

SCHEDULE 4

Regulations 2, 13 and 58

GRANT OF PERMITS

PART 1

APPLICATIONS FOR PERMITS

- 1.—(1) An application to SEPA for a permit under regulation 13 must be in writing and must provide—
- (a) the name, address telephone number and email address of the applicant (and any correspondence address if different) including in the case of a body corporate—
 - (i) any registration number,
 - (ii) the address of its registered or principal office, and
 - (iii) if it is a subsidiary within the meaning of section 1159 of the Companies Act 2006, the name of the ultimate holding company and information specified in subparagraphs (i) and (ii) in respect of that company,
 - (b) in the case of a permit to operate an installation—
 - (i) the address of the site of the installation,
 - (ii) the national grid reference of the location of the installation on that site,
 - (iii) the name of any local authority in whose area the site is situated, and
 - (c) in the case of an installation other than a standard installation, a map or plan showing the site of the installation and the location of the installation on that site,
 - (d) in the case of a permit to operate mobile plant—
 - (i) the name of the local authority in whose area the applicant has his principal place of business, and the address of that place of business, or
 - (ii) where the operator of the mobile plant has his principal place of business outside of Scotland—
 - (aa) the name of the local authority in whose area the plant was first operated, or
 - (bb) where the plant has not been operated in Scotland, the local authority in whose area it is intended by the operator that the plant will first be operated,
 - (e) in the case of a permit to operate a Part A installation (as defined for the purposes of regulation 48)—
 - (i) a site report,
 - (ii) where the permit will authorise an activity that involves the use, production or release of a relevant hazardous substance, a baseline report,
 - (iii) where the applicant proposes that the permit will authorise an emission limit value set under regulation 25(7), the reasons for setting that value,
 - (f) a description of—
 - (i) the installation or mobile plant,
 - (ii) the activities listed in Part 1 of Schedule 1 to be carried out in the installation or by means of the mobile plant,
 - (iii) the activities listed in Part 1 of Schedule 2 to be carried out in the installation,

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- (iv) in the case of an installation, any other directly associated activities to be carried out on the same site as the installation,
 - (g) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in sub-paragraph (f),
 - (h) information on the nature, quantities and sources of foreseeable emissions from the installation or mobile plant into each environmental medium, and a description of any foreseeable significant effects of the emissions on the environment and on human health,
 - (i) a description of the proposed technology and other techniques for preventing or, where that is not practicable, reducing and rendering harmless emissions from the installation or mobile plant,
 - (j) if applicable, how the best available techniques are applied to the operation of the installation or mobile plant,
 - (k) the proposed measures to be taken to monitor the emissions,
 - (l) a description of the measures to be taken for the prevention, preparation for re-use, recycling and recovery of waste produced by the operation of the installation,
 - (m) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 21(2) and (3),
 - (n) in the case of a permit for a Part A installation or a solvents installation, any relevant information obtained or conclusion arrived at in relation to the installation for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive,
 - (o) in the case of a permit for a Part A installation any relevant information obtained or conclusion arrived at in relation to a safety report within the meaning of regulation 7 of the Control of Major Accident Hazards Regulations 1999 ^{M1},
 - (p) in the case of an application to operate a standard installation or standard mobile plant, a statement as to whether the applicant wishes any permit granted to be a standard rules permit,
 - (q) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, any information which the applicant wishes SEPA to take into account when considering whether the applicant is a fit and proper person to carry out that activity,
 - (r) in the case of an application for a permit for an installation which is the subject of a Climate Change Agreement within the meaning of paragraph 46 of Schedule 6 to the Finance Act 2000 ^{M2}—
 - (i) written confirmation that the installation is covered by the Agreement, and
 - (ii) the terms of that agreement in so far as they relate to the installation,
 - (s) any additional information which the applicant wishes SEPA to take into account in considering the application,
 - (t) in the case of an application for a permit to operate a Part A installation, an outline of the main alternatives studied by the applicant,
 - (u) a non-technical summary of the information referred to in this paragraph.
- (2) A site report must describe the condition of the site of the installation, and in particular it must—
- (a) describe any soil and groundwater contamination at the site,
 - (b) identify any pollutants in or on the land other than as described in paragraph (a),
 - (c) provide information on the present use of the site, and

