Draft Regulations laid before the Scottish Parliament under section 58(4) of the Regulatory Reform (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

ENVIRONMENTAL PROTECTION

The Environmental Authorisations (Scotland) Regulations 2018

Made - - - -	*2018*
Coming into force - -	*1st September 2018*

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 18 and 58 and schedule 2 of the Regulatory Reform (Scotland) Act 2014(**a**) ("the 2014 Act"), and all other powers enabling them to do so**.**

In accordance with section 19 of the 2014 Act, the Scottish Ministers have consulted (a) the Scottish Environment Protection Agency and (b) such other persons as they thought fit, including such persons appearing to them to be representative of the interests of local government, industry, agriculture, fisheries or small businesses as they considered appropriate.

In accordance with section 58(4) of the 2014 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Environmental Authorisations (Scotland) Regulations 2018 and come into force on 1st September 2018.

Interpretation

2.—(1) In these Regulations—

"authorise", in relation to regulated activities, means authorise the carrying on of the activities in accordance with a permit, subject to registration, subject to notification or subject to compliance with general binding rules; and related expressions are to be construed accordingly;

"authorised person" has the meaning given in regulation 5;

"authorised place" means the place at which a regulated activity is authorised, and may be a geographical area;

(**a**) 2014 asp 3. Section 16 makes provision relevant to the exercise of these powers.

"charging scheme" means a charging scheme made in accordance with section 41 of the Environment Act 1995(**a**);

"consolidated authorisation" has the meaning given in regulation 64(2);

"electronic communication" has the same meaning as given in section 15(1) of the Electronic Communications Act 2000(**b**);

"enforcing officer" means a person authorised under section 108 of the Environment Act 1995(**c**) and includes a person designated under paragraph 2 of schedule 18 of that Act;

"fit and proper person" means a person SEPA considers to be a fit and proper person having regard to guidance published under regulation 66(1)(e);

"general binding rules" has the meaning given in regulation 10;

"inland water" has the same meaning given in section 3(6) of the Water Environment and Water Services (Scotland) Act 2003(**d**);

"non-consolidated authorisation" means, as appropriate, a permit or registration which is to be replaced or has been replaced with a consolidated permit or registration in accordance with regulation 64;

"off-site condition" means—

(a) a condition to which a permit is subject; or

(b) a step specified in a notice issued under these Regulations,

which requires a person to carry out works or do other things in relation to land outwith the ownership or control of that person;

"owner" means a 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 person to whom management of the land is entrusted;

"provision" means, in relation to a registration or permit, anything specified in a registration or permit, including as a requirement of regulations 17 and 22, which is not a condition or standard condition;

"publish" means publish on SEPA's website, unless otherwise indicated;

"radioactive substances activity" has the meaning given in regulation 4 and schedule 8;

"register" means the register maintained by SEPA under regulation 38;

"regulated activity" has the meaning given in regulation 3;

"regulatory notice" has the meaning given in regulation 46;

"relevant function" means a function of SEPA under these Regulations;

(**a**) 1995 c.25. Section 41 is relevantly amended by (1) the Landfill (Scotland) Regulations 2003 (S.S.I. 2003/235) schedule 6, paragraph 1(2) the Transfrontier Shipment of Waste Regulations 2007 (S.I. 2007/1711) Part 9, regulation 46(1)(a)(3) the Flood and Water Management Act 2010 (2010 c.29) schedule 4, paragraph 39(4) the Persistent Organic Pollutants Regulations 2007 (S.I. 2007/3106) regulation 9(1)(a)(5) the Transfrontier Shipment of Waste Regulations 2007 (S.I. 2007/1711) Part 9, regulation 46(1)(b)(6) the Transfrontier Shipment of Waste (Amendment) Regulations 2014 (S.I. 2014/861) regulation 22(7) the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (S.I. 2008/3087) Part 3, regulation 17(1)(a)(8) the Persistent Organic Pollutants Regulations 2007 (S.I. 2007/3106) regulation 9(1)(b)(8) the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (S.I. 2008/3087) Part 3, regulation 17(1)(b)(9) the Climate Change (Scotland) Act 2009 (2009 asp 12) schedule 2, paragraph 2(10) the Waste Batteries and Accumulators Regulations 2009 (S.I. 2009/890) schedule 8, paragraph 1(2)(11) the Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911) schedule 1, paragraph 22(a)(12) the Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788) Part 2, regulation 4(a)(13) the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043) Part 2, article 6(1)(a) and (14) the British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659) schedule 3, Part 1, paragraph 13.

(**b**) 2000 c.7. Section 15(1) is amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

(**c**) 1995 c.25. Section 108 is amended by regulation 81, and paragraph 3 of Part 1 of schedule 7 of these Regulations in accordance with powers conferred by section 58(1) and (2) of the Regulatory Reform (Scotland) Act 2014 (2014 asp 3).

(**d**) 2003 asp 3.

"revocation notice" has the meaning given in regulation 31;

"SEPA" means the Scottish Environment Protection Agency(**a**);

"standard conditions" means conditions determined by SEPA under Part 7 of these Regulations and to which a permit or registration may be subject in accordance with regulation 17 or 22;

"surrender notice" means a notice issued under paragraph 14(2) of schedule 1;

"technical schedule" has the meaning given in regulation 6;

"waste" means any substance or object which the holder discards or intends or is required to discard.

(2) In these Regulations a reference to anything done in writing includes reference to an electronic communication as long as it is capable of being reproduced in written form.

Interpretation: regulated activity

3.—(1) In these Regulations, "regulated activity" means a radioactive substances activity.

(2) A person does not carry on a regulated activity where the activity is a domestic activity carried on in connection with—

(a) the person's private dwelling; or

(b) a place where the person is resident (whether temporarily or otherwise).

(3) In these Regulations—

(a) a reference to a regulated activity includes part of a regulated activity;

(b) a reference to an "activity" is a reference to a regulated activity, or any class or description of such an activity.

Interpretation: radioactive substances activity

4. In these Regulations, "radioactive substances activity" means an activity involving either or both—

(a) radioactive material;

(b) radioactive waste.

Interpretation: authorised person

5.—(1) In these Regulations, "authorised person" means—

(a) any person to whom—

(i) a permit has been granted or transferred in accordance with regulation 23 or 27; or

(ii) a registration has been granted or transferred in accordance with regulation 18 or 27;

(b) any person in control of the carrying on of a regulated activity—

(i) which is subject to general binding rules; or

(ii) which has been notified in accordance with regulation 12.

(2) The definition of authorised person in paragraph (1) includes—

(a) where an authorised person has been adjudged bankrupt or the estate of the authorised person is sequestrated, the trustee in bankruptcy;

(b) where an executor has been appointed to an authorised person's estate, the executor;

(c) where the authorised person is a body corporate, and—

(i) a receiver has been appointed, the receiver;

(**a**) SEPA is established by section 20 of the Environment Act 1995 (c.25).

