
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 446

**The Pollution Prevention and Control
(Scotland) Amendment Regulations 2017**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (Scotland) Amendment Regulations 2017 and come into force on 19th December 2017.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations, “the principal Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2012⁽¹⁾.

Amendment of the principal Regulations

3. The principal Regulations are amended in accordance with regulations 4 to 16.

Interpretation: enactments etc.

4. In regulation 3(1) (interpretation: enactments etc.) after the definition of “Landfill Regulations” insert—

““Medium Combustion Plant Directive” means Directive (EU) 2015/2193 of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants⁽²⁾.”.

Interpretation: medium combustion plant

5. After regulation 3, insert—

“Interpretation: medium combustion plant

3A.—(1) In these Regulations—

“existing medium combustion plant” means a medium combustion plant put into operation before 20th December 2018 or for which a permit was granted before 19th December 2017 provided that the plant is put into operation no later than 20th December 2018,

“medium combustion plant” means a combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts but does not include—

(a) combustion plants covered by Chapter III or IV of the Industrial Emissions Directive,

(1) [S.S.I. 2012/360](#); this instrument has been relevantly amended by [S.S.I. 2014/267](#).

(2) [OJ L 313, 28.11.2015, p.1.](#)

- (b) combustion plants covered by Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery⁽³⁾,
 - (c) on-farm combustion plants with a total rated thermal input less than or equal to 5 megawatts, that exclusively use unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002⁽⁴⁾, as a fuel,
 - (d) combustion plants in which the gaseous products of combustion are used for the direct heating, drying or any other treatment of objects or materials,
 - (e) combustion plants in which the gaseous products of combustion are used for direct gas-fired heating used to heat indoor spaces for the purpose of improving workplace conditions,
 - (f) post-combustion plants designed to purify the waste gases from industrial processes by combustion, and which are not operated as independent combustion plants,
 - (g) any technical apparatus used in the propulsion of a vehicle, ship or aircraft,
 - (h) gas turbines and gas and diesel engines, when used on offshore platforms,
 - (i) facilities for the regeneration of catalytic cracking catalysts,
 - (j) facilities for the conversion of hydrogen sulphide into sulphur,
 - (k) reactors used in the chemical industry,
 - (l) coke battery furnaces,
 - (m) cowpers,
 - (n) crematoria,
 - (o) combustion plants firing refinery fuels alone or with other fuels for the production of energy within mineral oil and gas refineries,
 - (p) recovery boilers within installations for the production of pulp, and
- “new medium combustion plant” means a medium combustion plant which is not an existing medium combustion plant.

(2) For the purposes of regulation 26A, a combination formed by two or more new medium combustion plants is to be treated as a single new medium combustion plant and their rated thermal input is added together for the purpose of calculating the total rated thermal input of the plant where—

- (a) the waste gases of the plant are discharged through a common stack, or
- (b) the waste gases of the plant could be discharged through a common stack in the opinion of SEPA, taking into account technical and economic factors.”.

Designation as competent authority

6. In regulation 10 (SEPA: designation as competent authority)⁽⁵⁾—

- (a) for “and” substitute “;”;

⁽³⁾ OJ L 252, 16.9.2016, p.53. Article 64 repeals [Directive 97/68/EC](#) (OJ L 59, 27.2.1998, p.1).

⁽⁴⁾ OJ L 300, 14.11.2009, p.1, last amended by Council Regulation (EU) 1385/2013 (OJ L 354, 28.12.2013, p.86).

⁽⁵⁾ Regulation 10 has been relevantly amended by [S.S.I. 2014/267](#).

- (b) after “Energy Efficiency Directive” insert “and the Medium Combustion Plant Directive”.

Schedule 1 activities

7. After regulation 20A (Schedule 1A: Energy Efficiency Directive) insert—

“Schedule 1B: Medium Combustion Plant Directive

20B. Schedule 1B has effect.”.

Schedule 1 conditions: best available techniques

8. After regulation 22(2), insert—

“(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.”.

Schedule 1 conditions

9. After regulation 26 (Schedule 1 conditions: large combustion plants) insert—

“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.”

Public Register

10. In regulation 64(1) (SEPA: public register), for “paragraphs 2 to 4” substitute “paragraphs 2 to 5”.

Activities and installations and mobile plant

11. In Part B of Section 1.1 (combustion) of Part 1 of schedule 1 (activities and installations and mobile plant), after paragraph (c) insert—

“(d) Burning any fuel in a medium combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 20 megawatts.”.

Schedule 1A

12. In schedule 1A (Energy Efficiency Directive), after paragraph 3 insert—

3A.—(1) Where this schedule does not apply to an installation by virtue of paragraph 3(a), SEPA must take appropriate steps to verify that the exemption criteria are met.

(2) SEPA may comply with sub-paragraph (1) by—

- (a) service of notice under regulation 63(2) requiring the operator of the installation to provide information required to verify the installation's operating hours,
- (b) inclusion of appropriate conditions in a permit for an installation of which the installation falling within paragraph 3(a) forms part.”

Schedule 1B

13. After schedule 1A of the principal Regulations insert schedule 1B as set out in the schedule.

Grant of permits

14. In schedule 4 (grant of permits)—

(a) after paragraph 11 insert—

“11A. An application for a permit to operate a Part B installation where no activity listed in schedule 1 or 2 other than the activities described in paragraph (d) of Part B of Section 1.1 of schedule 1 will be carried out need include only—

- (a) the information described in paragraph 1(1)(a), (b), and (f),
- (b) the rated thermal input (in megawatts) of the medium combustion plant,
- (c) the type of medium combustion plant (diesel engine, gas turbine, dual fuel engine, other engine or other medium combustion plant),
- (d) the type and share of fuels used (according to the categories in Part 2 of schedule 1B),
- (e) the date of the start of the operation of the medium combustion plant or, where the exact date of the start of the operation is unknown, proof of the fact that the operation started before 20th December 2018,
- (f) the sector of activity of the medium combustion plant or the facility in which it is applied (NACE code)(6),
- (g) the expected number of annual operating hours of the medium combustion plant and average load in use,
- (h) if required for the purposes of an exemption from compliance with emission limit values, a declaration signed by the operator that the medium combustion plant will not be operated for more than 500 hours or 1000 hours (as appropriate).

