

SCHEDULE 7

VARIATION OF PERMITS

PART 2

DETERMINATION OF VARIATIONS

- 4.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies where—
- (a) an application for variation is made under regulation 46, and
 - (b) no such application is made, and SEPA—
 - (i) proposes to serve a variation notice for a variation that will authorise—
 - (aa) a substantial change in operation of an installation or mobile plant, or
 - (bb) a variation of a permit for a Part A installation as a result of a review under regulation 44(1)(a), or
 - (ii) makes a determination that this paragraph applies to a proposed variation.
- (2) This paragraph does not apply where SEPA proposes to serve a variation notice—
- (a) which has been modified to take account of representations made in accordance with this paragraph, or
 - (b) in order to comply with a direction given by the Scottish Ministers.
- (3) This paragraph does not apply in relation to a variation relating only to dry cleaning (as defined in Part 5 of Schedule 2).
- (4) Where this paragraph applies, SEPA must—
- (a) notify the operator that the paragraph applies, and of any prescribed fee,
 - (b) in the case of a proposed variation notice, serve a copy of the proposed notice on the operator,
 - (c) give notice of the application or proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 13 of Schedule 4 in the case of an application for a permit to operate the installation or mobile plant, and
 - (d) in the case of a proposed variation notice affecting the operation of a Part A installation, provide—
 - (i) information on the reasons and considerations on which that proposed variation notice is based,
 - (ii) information on any guidance relevant to the determination of the proposed variation.
- (5) SEPA must, subject to paragraph 19(a), comply with sub-paragraph (4) within the 14 day period after receipt of an application for variation.
- (6) For the purposes of calculating the period in sub-paragraph (5), no account may be taken of any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator provides the information specified in the notice.
- (7) An application for variation is deemed to have been withdrawn if the applicant does not pay any prescribed fee to SEPA within 28 days after the date of notification under sub-paragraph (4)(a).
- (8) Subject to sub-paragraph (10) and to paragraph 19(b), an operator notified under sub-paragraph (4)(a) must, within the 28 day period beginning on the day on which the notification is made, advertise the application or proposed variation notice (as the case may be)—

Status: This is the original version (as it was originally made).

- (a) in the case of an installation in one or more newspapers circulating in the locality in which the installation is operated, and
 - (b) in the case of a Part A installation other than a landfall described in paragraph (b) of Part A of Section 5.2 of Part 1 of Schedule 1, in the Edinburgh Gazette.
- (9) An advertisement under sub-paragraph (8) must—
- (a) state the name of the operator,
 - (b) state the address of the site of the installation,
 - (c) describe briefly the activities carried out in the installation and the change in the operation of the installation that will be authorised by the variation,
 - (d) state where and, in the case of a variation affecting the operation of a Part A installation, how and at what times, the register which contains—
 - (i) particulars of the application or proposed variation,
 - (ii) in the case of a proposed variation affecting the operation of a Part A installation, a copy of the proposed variation notice and the information provided by SEPA under sub-paragraph (4)(d)(i) on the reasons and considerations on which that proposed variation notice is based,may be inspected, and that it may be inspected free of charge,
 - (e) explain that any person may make representations to SEPA in writing within the period of 28 days beginning with the date of the advertisement and give the address of SEPA for receiving the representations,
 - (f) explain that any such representations made by any person will be entered in the register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request,
 - (g) in the case of a variation affecting the operation of a Part A installation—
 - (i) explain that the particulars of the application contained in the register specified in paragraph (d) include a description of the elements listed in paragraph 1,
 - (ii) in the case of a proposed variation notice, describe the contents of that notice,
 - (iii) where applicable, state that the determination of the application or the serving of the variation notice is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 13,
 - (iv) where applicable, explain that any guidance relevant to the determination of the proposed variation which has been provided to the operator under sub-paragraph (4)(d)(ii) has been included in the register or otherwise made available.
- (10) Sub-paragraph (8) does not apply to a variation relating to an installation involving only an activity falling within paragraphs (b)(ii), (c), (d) or (e) of Part B of Section 1.2 of Part 1 of Schedule 1.
- (11) Any representations made by any person within the period allowed must be considered by SEPA in determining the application or before serving the variation notice.
- (12) For the purpose of sub-paragraph (11), the period allowed for making representations is—
- (a) in the case of persons notified pursuant to sub-paragraph (4)(c), the period of 28 days beginning with the date on which notice of the application or proposed variation notice was given under that sub-paragraph,
 - (b) in the case of any other person, the period of 28 days beginning with the date on which the application or proposed variation notice was advertised pursuant to sub-paragraph (8),

(c) in the case of all persons, the period of 28 days beginning with the date on which the draft determination is advertised pursuant to paragraph 9.

(13) Where this paragraph applies to a variation affecting the operation of a Part A installation or a solvents installation, SEPA must consider any relevant information obtained or conclusion arrived at for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive in relation to the change on determining the application or before serving the variation notice.