(ii) an administrator has been appointed, the administrator;

(iii) a liquidator has been appointed, the liquidator;

(d) where an authorised person is a partnership which is dissolved, any person who was a partner immediately before dissolution.

(3) Where a person becomes an authorised person—

(a) as a result of the operation of paragraph (2); and

(b) in respect of an activity which is carried on in accordance with a permit or a registration or which has been notified,

that person must notify SEPA that the person is an authorised person as soon as is practicable.

Interpretation: technical schedule

6.—(1) The technical schedule is schedule 8 (Radioactive substances activities).

(2) If a provision of the technical schedule is inconsistent with any other provision of these Regulations, the provision in the technical schedule prevails to the extent of that inconsistency.

(3) Schedule 8 has effect.

Prohibition

7. A person must not carry on a regulated activity except in so far as it is—

(a) authorised under these Regulations; and

(b) carried on in accordance with, and to the extent authorised by, that authorisation.

Responsibility of authorised person

8. Where a regulated activity is authorised under these Regulations, an authorised person must ensure that the activity is carried on in accordance with, and to the extent authorised by, the authorisation.

General aims

9.—(1) SEPA must take the general aims into account when carrying out a relevant function.

(2) The general aims are that all appropriate measures are taken—

(a) to prevent or, where that is not practicable, to minimise environmental harm;

(b) to prevent and to limit the consequences of accidents which could have an impact on the environment; and

(c) to use resources in a sustainable way,

in the carrying on, and decommissioning, of regulated activities and following cessation of the carrying on of the regulated activity.

PART 2

General binding rules

General binding rules

10.—(1) A regulated activity specified in column 1 of Part 1 of schedule 9 is authorised under these Regulations if it is carried on in compliance with the rules ("general binding rules") specified for that activity in column 2 of Part 1 of that schedule.

(2) Parts 2 and 3 of schedule 9 have effect for the purposes of the interpretation of that schedule.

(3) Where SEPA requires that a regulated activity is to be authorised by means of notification in accordance with regulation 12, the activity is not authorised unless—

(a) it is carried on in compliance with the general binding rules specified for that activity; and

(b) a notification of the type required is in effect.

PART 3

Notifications

Notification and application of general binding rules

11. SEPA may require that a regulated activity is to be authorised by means of notification whether or not the carrying on of the regulated activity is also subject to general binding rules.

Notifications

12.—(1) A regulated activity to which paragraph (2) applies is authorised where—

(a) SEPA has been notified, in accordance with this Part, that the activity is being, or is proposed to be, carried on ("notification"); and

(b) the activity is carried on in compliance with any general binding rules specified for that activity.

(2) This paragraph applies to an activity specified in guidance published under regulation 66(1)(a) as being subject to a requirement to notify.

(3) A notification must—

(a) be made by a person who is, or will be, in control of the activity;

(b) be in such form as SEPA may from time to time require; and

(c) contain—

(i) the name and address of the person making the notification;

(ii) a description of the regulated activity;

(iii) the place at which the activity will be carried on;

(iv) any particulars required by virtue of the technical schedule; and

(v) any such other particulars as SEPA may reasonably require.

(4) A notification must be accompanied by any fee that is payable under a charging scheme.

(5) Where a notification is made in accordance with this regulation, SEPA must—

(a) place the particulars specified in paragraph (3)(c) on the register within 7 days of the notification being made;

(b) inform the authorised person within 7 days of the notification being made—

(i) that the notification has been placed on the register;

(ii) of the date, if any, on which the notification ceases to have effect.

Effect and cessation of notifications

13.—(1) A notification has effect from the date on which SEPA informs the authorised person that it has been placed on the register.

(2) A notification ceases to have effect on—

(a) the date the notification is surrendered; or

(b) the date, if any, of which the authorised person was informed under regulation 12(5)(b)(ii) as being the date on which the notification ceases to have effect.

Surrender of notifications

14.—(1) An authorised person who has notified an activity may surrender the notification by giving notice to SEPA.

(2) A notice under this regulation must be in a form specified by SEPA and must include such information as SEPA may reasonably require.

(3) Where SEPA is notified of a surrender in accordance with paragraph (1), SEPA must—

(a) remove the associated entry from the register; and

(b) inform the authorised person of the date on which it does so,

within 7 days of the notice being given.

(4) The notification ceases to have effect on the date on which SEPA informs the authorised person that it has removed the associated entry from the register.

PART 4

Registrations

Registrations

15. A regulated activity is authorised under these Regulations where an authorised person has been granted a registration by SEPA for the carrying on of the activity.

Application for a registration

16. An application to SEPA for a registration must be made in accordance with schedule 1 by a person who has, or will have, control over the regulated activity sought to be authorised.

Form and content of a registration

17.—(1) A registration granted by SEPA must be in writing and must specify—

(a) the activity authorised;

(b) the authorised person;

(c) the standard conditions to which the registration is subject;

(d) the date on which the registration takes effect; and

(e) the authorised place.

(2) A registration has effect subject to the standard conditions specified in accordance with paragraph (1)(c) and (5) and regulation 19(4).

(3) A reference in a registration to standard conditions is to the conditions as revised from time to time.

(4) SEPA may specify in a registration that the registration ceases to have effect on a specified date.

(5) SEPA may, after a registration is granted, from time to time specify in writing that a registration is to be subject to either or both—

(a) different standard conditions;

(b) additional standard conditions.

Grant of a registration

18.—(1) SEPA may grant a registration authorising the carrying on of one or more regulated activities.

(2) SEPA may grant a registration authorising a regulated activity at one or more than one place.

(3) SEPA must not grant a registration unless it is satisfied that the applicant—

(a) is the person who has or will have control over the regulated activity; and

(b) is a fit and proper person to be in control of the activity.

Variation of registrations

19.—(1) SEPA may vary a registration in accordance with schedule 1 on the application of the authorised person ("an application for variation") for one of the purposes specified in paragraph (2).

(2) The purposes are to—

(a) increase the number of regulated activities authorised by the registration;

(b) increase the extent of the site of an authorised place;

(c) increase the number of places at which the authorised activity may be carried on.

(3) SEPA must not grant an application for variation unless it is satisfied that the authorised person—

(a) is the person who will have control over the regulated activities which would be authorised by the registration if the application for variation were granted; and

(b) is a fit and proper person to be in control of the regulated activities which would be authorised by the registration if the application for variation were granted.

(4) Where SEPA grants an application for variation, it may—

(a) specify that the registration is to be subject to different standard conditions; and

(b) specify that the registration is to be subject to additional standard conditions,

to take account of the variation.

PART 5

Permits

Permits

20. A regulated activity is authorised under these Regulations where an authorised person has been granted a permit by SEPA for the carrying on of the activity.

Applications for permits

21. An application to SEPA for a permit must be made in accordance with schedule 1 by a person who has, or will have, control over the regulated activity sought to be authorised.

