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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 7**

**The Packaging Waste (Data Reporting)  
(Scotland) Regulations 2023**

**PART 4**

SEPA's powers and duties

**Entry and inspection**

**26.**—(1) A person who appears suitable to SEPA may be authorised in writing by SEPA to exercise, in accordance with the terms of the authorisation, the powers of entry and inspection referred to in paragraph (2) in Scotland for the purpose of—

- (a) the exercise of SEPA's functions under these Regulations,
- (b) assisting a UK regulator which has equivalent functions.

(2) The powers of entry and inspection are those set out in section 108(4)(a) to (l) of the 1995 Act (powers of enforcing authorities and persons authorised by them) in relation to Scotland.

(3) For this purpose, section 108(4) of the 1995 Act is to be read as if references to the authorised person were references to a person authorised under paragraph (1) of this regulation and as if—

- (a) “(or, in an emergency, at any time and, if need be, by force)” in section 108(4)(a) were omitted,
- (b) in section 108(4)(f), for “articles or substances” to the end, there were substituted “packaging and packaging materials found in or on any premises which that person has power to enter”,
- (c) section 108(4)(g) were omitted,
- (d) in section 108(4)(h)—
  - (i) the references to any article or substance were to any sample which is or may be taken under section 108(4)(f), as modified by sub-paragraph (b),
  - (ii) the reference in sub-paragraph (iii) to an offence under the pollution control enactments were to an offence under regulation 28 of these Regulations,
  - (iii) sub-paragraph (iv) were omitted,
- (e) the reference to records in section 108(4)(k)(i) were to the records and information required to be kept and provided to SEPA under these Regulations,
- (f) in section 108(4)(ka)—
  - (i) the reference in sub-paragraph (i) to an offence under the pollution control enactments or section 40(1) of the Regulatory Reform (Scotland) Act 2014 were to an offence under regulation 28 of these Regulations,
  - (ii) sub-paragraph (ii) were omitted,
- (g) the reference in section 108(4)(1) to the power conferred by section 108 were to the power conferred by this regulation.

(4) The provisions of section 108(6) to (7E) and section 108A of the 1995 Act apply to the powers conferred by paragraphs (1) and (2) above as they apply to the powers conferred by section 108(4) of the 1995 Act respectively as it applies in relation to Scotland, but as if any reference to an authorised person were to a person authorised under paragraph (1) of this regulation, and as if—

- (a) in section 108(6) and (7), the words “Except in an emergency” were omitted,
- (b) in section 108(6), the words “or to take heavy equipment on to any premises which are to be entered” were omitted.

(5) The provisions of section 108(12) and (13) of the 1995 Act, as they apply in relation to Scotland, apply to the powers conferred by paragraphs (1) and (2) above as they apply to the powers conferred by section 108(4) of the 1995 Act.

(6) The provisions of paragraphs 2 to 6 of schedule 18 of the 1995 Act (supplemental provisions with respect to powers of entry), as they apply in relation to Scotland, apply to the powers conferred by this regulation as they apply to the powers conferred by section 108 of the 1995 Act respectively, but as if any reference—

- (a) to a designated person were to a person authorised in writing by SEPA to exercise on its behalf any power conferred by this regulation,
- (b) to a relevant power were to a power conferred by this regulation, including a power exercisable by virtue of a warrant under the provisions of the schedule as applied by this paragraph,
- (c) in paragraph 6(1) to section 108(4)(a) or (b) or (5) of the 1995 Act were to paragraph (1) of this regulation.

(7) In this regulation—

“the 1995 Act” means the Environment Act 1995(1),

“warrant” means a warrant under the provisions set out in schedule 18 of the 1995 Act as applied by paragraph (6) above.

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(1) 1995 c. 25; section 108 was amended by the Pollution Prevention and Control Act 1999 (c. 24), schedule 3, paragraph 1 and the Regulatory Reform (Scotland) Act (asp 3), section 46 and schedule 3, paragraphs 5, 43 and 46, S.S.I. 2006/181, S.S.I. 2018/219 and S.I. 2019/458.