- (d) provide any available information on past uses of the site,
- (3) A baseline report must provide soil and groundwater measurements for the site—
 - (a) based on previously existing information if using that information provides an accurate description of the state of the site at the time of the report, or
 - (b) based on new information,

having regard for that purpose to the possibility of soil and groundwater contamination by any hazardous substance to be used, produced or released by the installation concerned.

(4) SEPA may on request by the applicant waive the requirement in sub-paragraph (1)(e)(ii) to provide a baseline report, having regard for that purpose to the possibility of soil and groundwater contamination.

Marginal Citations

M1 S.I. 1999/743, as amended by S.I. 2005/1088.

M2 2000 c.17 (as amended).

2. An application for a permit for an installation where an activity described in Part A of Section 5.2 in Part 1 of Schedule 1 is carried out must also provide—

- (a) the description of the types and total quantity of waste to be deposited,
- (b) the proposed capacity of the disposal site,
- (c) a description of the site, including its hydrogeological and geological characteristics,
- (d) the proposed operation, monitoring and control plan,
- (e) the proposed plan for the closure and after-care procedures; and
- (f) for those sites to which regulation 6 of the Landfill Regulations does not apply the financial provision required under regulation 18(4)(b).

3. An application for a permit to operate a waste incineration installation must also provide a description of the measures which are envisaged to guarantee that—

- (a) the installation is designed and equipped, and will be operated, in such a manner that the requirements of the Industrial Emissions Directive are met, taking into account for that purpose the categories of waste to be incinerated,
- (b) heat generated during the incineration and co-incineration process is recovered with a high level of energy efficiency, for example, through combined heat and power, the generating of process steam or district heating,
- (c) the residues after burning will be—
 - (i) minimised in their amount and harmfulness, and
 - (ii) recycled where appropriate,
- (d) the disposal of such residues will be carried out in conformity with national and Union legislation^{M3},
- (e) the proposed measurement techniques for emissions into the air and water comply with Parts 6 and 7 of Annex VI of the Industrial Emissions Directive,
- (f) the plant will be equipped and operated in such a manner that no separately collected waste capable of being recycled is incinerated or co-incinerated (as the case may be), and
- (g) the plant is equipped and operated in such a manner as is practicable to ensure that no waste that includes non-ferrous metals or hard plastics is incinerated or co-incinerated (as the case may be).

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Marginal Citations

M3 For example, see the Waste Framework Directive as defined in regulation 3, and the [Waste Management Licensing \(Scotland\) Regulations 2011 \(S.S.I. 2011/228\)](#).

4. An application for a permit to operate a solvents installation must also include a description of the measures which are expected to ensure that the installation is designed and equipped, and will be operated, in such a manner that the requirements Chapter V and Annex VII of the Industrial Emissions Directive are met including—

- (a) details of any reduction scheme the operator intends to use,
- (b) in the period ending on 31st May 2015—
 - (i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F, or the risk phrases R45, R46, R49, R60 and R61^{M4}, to be used in the installation with less harmful compounds, or
 - (ii) for the volatile organic compounds referred in sub-paragraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 or the risk phrases R40 and R68, to be used in the installation how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with,
- (c) in the period beginning on 1st June 2015—
 - (i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F to be used in the installation with less harmful compounds,
 - (ii) for the volatile organic compounds referred in sub-paragraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 to be used in the installation, how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with.

Marginal Citations

M4 See the Hazardous Substances Regulation as defined in regulation 2(1) in respect of hazard statements and risk phrases.