Form and content of permits

22.—(1) A permit must be granted by SEPA in writing and must specify—

(a) the activity authorised;

(b) the authorised person;

(c) any conditions (including any standard conditions) to which the permit is subject;

(d) the date on which the permit takes effect; and

(e) the authorised place.

(2) SEPA may specify in a permit that the permit ceases to have effect on a specified date.

(3) In granting a permit, SEPA may impose such conditions as it thinks fit including, in particular, either or both—

(a) standard conditions;

(b) an off-site condition in accordance with schedule 2.

(4) SEPA may impose standard conditions in a permit by specifying the standard conditions which are to be conditions of the permit.

(5) A reference in a permit to standard conditions is to the conditions as revised from time to time.

(6) Where a standard condition is inconsistent with any other condition of a permit, the other condition shall prevail to the extent of that inconsistency.

(7) Schedule 2 has effect in relation to off-site conditions.

Grant of permit

23.—(1) SEPA may grant a permit authorising the carrying on of one or more regulated activities.

(2) SEPA may grant a permit authorising the carrying on of a regulated activity at one or more than one place.

(3) SEPA must not grant a permit unless it is satisfied that the applicant—

(a) is the person who has, or will have, control over the regulated activity; and

(b) is a fit and proper person to be in control of the activity.

Review of permits

24. SEPA may review the conditions of a permit at any time.

Variation of permits

25.—(1) SEPA may vary a permit at any time in accordance with schedule 1, either on the application of the authorised person ("an application for variation") or on its own initiative ("a SEPA initiated variation").

(2) A variation under this regulation must not reduce the geographical extent of an authorised place.

(3) A variation under this regulation must not reduce the number of regulated activities authorised by the permit.

(4) This regulation applies to a variation of a provision of a permit in the same manner as it applies to the variation of a condition.

(5) SEPA must not grant an application for variation unless it is satisfied that the authorised person—

(a) is the person who will have control over the regulated activities which would be authorised by the permit if the application for variation were granted; and

(b) is a fit and proper person to be in control of the regulated activities which would be authorised by the permit if the application for variation were granted.

PART 6

Provisions relating to registrations and permits

Schedule 1

26. Schedule 1 has effect.

Transfer of a registration or permit

27.—(1) Subject to paragraphs (2), (3) and (4), a registration or permit may not be transferred by the authorised person.

(2) SEPA may transfer (in whole or in part) a registration or permit to a person ("the proposed transferee") on the joint application of the authorised person or authorised persons and the proposed transferee.

(3) SEPA may transfer (in whole or in part) a registration or permit on the application of the proposed transferee where the proposed transferee has demonstrated to SEPA's satisfaction that no authorised person can be found.

(4) SEPA may transfer (in whole or in part) a registration or permit on the joint application of those authorised persons who can be found and the proposed transferee where—

(a) there is more than one authorised person; and

(b) the proposed transferee has demonstrated to SEPA's satisfaction that one or more of those persons cannot be found.

(5) The authorised person or, where there is more than one authorised person, all the authorised persons and the proposed transferee must make an application to SEPA for transfer of a registration or permit where—

(a) the authorised person intends to cease or has ceased to be the person in control of the carrying on of the activity; and

(b) the proposed transferee is, or will be, in control of the carrying on of the activity.

(6) SEPA must not grant an application for transfer of a registration or permit unless it is satisfied that the proposed transferee—

(a) has or will have control over the regulated activity; and

(b) is a fit and proper person or persons to be in control of the activity.

(7) SEPA may vary the registration or permit if it considers it necessary to do so to take account of the transfer.

Effect of transfer

28.—(1) With effect from the date on which SEPA grants an application for transfer of a registration or permit, the person who was the authorised person immediately before the transfer ceases to be an authorised person (in respect of the part of the permit being transferred).

(2) Where—

(a) a regulatory notice or a surrender notice is in force in respect of a permit or registration; and

(b) the permit or registration is transferred to the proposed transferee, either in whole or in part,

the duty to comply with the notice is also transferred to the proposed transferee to the extent that it relates to the permit or registration (or part of the permit or registration) transferred.

Transfer of revocation notice

29.—(1) Where a revocation notice is in force in respect of a permit or registration, SEPA may transfer (in whole or in part) the duty to comply with the revocation notice to a person ("the proposed transferee") on the joint application of the authorised person or authorised persons and the proposed transferee.

(2) SEPA may transfer (in whole or in part) the duty to comply with a revocation notice on the application of the proposed transferee where the proposed transferee has demonstrated to SEPA's satisfaction that no authorised person can be found.

(3) SEPA may transfer (in whole or in part) the duty to comply with a revocation notice on the joint application of those authorised persons who can be found and the proposed transferee where—

(a) there is more than one authorised person; and

(b) the proposed transferee has demonstrated to SEPA's satisfaction that one or more of those persons cannot be found.

(4) SEPA must not grant an application to transfer the duty to comply with a revocation notice unless it is satisfied that the proposed transferee—

(a) has or will have control over the regulated activity;

(b) will ensure that the steps specified in the revocation notice are complied with; and

(c) is a fit and proper person or persons to be in control of the activity.

(5) Where SEPA grants an application to transfer the duty to comply with a revocation notice, the duty to comply with the notice is transferred from the authorised person to the proposed transferee to the extent notified to the proposed transferee and the authorised person by SEPA.

Surrender of registration or permit

30.—(1) This paragraph applies where a registration or permit is in force and—

(a) it is intended that the regulated activity (in whole or in part) will cease, or has ceased, to be carried on;

(b) it is intended that the geographical extent of an authorised place will be reduced; or

(c) the authorised person—

(i) is no longer the person who has control over the activity; and

(ii) has not made an application for the transfer of the registration.

(2) Where paragraph (1) applies, the authorised person must apply to SEPA to surrender (in whole or in part) the registration or permit, and SEPA must grant or refuse that application.

Revocation of permits and registrations

31. SEPA may at any time revoke (in whole or in part) a permit or a registration by serving a notice (a "revocation notice") on the authorised person.

Subsistence of a registration or permit

32.—(1) A registration or permit ceases to have effect only on a date specified in paragraph (2).

(2) The dates specified are—

(a) in the case of a registration or permit, the date on which it is—

(i) surrendered in whole in accordance with regulation 30; or

(ii) revoked in whole in accordance with regulation 31,

(b) in the case of a registration, the date, if any, which SEPA specifies in the registration in accordance with regulation 17(4); and

(c) in the case of a permit, the date, if any, which SEPA specifies in the permit in accordance with regulation 22(2).

PART 7

Standard conditions procedure

Determining and revising standard conditions

33.—(1) SEPA may determine standard conditions in accordance with this Part.

(2) SEPA may revise standard conditions at any time.

(3) In this Part, a reference to revising standard conditions means—

(a) replacing conditions;

(b) amending conditions;

(c) removing conditions; and

(d) adding new conditions.

Standard conditions: consultation

34.—(1) In determining or revising standard conditions SEPA must consult such persons as it considers appropriate.