11B. An application in respect of a Part B installation at which the activities listed in both paragraphs (c) and (d) of Part B of Section 1.1 of schedule 1 will be carried out, but at which no other activity listed in schedule 1 or 2 will be carried out, need include only the information specified in paragraph 11A and the cost benefit analysis required by paragraph 5(b) of schedule 1A.

11C. The requirements of paragraphs 8 and 13 and paragraph 4(4)(c) and (8) of schedule 7 do not apply to an application in respect of a Part B installation where no activity listed in schedule 1 other than an activity in paragraph (d) of Part B of Section 1.1 is to be carried out.”;

(b) after paragraph 28 insert—

(6) NACE (nomenclature statistique des activités économiques dans la Communauté Européenne) refers to the industry standard classification system used in the European Union. The current version is established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20th December 2006 establishing the statistical classification of economic activities NACE Revision 2 (OJ L 393, 30.12.2006, p.1).

28A. SEPA must, in respect of an application for a permit for a medium combustion plant, inform the applicant when it begins the procedure for determining the permit.

28B. SEPA must ensure, in respect of a permit for a Part B installation at which the only activity carried out is the activity described in paragraph (d) of Part B of Section 1.1 of schedule 1, that the permit includes only such conditions as set in accordance with regulation 26A and any other requirement in these Regulations to include any other condition does not apply in respect of the permit to that extent.

28C. SEPA must ensure, in respect of a permit for a Part B installation at which the activities listed in both paragraphs (c) and (d) of Part B of Section 1.1 of schedule 1 will be carried out but at which no other activity listed in schedule 1 or 2 will be carried out, that the permit includes only such conditions as SEPA considers necessary to comply with regulation 26A and paragraphs 13 and 14 of schedule 1A, and any requirement in these Regulations to include any other condition does not apply in respect of the permit to that extent.”.

Public Register

15. In schedule 9 (register), after paragraph 4 insert—

“**5.** Nothing in paragraph 1 requires SEPA to keep in the register information—

- (a) which relates to a Part B installation at which the only activity carried out is the activity described in paragraph (d) of Part B of Section 1.1 of schedule 1, and
- (b) which is kept in a separate register of medium combustion plants maintained—
 - (i) by another authority in the United Kingdom, or
 - (ii) jointly by SEPA and another authority in the United Kingdom.

6. SEPA must make available on or via its website the particulars described in paragraph 1(a), (g), (h) and (j) which relate to a medium combustion plant.

7. If a member of the public requests access to the information, SEPA must require the operator of a medium combustion plants to provide the information the operator is required to keep by paragraph 6(d)(ii) to (v) of schedule 1B.”.

Savings and transitional provisions

16. In schedule 10 (savings and transitional provisions), after Part 4 (fees and charges) insert—

“Part 5

Medium Combustion Plant

15.—(1) Regulation 11 applies to a new medium combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than or equal to 20 megawatts on and after 20th December 2018.

(2) Regulation 11 applies to existing medium combustion plant on and after—

- (a) 1st January 2024, where the rated thermal input of the plant is greater than 5 megawatts,
- (b) 1st January 2029, where the rated thermal input of the plant is less than or equal to 5 megawatts.

(3) Paragraph 1(1) of schedule 1B applies to an existing medium combustion plant from 1st January 2025.

(4) Paragraph 1(2) of schedule 1B applies to an existing medium combustion plant from 1st January 2030.

(5) An application for a permit to operate an existing medium combustion plant must be received by SEPA by—

(a) 30th June 2023, where the rated thermal input of the plant is greater than 5 megawatts and less than or equal to 20 megawatts,

(b) 30th June 2028, where the rated thermal input of the plant is less than or equal to 5 megawatts.

(6) Paragraph 1(1) and (2) of schedule 1B applies to an existing medium combustion plant which is part of a small isolated system or a micro isolated system on and after 1st January 2030.

(7) In this paragraph “small isolated system” and “micro isolated system” have the same meaning as in paragraph 10 of schedule 1B.”.

Amendment of the Air Quality Standards (Scotland) Regulations 2010

17.—(1) The Air Quality Standards (Scotland) Regulations 2010(7) are amended as follows.

(2) In regulation 24 (air quality plans)—

(a) after paragraph (7), insert—

“(7A) An air quality plan must assess the need to apply lower emission limit values for individual medium combustion plants than those set out in Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants (“the Medium Combustion Plant Directive”) provided that, in the opinion of the Scottish Ministers, applying such emission limit values would effectively contribute to a noticeable improvement of air quality.

(7B) In considering whether to impose lower emission limit values, the Scottish Ministers must take into account the results of the information exchange referred to in Article 6(10) of the Medium Combustion Plant Directive.”;

(b) after paragraph (8) insert—

“(9) In this regulation “emission limit values” and “medium combustion plants” have the meanings given in the Pollution Prevention and Control (Scotland) Regulations 2012.”.

St Andrew’s House,
Edinburgh
12th December 2017

ROSEANNA CUNNINGHAM
A member of the Scottish Government

(7) [S.S.I. 2010/204](#), to which there are amendments not relevant to these Regulations.