5. In paragraph 1(1)—

- (a) sub-paragraphs (g), (l), (r), and (u) do not apply to an application for a permit to operate a Part B installation or mobile plant, and for such an application the reference to emissions into each environmental medium in paragraph 1(1)(h) is to be read as a reference to emissions into the air, and
- (b) sub-paragraphs (l), (m), (r) and (u) do not apply to an application for a permit to operate a solvents installation.

6. Paragraph 1(1) applies to an application for a permit to operate an installation in which dry cleaning (as defined in Part 5 of Schedule 2) is carried out as if for subparagraphs (f) to (i) there is substituted—

- “(f) the date of installation of the dry cleaning machine, and the manufacturer, description, name and model number, serial number (if any) and rated capacity of the machine,
- (g) details of any spot cleaning to be undertaken, and details of checking and maintenance procedures to be followed and of the supervision, training and qualifications of operating staff,
- (h) details of the solvents to be used, including a description of any risk phrase or hazard statement substance or mixture,
- (i) details of the arrangements for storing solvents prior to use, and used solvents and solvent-contaminated materials, including a description of the location where the materials are stored.”.

7.—(1) SEPA may by notice require the applicant to provide such further information for the purpose of determining an application as is specified in the notice within the period so specified.

(2) SEPA may by further notice to the applicant treat the application as having been withdrawn at the end of that period if the applicant fails to furnish the information within that period.

8. Subject to paragraph 31, the applicant must advertise the application within the 28 day period beginning with the 14th day after the day the application is made—

- (a) in one or more newspapers circulating in the locality where the installation will be operated, and
- (b) in the case of a permit to operate a Part A installation (other than for an activity described in paragraph (b) of Part A of Section 5.2 of Part 1 of Schedule 1), in the Edinburgh Gazette.

9. An advertisement required by paragraph 8 must—

- (a) state the name of the applicant,
- (b) state the address of the site of the installation,
- (c) briefly describe the activities to be carried out in the installation,
- (d) state that the application describes any foreseeable significant effects of emissions on the environment,
- (e) state where (and in the case of a permit for a Part A installation how and at what times) the register may be inspected, and that the register may be inspected free of charge,
- (f) explain that any person may make written representations to SEPA within the period of 28 days beginning with the date of the advertisement, and give the SEPA address (including e-mail address) for that purpose,
- (g) explain that any such representation will be entered in the register unless the person making the representation requests in writing that it should not be entered, and that on such a request the register will state only that a representation has been made that is the subject of a request, and
- (h) in the case of a permit for a new Part A installation—
 - (i) explain that the particulars in the register include a description of the matters listed in paragraph 1(1), and
 - (ii) if applicable, state that the determination of the application is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 26 of the Industrial Emissions Directive.

10. An advertisement in respect of application for a permit to operate more than one installation or mobile plant the application must contain the information required by paragraphs 1 and 9 respectively in relation to each such installation or plant.

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11. Paragraph 8 does not apply to an application for a permit to operate an installation involving only—

- (a) the authorisation of a Part B standard installation which is not a hybrid installation,
- (b) the carrying out of an activity described in paragraphs (b)(ii), (c), (d) or (e) of Part B of Section 1.2 of Part 1 of Schedule 1, or
- (c) dry cleaning.

12. This Part is subject to Part 3.

PART 2

DETERMINATION OF APPLICATIONS

13. Subject to paragraph 35, SEPA must within 14 days of receiving an application for a permit give notice of the application (enclosing a copy) to—