(2) But SEPA is not required to consult if it considers that a revision makes only minor administrative changes to standard conditions.

(3) The duty in paragraph (1) may be treated as satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

Standard conditions: publication

35.—(1) SEPA must publish any standard conditions it determines or revises.

(2) But SEPA is not required to publish details of a revision which removes standard conditions ("the removed conditions") after the expiry of the period of 1 year beginning with the date on which the last authorisation which specified the removed conditions ceased to have effect.

(3) A standard condition may be specified in a permit or registration from the day following the date of publication of the standard condition.

Notification of revisions of standard conditions

36.—(1) This regulation applies where SEPA revises standard conditions.

(2) Before publishing the revised conditions in accordance with regulation 35(1), SEPA must inform any person who has been granted a relevant authorisation—

(a) of the proposed revision;

(b) of the date on which the revised conditions are expected to be published;

(c) of the date on which the revised conditions are expected to take effect (in accordance with paragraph (3));

(d) whether SEPA considers the revisions to be minor administrative changes; and

(e) that on the date on which the revised conditions take effect the person's authorisation will have effect subject to the revised conditions.

(3) The revised conditions take effect—

(a) where the revision makes only minor administrative changes, on the day following the date of publication; or

(b) in any other case, three months after the date of publication.

(4) In this regulation, "relevant authorisation" means a registration or permit which will be affected by the proposed revisions if the revisions were made.

PART 8

Information and publicity

Power to require the provision of information

37.—(1) For the purposes of exercising or discharging its functions under these Regulations, SEPA or the Scottish Ministers may, by notice served on a person (whether or not the person is carrying on a regulated activity), require that person to provide such information in such form and within such period as is specified in the notice.

(2) For the purposes of this regulation the—

(a) discharge by the Scottish Ministers of an obligation of the United Kingdom under the EU Treaties or any international agreement relating to the environment is treated as a function of the Scottish Ministers under these Regulations; and

(b) compilation of information (for an inventory or otherwise)—

(i) on emissions;

(ii) on energy consumption or the efficiency with which energy is used;

(iii) on waste and on the origins and destinations of waste,

is treated as a function of SEPA or the Scottish Ministers (as applicable) under these Regulations.

(3) The information which a person may be required to provide under paragraph (1) includes information which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to obtain for the purposes of complying with the notice.

(4) Nothing in this regulation authorises the Scottish Ministers or SEPA to require disclosure of anything which a person would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session.

Register

38.—(1) SEPA must maintain a register ("the register") containing the information described in Table 1 of schedule 3.

(2) SEPA must make the register available for inspection by the public—

(a) free of charge; and

(b) at all reasonable times.

(3) The register may be kept in any form (including electronic form).

(4) Schedule 3 has effect.

Register – exclusions

39.—(1) In any case where SEPA does not include on the register a representation made to it in response to a consultation or to a notice advising of an appeal on request of the person who made it, SEPA must include on the register confirmation that—

(a) a representation has been made; and

(b) the person has not requested it be made public.

(2) SEPA must not include on the register a confirmation which would allow identification of the person.

(3) Where an application is withdrawn by the applicant, or is deemed withdrawn, before it is determined, SEPA must not include on the register any particulars of that application after a period of 3 months has passed beginning with the date on which the application was withdrawn or deemed withdrawn.

(4) Nothing in regulation 38(1) requires SEPA to include on the register—

(a) particulars relating to an authorisation (including applications and any other information relating to the authorisation) if a period longer than 12 months has passed beginning with the last date on which the authorisation was in force;

(b) particulars relating to an application if a period longer than 12 months has passed beginning with the later of the dates on which—

(i) SEPA refused the application; or

(ii) the Scottish Ministers affirmed SEPA's refusal of the application on appeal;

(c) monitoring information provided by an authorised person relating to a particular regulated activity if a period longer than 6 years has passed beginning with the date on which the measurement to which the monitoring information relates was made;

(d) information relating to a regulated activity which has been superseded by new information relating to that activity for a period longer than 6 years after that new information is made available; or

(e) information contained in an application form relating to convictions for offences by an individual subject to the Rehabilitation of Offenders Act 1974(**a**).

(5) Paragraph (4)(c) does not apply to any aggregated monitoring data relating to activities generally or for any class of activities.

Commercially confidential information

40.—(1) For the purposes of these Regulations, information is commercially confidential to the extent that its disclosure would, or would be likely to, prejudice substantially the confidentiality of commercial or industrial information where such confidentiality is provided for by law to protect a legitimate economic interest.

(2) Information which is commercially confidential may only be included in the register if the person giving the information to SEPA consents to its inclusion.

(3) Nothing in this regulation prevents SEPA from including information in the register where it is contained in or otherwise held with other information not made available unless the information is not reasonably capable of being separated for the purposes of inclusion.

Application for commercial confidentiality

41.—(1) Where information is given to SEPA for the purposes of these Regulations, the person giving it may apply to SEPA, at the same time the information is given to SEPA, to have the information excluded from the register on the ground that it is commercially confidential (as regards that person or another person).

(2) The application under paragraph (1) must include representations indicating why the applicant considers the information commercially confidential, together with such further information in support of the application as the applicant considers appropriate.

(3) The provisions of paragraph 6(2) and (3) of schedule 1 apply to an application under paragraph (1) as they do to any other application.

(4) SEPA must decide whether the information is commercially confidential and must give notice of its decision to the applicant within 28 days beginning with the date on which the application is received or within such longer period as SEPA may agree with the applicant in writing.

(5) If SEPA fails to give notice of its decision within the period allowed under paragraph (4), the information must be treated as commercially confidential.

(**a**) 1974 c.53.

Review of decision on commercial confidentiality

42.—(1) SEPA may review a decision under this Part that information is commercially confidential.

(2) In carrying out a review under paragraph (1), SEPA must—

(a) give the person to whom the decision relates notice that it is reviewing that decision; and

(b) give the person a reasonable opportunity of making representations regarding the commercial confidentiality of the information, including an indication of why the person may consider that the information remains commercially confidential, together with such further information in support of those representations as the person considers appropriate.

(3) The provisions of paragraph 6(2) of schedule 1 apply to representations made under paragraph (2) as they do to an application.

(4) SEPA must decide whether or not the information remains commercially confidential and must give notice of its decision to the person.

Effect of decision

43. Subject to regulation 57(2)(d), if SEPA has decided under this Part that information is not commercially confidential, the information must not be included on the register until the end of the period of 28 days beginning with the date on which the decision was notified.

Information relating to criminal proceedings

44. Nothing in this Part requires SEPA to include information on the register to the extent that its disclosure would, or would be likely to, prejudice substantially the course of justice, the ability of a person to receive a fair trial or the ability of any public authority to conduct an inquiry of a criminal or disciplinary nature.

Register – exclusion of information affecting national security

45.—(1) Information must not be included in the register if and so long as a direction by the Secretary of State or the Scottish Ministers(**a**) is in force in relation to that information under section 21 of the 1990 Act (exclusion from registers of information affecting national security).

