indirect releases into water from a Part A installation provided that—

- (a) doing so does not lead to higher levels of pollution, and
- (b) the permit ensures an equivalent overall level of protection of the environment.

(15) In this regulation, “less strict emission limit value” means a value that is less than the value that would otherwise be set if based on best available techniques.

Schedule 1 conditions: large combustion plants

26.—^[F4(1)] SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of Chapter III and Annex V of the Industrial Emissions Directive.

^[F5(2)] When interpreting the Industrial Emissions Directive for the purposes of this regulation, “small isolated system” means any system with consumption of less than 3000 gigawatt hours in the year 1996, where less than 5% of annual consumption is obtained through interconnection with other systems.]

Textual Amendments

- F4** Reg. 26(1): reg. 26 renumbered as reg. 26(1) (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **3(2)(a)**
- F5** Reg. 26(2) inserted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **3(2)(b)**

[^{F6}Schedule 1 conditions: medium combustion plants

26A.—(1) SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of schedule 1B.

(2) SEPA may set stricter permit conditions than those required by paragraph (1).

(3) The Scottish Ministers may direct SEPA to include stricter emission limit values than required by the provisions of schedule 1B provided that, in the opinion of the Scottish Ministers, applying such emission limit values would effectively contribute to a noticeable improvement of air quality.]

Textual Amendments

F6 [Reg. 26A](#) inserted (19.12.2017) by [The Pollution Prevention and Control \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/446\)](#), regs. 1(1), **9**

Schedule 1 conditions: titanium dioxide

27. SEPA must ensure that a permit for an installation producing titanium dioxide contains such conditions as it considers necessary to give effect to the provisions of Chapter VI and Annex VIII of the Industrial Emissions Directive.

Schedule 1 conditions: mixing separately collected waste

28. SEPA must ensure that on or after 1st January 2014 a permit granted or varied for an activity described in Chapter 5 of Part 1 of Schedule 1, or in Section 6.8 of Chapter 6 of that Part, contains any condition SEPA considers necessary to ensure that no separately collected waste is mixed with any other waste or any material, to the extent that mixing would hamper further recycling.

Schedule 1 conditions: incineration and co-incineration of waste

29.—(1) SEPA must ensure that a permit granted or varied for the incineration or co-incineration of—

- (a) waste contains such conditions as SEPA considers necessary to—
 - (i) give effect to the provisions of Chapter IV and Annex VI of the Industrial Emissions Directive,
 - (ii) ensure that on or after 1st January 2014 no separately collected waste capable of being recycled is incinerated or co-incinerated,
- (b) waste with energy recovery contains such conditions as SEPA considers necessary to ensure that that the recovery of energy takes place with a high level of energy efficiency,
- (c) municipal waste contains such conditions as SEPA considers necessary to ensure where practicable that no waste including non-ferrous metals or hard plastics is incinerated or co-incinerated.

(2) For the purposes of paragraph (1)(a)(i), paragraph 2.1(c) of Part 6 of Annex VI to the Industrial Emissions Directive is to be read as if for “and dioxins and furans” there is substituted “ dioxins, furans, dioxin-like polychlorinated biphenyls and polycyclic aromatic hydrocarbons ”.

Schedule 1 conditions: incineration of batteries

30.—(1) SEPA must ensure that a permit for the incineration of waste contains a condition prohibiting the incineration of waste industrial and automotive batteries.

(2) Such a condition does not prohibit the incineration of residues of any batteries that have undergone both treatment and recycling, provided that the treatment and recycling—

- (a) used best available techniques, in terms of the protection of health and the environment, and
- (b) complied, at a minimum, with Union legislation, in particular as regards health and safety and waste management.

Schedule 1 conditions: waste oils

31.—(1) SEPA must ensure that a permit for an activity relating to waste oils contains a condition ensuring that, so far as technically feasible and economically viable—

- (a) waste oils having different characteristics are not mixed, and
- (b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(2) In this regulation, “waste oils” and “treatment” have the same meanings as in the Waste Framework Directive.

Schedule 1 conditions: volatile organic compounds

32.—(1) SEPA must ensure that a permit for a specified activity contains any condition SEPA considers necessary to ensure compliance with—

- (a) Directive [94/63/EC](#) of the European Parliament and Council on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations ^{M1}[^{F7}(as last amended by Decision (EU) 2018/853)], and
- [^{F8}(b) Directive [2009/126/EC](#) of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations, as last amended by Commission Directive 2014/99/EU.]

(2) In this regulation, “specified activity” means an activity described in paragraphs (b) to (e) of Part B of Section 1.2 of Part 1 of Schedule 1.

[^{F9}(3) When interpreting Directive [94/63/EC](#) of the European Parliament and Council on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations for the purposes of this regulation, Article 2(k) is to be read as if the reference to Chapter 1 of Council Directive [82/714/EEC](#) laying down technical requirements for inland waterway vessels were a reference to Article 3(c), as read with Article 2, of Directive (EU) 2016/1629 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels, amending Directive [2009/100/EC](#) and repealing Directive [2006/87/EC](#).]

Textual Amendments

- F7** Words in [reg. 32\(1\)\(a\)](#) inserted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **3(3)(a)**
- F8** [Reg. 32\(1\)\(b\)](#) substituted (12.5.2016) by [The Pollution Prevention and Control \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/39\)](#), regs. 1, 2
- F9** [Reg. 32\(3\)](#) inserted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **3(3)(b)**

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Marginal Citations

M1 OJ L 365, 31.12.1994, p.24; as amended by Regulation (EC) No. 1882/2003 (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No. 1137/2008 (OJ L 311, 31.11.2008, p.1).

[^{F10}Schedule 1 conditions: materials recovery facilities

32A.—(1) SEPA must ensure that a permit granted or varied on or after 1st April 2015 which authorises the operation of a materials recovery facility contains a condition requiring the operator of the installation of which the facility forms part to comply with the Materials Recovery Code.

(2) In this regulation—

“Materials Recovery Code” means the Code of Practice on Sampling and Reporting at Materials Recovery Facilities issued by the Scottish Ministers on 2nd March 2015;

“materials recovery facility” means a facility where dry recyclable waste is treated in order to separate that waste into a dry waste stream or streams; and

“dry recyclable waste” and “dry waste stream” have the same meanings as they do for the purposes of section 75(7A) of the Environmental Protection Act 1990.]

Textual Amendments

F10 Reg. 32A inserted (1.4.2015) by [The Waste \(Recyclate Quality\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/101\)](#), regs. 1(1), **3(2)**

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