- (a) in the case of a permit for an installation, the local authority and Health Boards in whose areas the installation will be operated,
- (b) in the case of a permit for an installation where operation may involve an emission which may affect a site of special scientific interest or a European site (within the meaning of regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 ^{M5})—
 - (i) Scottish Natural Heritage where the emission may affect a site in Scotland,
 - (ii) the appropriate nature conservation body (within the meaning of regulation 4 of those Regulations) where the emission may affect such a site in another part of Great Britain,
- (c) in the case of a permit for a Part A installation—
 - (i) the Food Standards Agency ^{M6}, and
 - (ii) where operation may involve the release of any substance into a sewer vested in Scottish Water ^{M7}, that body,
 - (iii) where operation may involve the release of any substance into a harbour managed by a harbour authority (within the meaning of section 57(1) of the Harbours Act 1964 ^{M8}), that harbour authority,
- [^{F1}(d) in the case of a permit for an installation on a site—
 - (i) in respect of which a nuclear site licence is required under section 1 of the Nuclear Installations Act 1965; or
 - (ii) which is a relevant nuclear site and in respect of which—
 - (aa) a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations 1999 (“the 1999 Regulations”); or
 - (bb) a safety report is required under regulation 7 of the 1999 Regulations, the Office for Nuclear Regulation;
- (da) in the case of a permit for an installation on a site in respect of which—
 - (i) a major accident prevention policy document is required under regulation 5 of the 1999 Regulations; or
 - (ii) a safety report is required under regulation 7 of the 1999 Regulations,

the Health and Safety Executive unless the application is required to be given to the Office for Nuclear Regulation under sub-paragraph (d).]

(e) such other persons as the Scottish Ministers may direct.

Textual Amendments

F1 Sch. 4 para. 13(d)(da) substituted for Sch. 4 para. 13(d) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014](#) (S.I. 2014/469), art. 1(2), **Sch. 3 para. 206(2)** (with Sch. 4)

Marginal Citations

M5 [S.I. 1994/2716](#). Relevant amendments are made by paragraph 15 of schedule 2 to the [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), by S.I. 1997/3055, 2007/1843 and 2010/490, and by S.S.I. 2004/475, 2007/80, 2011/155 and 2012/228.

M6 See section 1 of the [Food Standards Act 1999 \(c.28\)](#).

M7 Scottish Water is a body corporate established by section 20 of, and Schedule 3 to, the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#).

M8 [1964 c.40](#), to which there are no relevant amendments.

[^{F2}**13A.** For the purposes of paragraph 13 a site is a relevant nuclear site if it is—

- (a) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (b) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).]

Textual Amendments

F2 Sch. 4 para. 13A inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014](#) (S.I. 2014/469), art. 1(2), **Sch. 3 para. 206(3)** (with Sch. 4)

14. Paragraph 13 does not apply to a permit to operate an installation involving only dry cleaning.

15. Paragraph 13(a) does not apply to an application for a permit to operate a Part B standard installation which is not a hybrid installation.

16.—(1) SEPA must before granting a permit subject to an off-site condition give notice under sub-paragraph (2) to every person appearing to SEPA to be a person specified in sub-paragraph (3).

(2) The notice must—

- (a) describe the proposed off-site condition,
- (b) describe the nature of the works or things which the holder of the permit might require to carry out or do to comply with the condition, and
- (c) state the representation period in relation to the condition, and the manner in which representations are to be made.

(3) A person is specified if—

- (a) that person is the owner, tenant or occupier of the land, and
- (b) rights will have to be granted by that person under regulation 24(2) to the holder of the permit if the proposed off-site condition is included in the permit,

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(4) In this paragraph “owner” means the person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive the rents of the land, or who would if the land were let be entitled to receive the rents, and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom management of the land is entrusted.

17.—(1) The period allowed for making representations to SEPA (the “representation period”) is—

- (a) in the case of a notice under paragraphs 13 or 16, the period of 28 days beginning with the date on which notice is given,
- (b) in the case of any other notice, the period of 28 days beginning with the date on which the application is advertised under paragraph 8, and
- (c) in the case of a draft determination, the period of 28 days beginning with the date on which the draft is advertised under paragraph 23.

(2) SEPA must consider any representation made within the representation period.