(2) Information must not be included in the register if and so long as a direction by the Secretary of State is in force in relation to that information under section 20(6) of the 1990 Act.

(3) A direction under section 21(2) of the 1990 Act applies to the register as it applies to the register maintained under section 20 of that Act ("the 1990 Act register"), and no information referred by SEPA under section 21(2)(b) of the 1990 Act is to be included in the register until the question of its inclusion is determined for the purposes of that section.

(4) A direction under section 20(6) of the 1990 Act applies to the register as it applies to the 1990 Act register.

(5) Section 21(3) and (4) of the 1990 Act applies to the register as it applies to the 1990 Act register, and no information notified under section 21(4)(b) of the 1990 Act may be included in the register until the question of its inclusion is determined for the purposes of section 21 of the 1990 Act.

(6) In this regulation, "the 1990 Act" means the Environmental Protection Act 1990(**b**).

(**a**) The functions of the Secretary of State under section 21(1), (2) and (4) of the Environmental Protection Act 1990 (c.43) so far as they are exercisable in or as regards Scotland may by virtue of Article 3 of S.I. 1999/1750 be exercised by the Scottish Ministers after consultation with the Secretary of State.

(**b**) 1990 c.43.

PART 9

Enforcement

Regulatory notices

46.—(1) This regulation applies where SEPA is of the opinion that—

(a) a person has carried on or is carrying on a regulated activity or is in control of or has been in control of the carrying on of a regulated activity; and

(b) at least one of the following apply—

(i) steps are required to be taken to prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity;

(ii) steps are required to be taken to restore the environment affected or likely to be affected by the regulated activity;

(iii) the person has contravened, is contravening, or is likely to contravene a condition, or other provision, of a permit or registration or a general binding rule;

(iv) the person has committed an offence under these Regulations;

(v) the person has ceased to be a fit and proper person.

(2) Where this regulation applies SEPA may serve a notice (a "regulatory notice") on—

(a) a person who has carried on or is carrying on a regulated activity;

(b) a person who is in control of or has been in control of the carrying on of a regulated activity.

(3) A regulatory notice must specify—

(a) the activity;

(b) if SEPA is of the opinion that steps are required to be taken to prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity, the reasons why SEPA is of that opinion;

(c) if SEPA is of the opinion that steps are required to be taken to restore the environment affected or likely to be affected by the regulated activity, the reasons why SEPA is of that opinion;

(d) if SEPA is of the opinion that the carrying on of the activity has contravened, is contravening, or is likely to contravene any condition, or other provision, of a permit or registration or a general binding rule, the matters constituting the contravention or likely contravention;

(e) if SEPA is of the opinion that the person has committed an offence under these Regulations, the matters constituting the offence;

(f) if SEPA is of the opinion that the person has ceased to be a fit and proper person, the reasons why SEPA is of that opinion;

(g) the steps to be taken by the person which SEPA considers to be necessary or appropriate to—

(i) prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity;

(ii) restore the environment affected, being affected or likely to be affected by the regulated activity;

(iii) comply with a condition, or other provision, of a permit or registration or a general binding rule;

(iv) stop or prevent the commission of an offence under these Regulations;

(v) ensure that person is a fit and proper person; and

(h) the date from which the notice has effect.

(4) Where a regulatory notice is served on more than one person it must—

(a) identify each recipient; and

(b) specify whether each step is to be undertaken—

(i) by an individual recipient and, if so, which recipient; or

(ii) jointly by two or more recipients and, if so, which recipients.

(5) The steps referred to in paragraph (3)(g) may include any or all of the following—

(a) steps to remedy or mitigate any environmental harm caused by the contravention or offence or the carrying on of the activity;

(b) the removal of waste deposited on, in or under, land or in inland water;

(c) the cessation of the carrying on of an activity for such period as SEPA considers necessary or appropriate.

(6) SEPA may impose such time limits as it considers appropriate in a regulatory notice and may describe a time limit by reference to the completion of steps or any other requirement specified in that notice.

(7) A person on whom a regulatory notice is served must comply with the notice from the date on which it has effect (as stated in the notice).

SEPA: regulatory notices requiring cessation

47.—(1) Where SEPA serves a regulatory notice requiring the cessation of an activity authorised by a permit, registration or notification—

(a) the permit, registration or notification ceases to have effect to authorise the activity on the date and to the extent specified in the notice; and

(b) the notice must specify—

(i) the extent to which the permit, registration or notification ceases to have effect;

(ii) that the permit, registration or notification shall, until the regulatory notice is withdrawn, cease to have effect to authorise the activity to the extent specified;

(iii) the limitations or conditions to which any permit or registration that is not wholly suspended is to be subject until the regulatory notice is withdrawn; and

(iv) the date on which the notice takes effect (which must not be earlier than the date on which the notice is served).

(2) Where SEPA serves a regulatory notice on a person requiring the cessation of an activity to which general binding rules apply—

(a) regulation 10(1) has no effect to authorise the carrying on of the activity by the person from the date specified in the notice; and

(b) the notice must specify—

(i) that the activity ceases to be authorised until the regulatory notice is withdrawn;

(ii) the date on which the notice takes effect (which must not be earlier than the date on which the notice is served).

Withdrawing regulatory notices

48.—(1) SEPA must withdraw a regulatory notice if it is satisfied that the steps required by the notice have been taken.

(2) A notice withdrawing a regulatory notice must specify—

(a) the date on which the withdrawal takes effect; and

(b) the reasons for the withdrawal of the notice.

Regulatory notices: off-site conditions

49. SEPA may impose an off-site condition in a regulatory notice.

Enforcement by the courts

50. SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance (whether or not it has taken other steps for that purpose) with any or all of the following:—

(a) these Regulations;

(b) a general binding rule;

(c) an authorisation;

(d) a regulatory notice;

(e) a surrender notice;

(f) a revocation notice.

PART 10

Costs recovery notices

Costs recovery notices

51.—(1) SEPA may serve a notice on a person specified in paragraph (2) requiring that person to pay the costs necessarily incurred by SEPA in relation to, and up to the time of, service of the notice (a "costs recovery notice").

(2) The persons specified are—

(a) a person on whom a regulatory notice has been served;

(b) a person on whom a revocation notice has been served;

(c) where SEPA takes steps, or arranges for steps to be taken, to remove or reduce a risk of significant environmental harm under regulation 62(1), the authorised person;

(d) where SEPA takes steps, or arranges for steps to be taken, under regulation 62(2) or (3), the person on whom the regulatory notice, surrender notice or revocation notice was served or would have been served.

(3) In this regulation, "costs" include—

(a) investigation costs (including the costs of monitoring the environment to determine the harm to which the notice relates);

(b) costs incurred by SEPA in taking steps, or arranging for steps to be taken, under regulation 62 (including any compensation paid to the grantors of any rights as were necessary for SEPA to take the steps, or arrange for the steps to be taken);

(c) administration costs; and

(d) costs of obtaining expert advice (including legal advice).