18. In the case of an application for a permit for—

- (a) a Part A installation, SEPA must consider in determining the application any relevant information obtained or conclusion arrived for the purposes of—
 - (i) Articles 5, 6, 7 and 9 of the EIA Directive,
 - (ii) a safety report within the meaning of regulation 7 of the Control of Major Accident Hazards Regulations 1999. or
- (b) a solvents installation, any such information or conclusion for the purposes of those Articles of the EIA Directive.

19.—(1) The Scottish Ministers may direct SEPA that any application, or any class of applications for a permit, is referred to them for determination (a “called-in case”).

(2) SEPA must on receiving such a direction—

- (a) inform the applicant that the application is a called-in case, and
- (b) provide the Scottish Ministers with any representation made within the representation period.

(3) The Scottish Ministers must on a request by the applicant or SEPA in a called-in case provide an opportunity of appearing before and being heard by a person appointed by the Ministers, and may do so where no request is made.

(4) A request for such a hearing must be in writing and be made within the period of 21 days beginning with the day on which the applicant is informed that the application is a called-in case.

(5) Paragraphs 4(2) to (10) of Schedule 8 apply to such a hearing as they apply to a hearing held under paragraph 4(1) of that Schedule—

- (a) with the substitution in paragraph 4(3) for the reference to the appellant of a reference to the applicant,
- (b) with the substitution in paragraph 4(4)—
 - (i) for the reference to the appeal of a reference to the application, and
 - (ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 of a reference to every person who was required to be given notice under paragraph 13 of this Schedule, and

- (iii) for the references to every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations to the Scottish Ministers of a reference to any person who made representations to SEPA with respect to the application,
- (c) with the substitution in paragraph 4(7)—
 - (i) for the reference in paragraph 4(7)(a) to the appellant of a reference to the applicant,
 - (ii) for the reference in paragraph 4(7)(c) to any person required under paragraph 3(1) (a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 13 of this Schedule to be notified of the application.
- (6) In relation to SEPA and the applicant, regulation 56(5) and (6) applies to any determination by the Scottish Ministers of any application referred to them under sub-paragraph (1) as it applies to decisions made by the Scottish Ministers on appeal under regulation 58(1) or (2).
- (7) The Scottish Ministers must on determining a called-in case, and the sheriff may on determining an appeal, give SEPA—
 - (a) such a direction as they consider fit as to whether to grant the application, and
 - (b) if SEPA are directed to grant the application, as to the conditions that are to be attached to the permit.
- 20.**—(1) SEPA must, subject to paragraph 27, give notice to the applicant of—
 - (a) the determination of an application for a permit (other than a called-in case); or
 - (b) in the case a permit for a new Part A installation, the draft determination,within the period of 4 months beginning with the day on which it received a duly made application, or within such longer period as may be agreed with the applicant.
- (2) SEPA must take no account for the purposes of calculating that period—
 - (a) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information,
 - (b) of any period allowed for making representations in relation to a notice under paragraph 16 in so far as that period does not overlap with any representation period,
 - (c) if a matter falls to be determined under regulations 65 or 66, of any period beginning with the date on which the 28 period of 28 referred to in paragraph 8 ends, and ending on the date on which the application is advertised under paragraph 35(a),
 - (d) if separate applications are made to operate different parts of one installation, of any period beginning with the date on which notice is served on one of the applicants under paragraph 7 and ending on the date on which the applicant furnishes the specified information.
- 21.** SEPA must where separate applications are made to operate different parts of an installation send a copy of any notice served on an applicant under paragraph 7 to the other applicants.
- 22.**—(1) SEPA must—
 - (a) advertise notice of a draft determination under paragraph 20(1)(b) on the SEPA web site , or if it considers it appropriate, by any other means, within the 3 day period beginning with the date on which that notice is given, and
 - (b) take all steps specified in the advertisement as falling to be carried out by SEPA within the periods set out in the advertisement.
- (2) If notice of a draft determination has been provided for onward transmission to another Member State under paragraph 26, SEPA must give a copy of the advertisement and of that draft to the Scottish Ministers at the same time as the notice is advertised.

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- 23.—**(1) An advertisement under paragraph 22 must—
- (a) explain where, how and at what times the register which contains—
 - (i) any additional information relevant to the determination of the application which has become available after the application is advertised under paragraph 8,
 - (ii) information about any BAT reference document relevant to the installation or activity concerned,
 - (iii) information about how emission limit values have been set in relation to best available techniques and emission limit values associated with the techniques
 - (iv) a copy of the draft determination, and
 - (v) information on the arrangements for public participation,
 - (vi) the reasons and considerations on which the draft determination is based,may be inspected, and that it may be inspected free of charge,
 - (b) explain where any other information and guidance relevant to the application may be obtained, and that it may be obtained free of charge,
 - (c) explain that any person may make written representations to SEPA in a 28 day period beginning with the date of the advertisement, and give the address for receiving such representations,
 - (d) explain that where—
 - (i) no representations are made to SEPA within that period, or where applicable under paragraph 28, SEPA must—
 - (aa) give notice of the determination,
 - (bb) include a copy of the determination in the register, together with—
 - (cc) a statement confirming that no representations were made,
 - (dd) information on the reasons and considerations on which the determination is based, and
 - (ee) information about the public participation process, and
 - (ff) advertise the notice on its web site, or if it considers it appropriate advertise the notice by any other means,within the period of 7 days beginning on the day on which the later of the period specified in paragraph (c) or, where applicable, paragraph 28 ends, or
 - (ii) representations are made to SEPA within the period specified in paragraph (c) or, where applicable, paragraph 28, SEPA must subject to paragraph 24—
 - (aa) give notice of its determination,
 - (bb) include in the register a copy of the final determination, together with information on the reasons and considerations on which the determination is based, including information about the public participation process, and
 - (cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,within the period of 21 days beginning on the day on which the later of the periods specified in subparagraph (c) (or where applicable paragraph 28) ends, or within such longer period as may be agreed with the applicant.
- (2) If notice of a draft determination has been provided for onward transmission to another Member State under paragraph 26, the Scottish Ministers must give the Secretary of State—
 - (a) a copy of the determination, and

(b) the information specified in sub-paragraph (1)(d)(i)(bb) or (ii)(bb) (as the case may be), by the date by which SEPA is required to give notice under sub-paragraph (1)(d)(i) or (ii).

24. SEPA must take no account for the purposes of calculating the period specified in paragraph 23(1)(d)(ii) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information.

25. If SEPA fails to give notice of a determination under paragraph 20, or a draft determination under paragraph 23, within the period specified for such a purpose, then the application is deemed to have been refused if the applicant gives notice to that effect to SEPA after the end of the period.

26.—(1) This paragraph applies where—

- (a) the Scottish Ministers are aware that the operation in Scotland of an installation carrying out an activity described in Annex I to the Industrial Emissions Directive is likely to have significant negative effects on the environment of another Member State, or
- (b) another Member State whose environment is likely to be so affected requests information about the operation of the installation.

(2) The Scottish Ministers must give the Secretary of State for onward transmission to the other Member State for the purposes of Article 26 of the Industrial Emissions Directive—

- (a) a copy of the application to operate the installation,
- (b) a copy of the advertisement under paragraph 8, and
- (c) if applicable, copies of the draft determination in respect of that application and of the advertisement under paragraph 22, at the same time as the application or draft determination is advertised under paragraphs 8 or 22, and
- (d) any additional information which has become available after the application or draft determination was advertised, and which may be relevant to the determination of the application having regard for that purpose to Article 26.

(3) The Scottish Ministers must comply with sub-paragraph (2)—

- (a) at the same time as the application, proposed variation or draft determination are advertised under paragraphs 8 or 22, or
- (b) if this paragraph applies after the date of such advertisement, and the application or proposed variation has not been determined, as soon as possible thereafter.