(4) The costs recovery notice must specify—

(a) the amount required to be paid;

(b) how payment may be made;

(c) the period within which payment must be made;

(d) that SEPA may be required to provide a detailed breakdown of the amount (unless such a breakdown is provided by SEPA with the notice itself);

(e) the rights of appeal; and

(f) the consequences of non-payment as set out in regulation 53.

(5) The person on whom the notice is served may require SEPA to provide a detailed breakdown of the amount required to be paid (unless such a breakdown has already been provided).

(6) SEPA must take such steps as are reasonable to ensure that the detailed breakdown is sent to the person requesting it within a period of 21 days beginning with the date of the request.

Payment requirements for costs recovery notices

52.—(1) The amount required to be paid under the costs recovery notice must be paid by the person on whom the notice is served within such period as SEPA may specify in the notice.

(2) In the case of an appeal, any costs which fall to be paid (whether because the penalty was upheld or because the appeal was withdrawn) are payable within—

(a) the period referred to in the costs recovery notice by virtue of regulation 51(4)(c);

(b) the period of 28 days beginning with the day the appeal is determined or withdrawn; or

(c) such period as the Scottish Ministers may, in determining the appeal, specify,

whichever period ends the latest.

Recovery of payments

53. SEPA may recover as a civil debt any costs required to be paid under a costs recovery notice.

PART 11

Notices

Notices – general provisions

54.—(1) Any notice served or given under these Regulations by the Scottish Ministers or SEPA—

(a) must be in writing; and

(b) may be withdrawn, varied or revoked by a further notice in writing (whether before or after the notice has come into effect).

(2) Any notice may be served on or given to a person by leaving it at that person's proper address or by sending it by post to that person at that address.

(3) Any such notice may—

(a) in the case of a body corporate, be served on a director, secretary, clerk or other officer of that body;

(b) in the case of a partnership (other than a limited liability partnership), be served on or given to a partner or person having the control or management of the partnership business; and

(c) in the case of a limited liability partnership, be served on a member of the partnership.

(4) For the purpose of this regulation the proper address of a person is to be construed in accordance with section 26(4) of the Interpretation and Legislative Reform (Scotland) Act 2010(**a**).

(**a**) 2010 asp 10.

PART 12

Appeals

Appeals to the Scottish Ministers

55.—(1) A person—

(a) who has been refused, in whole or in part, the grant of a registration or permit under paragraph 9 of schedule 1;

(b) who is deemed to have been refused the grant of a registration or permit under paragraph 10(1) of schedule 1;

(c) whose application for a registration or permit has been deemed withdrawn by SEPA under paragraph 6(3) or 8(3) of schedule 1;

(d) who is aggrieved by the conditions attached to the person's permit (including the specification of standard conditions, but not the standard conditions themselves)—

(i) following an application for a permit under regulation 21;

(ii) by variation, either following an application under regulation 25 or otherwise;

(e) who has been granted a form of authorisation under regulation 60 or 61 which is different from the form of authorisation which that person believes ought to have been granted;

(f) whose application for variation of an authorisation under regulation 25 has been refused (in whole or in part) or deemed refused;

(g) on whom a notice requiring the provision of information under regulation 37 has been served;

(h) whose application for transfer of an authorisation under regulation 27 has been refused or deemed refused, or who is aggrieved by the conditions attached to the person's authorisation to take account of a transfer;

(i) whose application to surrender an authorisation under regulation 30 has been refused or deemed refused;

(j) who is aggrieved by a step specified in the surrender notice served by SEPA under paragraph 15 of schedule 1;

(k) on whom a revocation notice has been served;

(l) whose application for the transfer of a duty to comply with a revocation notice under regulation 29 has been refused or deemed refused;

(m) on whom a regulatory notice has been served;

(n) on whom a costs recovery notice has been served and either or both of the following apply—

(i) the person is aggrieved by service of the notice;

(ii) the person believes that some or all of the costs were not incurred or were unnecessarily incurred;

(o) who has applied under regulation 41(1) to have information excluded from the register on the ground that it is commercially confidential and SEPA has decided the information is not commercially confidential;

(p) who is aggrieved by a decision by SEPA under regulation 42(4) that information is no longer commercially confidential;

(q) whose consent is required for the authorised person to comply with an off-site condition which has been included in an authorisation; and

(r) whose authorisation or authorisations have been consolidated by a SEPA initiated consolidation under regulation 64(2),

may appeal to the Scottish Ministers against the decision or determination.

(2) Paragraph (1) does not apply where the decision or notice (as the case may be) gives effect to a direction under regulation 56(1) or paragraph 23(3) of schedule 1.

(3) Paragraph (1)(d) does not apply to a condition attached to a permit following variation of the permit under regulation 25 or consolidation under regulation 64 if the condition (or an equivalent condition) was attached to the permit immediately prior to the variation or to a non-consolidated authorisation immediately prior to consolidation.

(4) In this regulation, "person" includes a person to whom a permit or registration has been transferred after the decision which is the subject of the appeal has been made or the notice which is the subject of the appeal has been served.

(5) Schedule 4 has effect.

Determination of appeals

56.—(1) On determining an appeal against a decision of SEPA referred to in regulation 55(1), the Scottish Ministers may—

(a) affirm the decision, or any part of it;

(b) where the decision is a refusal to—

(i) grant an authorisation;

(ii) grant a form of authorisation; or

(iii) vary a condition of an authorisation,

direct SEPA to grant the authorisation or the form of authorisation or vary the conditions of the authorisation, as the case may be;

(c) where the decision relates to the conditions attached to an authorisation, direct SEPA to vary any or all of the conditions of the authorisation;

(d) if the decision is a refusal to effect the transfer of, or accept the surrender of, an authorisation, direct SEPA to effect the transfer or accept the surrender, as the case may be;

(e) where the decision is to serve a notice—

(i) direct SEPA to withdraw the notice;

(ii) affirm the notice in its original form; or

(iii) direct SEPA to vary the notice as the Scottish Ministers think fit;

(f) where the decision is a decision that information is not commercially confidential, either affirm the decision or direct SEPA to treat the information as commercially confidential.

(2) SEPA must comply with a direction given to it under this regulation.

(3) A determination of an appeal by the Scottish Ministers is final.

(4) The determination or disposal of an appeal which relates to a decision to specify standard conditions in a permit does not affect the continued validity of the standard conditions published under regulation 35.

Effect of notices etc. during consideration of appeal

57.—(1) An appeal does not have the effect of suspending—

(a) a decision of SEPA;

(b) a notice;

(c) the operation of any conditions attached to an authorisation;

(d) the refusal (or deemed refusal) of an application.