27. The Scottish Ministers must, where paragraph 26 applies, give notice of that fact to SEPA and the applicant, and if the application is not a called-in case—

- (a) SEPA may not determine the application, or provide a draft determination, until the Scottish Ministers have given SEPA—
 - (i) notice that bilateral consultation under Article 26 of the Industrial Emissions Directive has been carried out, and
 - (ii) a copy of any representations duly received by the Scottish Ministers in respect of the application from a person in the other Member State (a “Member State representation”), and
- (b) the 4 month period within which to give notice of determination or to provide a draft determination of the application set out in paragraph 20 begins on the date SEPA receives notification from the Scottish Ministers that the bilateral consultations have been completed.

28.—(1) The Scottish Ministers must give SEPA any Member State representations received in the 35 day period after the date of notification of the draft determination to the Secretary of State

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under paragraph 26 within the 10 day period of beginning on the day after the end of that 35 day period.

- (2) SEPA, or the Scottish Ministers in a called-in case, must—
- (a) consider any Member State representation when determining a case to which paragraph 26 applies, and
 - (b) on determining the case provide any other Member State with which bilateral consultation has been carried out with information on the—
 - (i) contents of the decision (including a copy of the permit),
 - (ii) reasons for making the determination, and
 - (iii) results of consultation before making the determination, and on how the results were taken into account by SEPA or the Scottish Ministers.
- 29.** In Parts 1 and 2 of this Schedule—
- (a) “called-in case” has the same meaning as in paragraph 17(1)
 - (b) “representation period” has the same meaning as in paragraph 19(1), and
 - (c) “Member State” includes Iceland, Liechtenstein and Norway^{M9}.

Marginal Citations

M9 See Article 73 of, and Annex XX to, the Agreement on the European Economic Area which entered into force on 1st January 2004.

30. This Part is subject to Part 3.

PART 3

NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

31. Paragraphs 8 or 22 do not apply in so far as they would require the advertisement of any information mentioned in paragraphs 9 or 22 which is not included in the register by virtue of regulations 65 or 66.

32. Paragraph 13, other than paragraph 13(f), does not apply in so far as it would require a person mentioned in that paragraph to be given information which is not included in the register by virtue of regulation 65.

33. Subject to paragraph 34, paragraph 13(b) and (c)(i) and (iii) do not apply in so far as they would require a person mentioned in that paragraph to be given information which is not included in the register by virtue of regulation 66.

34. Paragraph 33 does not apply to information excluded from the register by virtue of regulation 66 in so far as—

- (a) in the case of an authority mentioned in paragraph 13(b), the information is about the release of any substance which may affect a site of special scientific interest or a European site,
- (b) in the case of Scottish Water, the information is about the release of any substance into a sewer vested in Scottish Water,
- (c) in the case of an authority mentioned in paragraph 13(c)(iii), the information is about the release of any substance into a harbour managed by that authority.

- 35.** Where a matter falls to be determined for the purposes of regulations 65 or 66—
- (a) the period within which an advertisement is to be published under paragraph 8 is a 28 day period beginning 14 days after the day on which the matters are so determined,
 - (b) the period for notification under paragraph 13 is a 14 day period beginning 14 days after the day on which the matters are so determined,
 - (c) the period within which an advertisement is to be published under paragraph 22 is a 3 day period beginning 14 days after the day on which the matters are so determined.
- 36.** For the purposes of paragraph 35, and paragraphs 18, 20 and 21 of Schedule 7, the matters to be determined under regulation 66 are so determined—
- (a) where SEPA determines under that regulation that information is commercially confidential, on the date of the determination by SEPA, or
 - (b) where SEPA determines under that regulation that the information is not commercially confidential—
 - (i) on the date on which any period for bringing an appeal expires without an appeal being brought, or
 - (ii) if an appeal is brought, on the date of the final determination or withdrawal of the appeal (as the case may be).

Status:

Point in time view as at 01/04/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Pollution Prevention and Control (Scotland) Regulations 2012, SCHEDULE 4.