(2) But if an appeal is against a—

(a) SEPA initiated variation notice under regulation 25, the notice does not take effect until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and service of the notice is affirmed (with or without modifications);

(b) notice requiring the provision of information under regulation 37, the notice does not take effect until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and service of the notice is affirmed (with or without modifications);

(c) revocation notice, the notice does not take effect until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and service of the notice is affirmed (with or without modifications);

(d) decision under regulation 41(4) or 42(4) that information is not commercially confidential, the information must not be made available to the public until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and the decision that the information is not commercially confidential is affirmed;

(e) costs recovery notice under regulation 51, the notice does not take effect until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and the service of the notice is affirmed (with or without modifications);

(f) SEPA initiated consolidation under regulation 64(2), the consolidation does not take effect until the day following the day on which—

(i) the appeal is withdrawn; or

(ii) the appeal is finally determined and the consolidation is affirmed.

Appeals – miscellaneous

58.—(1) This regulation applies to a function of the Scottish Ministers in connection with—

(a) the determination of an appeal under these Regulations; and

(b) any other matter connected with an appeal.

(2) Where this regulation applies, the Scottish Ministers may—

(a) appoint a person to exercise any such function on their behalf, with or without payment; or

(b) refer a matter to a person they may appoint for the purpose, with or without payment.

PART 13

Duties and functions of SEPA

Duty on SEPA to exercise its functions in accordance with the technical schedule

59. SEPA must exercise its relevant functions in accordance with the technical schedule.

Power of SEPA to impose authorisations

60.—(1) Where it appears to SEPA that a person is carrying on (or is likely to carry on) a regulated activity which has not been authorised, SEPA may treat the activity as an activity—

(a) which has been notified;

(b) in respect of which an application for a registration has been made; or

(c) in respect of which an application for a permit has been made,

as SEPA thinks fit.

(2) Where SEPA decides to treat an activity as being notified, or as an activity in respect of which an application for a registration or permit has been made, in accordance with paragraph (1)—

(a) any fee payable under a charging scheme for that notification or application, is payable; and

(b) these Regulations apply as if such a notification or application had been made.

(3) SEPA must give notice to the person who appears to SEPA to be in control of the carrying on of the activity or to the person carrying on the activity, that it is treating the activity in accordance with paragraph (1).

(4) Where SEPA treats an activity in accordance with paragraph (1), SEPA must grant an authorisation to the person or persons it considers to be in control of the carrying on of the activity.

Power of SEPA to escalate or de-escalate authorisations

61.—(1) Where it appears to SEPA that a person is carrying on (or is likely to carry on) a regulated activity under an authorisation ("the original authorisation"), but that it should be authorised by a different type of authorisation ("the replacement authorisation"), SEPA may treat the activity as an activity—

(a) which has been notified;

(b) in respect of which an application for a registration has been made; or

(c) in respect of which an application for a permit has been made,

as SEPA thinks fit.

(2) Where SEPA decides to treat an activity as being notified, or as an activity in respect of which an application for a registration or permit has been made, in accordance with paragraph (1)—

(a) any fee payable under a charging scheme for that notification or application is payable;

(b) these Regulations apply as if such a notification or application had been made; and

(c) the original authorisation is replaced by the replacement authorisation when—

(i) SEPA informs the authorised person that the replacement authorisation has been placed on the register, if it is a notification; or

(ii) SEPA grants the replacement authorisation, if it is a registration or permit.

(3) Where SEPA decides to treat an activity as being notified, or as an activity in respect of which an application for a registration or permit has been made, SEPA must give notice that it is treating the activity in accordance with paragraph (1) to the person it considers will be the

authorised person in the event that the replacement authorisation is granted or placed on the register.

Action by SEPA

62.—(1) SEPA may take steps or arrange for steps to be taken to remove or reduce a risk of significant environmental harm (whether or not it has taken other steps for that purpose) if it considers that the—

(a) carrying on of a regulated activity;

(b) carrying on of a regulated activity in a particular manner; or

(c) cessation of a regulated activity,

involves such a risk.

(2) Where SEPA considers that a regulatory notice should be served, SEPA may take steps or arrange for any steps that would have been identified in that notice to be taken (whether or not it has taken other steps for that purpose), if it appears to SEPA, after reasonable inquiry, that no person can be found on whom to serve the notice.

(3) Where paragraph (4) applies, SEPA may take or arrange for any or all of the steps specified in the notice to be taken (whether or not it has taken other steps for that purpose), on giving at least 7 days' notice of the steps to be taken to the person on whom the notice was served.

(4) This paragraph applies where—

(a) SEPA has served any of a—

(i) regulatory notice;

(ii) surrender notice;

(iii) revocation notice; and

(b) the person on whom the notice was served has failed to comply with it (in whole or in part).

(5) Where SEPA has taken steps or arranged for steps to be taken under paragraph (1), (2) or (3), SEPA may recover by costs recovery notice the costs of doing so (including any compensation paid to the grantors of any rights) from the authorised person or the person on whom—

(a) SEPA served, or would have served, a regulatory notice; or

(b) SEPA served a surrender or revocation notice.

(6) A person whose consent would be required for steps under paragraph (1), (2) or (3) to be taken must grant (or join in granting) such rights as are necessary for SEPA to take or arrange for those steps to be taken.

(7) A person who grants, or joins in granting, any rights necessary for SEPA to take steps or arrange for steps under paragraph (1), (2) or (3) to be taken may apply for compensation, in accordance with schedule 2, of such amount and in such manner as may be determined under that schedule.

Accelerated applications

63.—(1) This paragraph applies where SEPA considers that, by reason of an emergency—

(a) an application for a registration or permit requires to be determined within a shorter period of time than the procedures specified in schedule 1 allow; or

(b) a variation of a permit or registration (whether on the application of the authorised person or initiated by SEPA) requires to be determined within a shorter time than the procedures specified in schedule 1 allow.

(2) Where paragraph (1) applies, regulations 17(1) and 22(1), and paragraphs 1, 5, 7, 8, 10, 11, 12 and 13 of schedule 1 and paragraph 3 of schedule 2, do not apply.

(3) Where paragraph (1) applies, SEPA must comply with regulations 18(3), 19(3), 23(3) and 25(5) only insofar as it is practicable to do so.

(4) Where paragraph (1) applies, an application—

(a) must be made in such form and must be accompanied by such information as SEPA may require (and, if SEPA so determines, need not be in writing); and

(b) must be accompanied by any fee payable in accordance with a charging scheme.

(5) SEPA must decide whether to grant or refuse (in whole or in part) an accelerated application within such time period as it considers appropriate in all the circumstances.

(6) Where SEPA decides to grant an accelerated application, it must notify the authorised person in so far as it is practicable to do so of—

(a) the activity authorised;

(b) the authorised person;

(c) any conditions or standard conditions to which the authorisation is subject;

(d) the date on which the authorisation takes effect; and

(e) the authorised place.

(7) Where SEPA determines the variation of an authorisation under this regulation (whether or not initiated by SEPA), it must notify the authorised person of—

(a) the variations being made to the authorisation; and

(b) the date on which the variations are to take effect.

(8) Where SEPA notifies a person other than in writing of a determination under paragraph (6) or (7), SEPA must also notify the person in writing when it is practicable to do so.

(9) In this regulation—

"accelerated application" means an application or SEPA initiated variation to which this regulation applies in accordance with paragraph (1)(a) or (b); and

"emergency" has the same meaning as it does in section 1 of the Civil Contingencies Act 2004(**a**).

Consolidation of permits and registrations

64.—(1) Paragraph (2) applies where an authorised person holds more than one non-consolidated authorisation.

(2) SEPA may replace the non-consolidated authorisations at any time with a single authorisation ("a consolidated authorisation") in accordance with paragraph (3).

(3) Where the non-consolidated authorisations consist of—

(a) permits only, SEPA may replace the permits with a consolidated permit;

(b) registrations only, SEPA may replace the registrations with a consolidated registration;

(c) a combination of permits and registrations, SEPA may replace the non-consolidated authorisations with a consolidated permit.

(4) SEPA may replace a non-consolidated authorisation which has been—

(a) varied;

(b) partially transferred;

(c) partially revoked; or

(d) partially surrendered,

with a consolidated authorisation.

(**a**) 2004 c.36.

(5) Subject to paragraph (6), a consolidated authorisation is subject to the same conditions as the non-consolidated authorisations or the non-consolidated authorisation.

(6) SEPA may vary a consolidated authorisation as it thinks fit to take account of the consolidation.

(7) Where SEPA varies a consolidated authorisation in accordance with paragraph (6)—

(a) schedules 1 and 2 apply to the variation; and

(b) where the consolidated authorisation is a permit, paragraphs 7 and 8 of schedule 1 (public participation and the duty to consider representations) apply as if the variation were an application for variation of a permit.

(8) SEPA may replace a non-consolidated authorisation with a consolidated authorisation under paragraph (2) or (4) either on the application of the authorised person ("an application for consolidation") or on its own initiative ("a SEPA initiated consolidation").

(9) An application made under this regulation must be—

(a) made in writing and in such form as SEPA may from time to time require; and

(b) accompanied by any fee payable in accordance with a charging scheme.

(10) SEPA must grant or refuse an application made under this regulation and notify the applicant of its decision in accordance with regulation 65.

Communication of consolidation

65. Where SEPA makes a determination to replace an non-consolidated authorisation with a consolidated authorisation under regulation 64(2) or (4), SEPA must, as soon as is reasonably practicable after it makes that determination, notify the authorised person of—

(a) its determination (including the reasons for it);

(b) the non-consolidated authorisation or non-consolidated authorisations affected;

(c) any variation of the non-consolidated authorisation or non-consolidated authorisations resulting from the determination;

(d) the date from which the consolidated authorisation is to have effect;

(e) the rights of appeal the authorised person has under regulation 55.

PART 14

SEPA– guidance and public participation statement

SEPA guidance

66.—(1) SEPA must publish guidance about—

(a) which activities are subject to a requirement to notify;

(b) which activities subject to a requirement to notify must also be carried on in accordance with general binding rules;

(c) which activities SEPA is likely to require to be authorised by means of registration;

(d) which activities SEPA is likely to require to be authorised by means of permit; and

(e) the criteria which SEPA will apply in determining whether a person is a fit and proper person.

(2) SEPA may publish guidance about the exercise of any other functions it has under these Regulations as it thinks fit.

(3) SEPA may from time to time revise guidance published under this regulation.

(4) SEPA must consult such persons as it thinks fit before publishing or revising guidance under paragraph (1).

(5) The duty in paragraph (4) may be treated as satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

(6) SEPA must have regard to the guidance published under paragraph (1)(a) to (d) when—

(a) determining an application;

(b) imposing an authorisation under regulation 60; and

(c) escalating or de-escalating an authorisation under regulation 61.

(7) When carrying out a relevant function which requires SEPA to determine whether a person is a fit and proper person, SEPA must have regard to the guidance published under paragraph (1)(e).

SEPA's public participation statement

67.—(1) SEPA must publish a statement of its policies for exercising its public participation functions (the "public participation statement").

(2) "Public participation functions" means the duties and functions in the following provisions—

(a) regulation 34 (consultation on standard conditions); and

(b) paragraph 8 of schedule 1 (consultation on an application for permits etc.).

(3) SEPA must have regard to its public participation statement when exercising its public participation functions.

(4) In preparing or revising the public participation statement SEPA must consult such persons as SEPA considers appropriate.

(5) The duty in paragraph (4) may be treated as satisfied by a consultation carried out partially or wholly before the coming into force of these Regulations.

(6) SEPA must—

(a) keep the public participation statement under review;

(b) revise the public participation statement when it considers necessary; and

(c) publish any revised public participation statement.

SEPA guidance – fit and proper person

68.—(1) When SEPA prepares and publishes guidance under regulation 66(1)(e) about the criteria which apply in determining whether a person is a fit and proper person—

(a) the criteria which must apply include whether the person is likely to comply or secure compliance with the conditions of the authorisation which apply, or would apply, to the carrying on of the activity;

(b) the criteria that may apply include—

(i) whether the person or a relevant associate has been convicted of a relevant offence;

(ii) the significance of the offence;

(iii) whether the activity will be carried on by someone who is technically competent;

(iv) whether the person has made adequate financial provision to protect against any foreseeable or potential environmental harm or effect on the environment likely to result from the activity; and

(v) criteria relating to such other matters as SEPA thinks fit.

(2) In this regulation, "relevant associate" includes—

(a) any body corporate of which the person whose status as a fit and proper person is being considered is or has been a director, manager, secretary or other similar officer;

(b) any partnership (other than a limited liability partnership) of which the person whose status as a fit and proper person is being considered is, or has been, a partner;

(c) any limited liability partnership of which the person whose status as a fit and proper person is being considered is, or has been, a member;

(d) where the person whose status as a fit and proper person is being considered is a partnership (other than a limited liability partnership), a partner or former partner;

(e) where the person whose status as a fit and proper person is being considered is a limited liability partnership, a member or former member;

(f) where the person whose status as a fit and proper person is being considered is a body corporate—

(i) a current or former director, manager, secretary or other similar officer;

(ii) any other body corporate of which a director, manager, secretary or other similar officer of the person is or has been a director, manager, secretary or other similar officer; and

(iii) any person who is a member of that body corporate;

(g) where the person whose status as a fit and proper person is being considered is an unincorporated association, any officer of the association;

(h) an employee of—

(i) the person whose status as a fit and proper person is being considered;

(ii) a partnership (other than a limited liability partnership) of which the person is or has been a partner;

(iii) a limited liability partnership of which the person is or has been a member;

(iv) a body corporate of which the person is or was a director, manager, secretary or other officer; and

(i) such other persons, or classes of person, as SEPA thinks fit.

(3) In this regulation, "relevant offence" means an offence which SEPA considers to be relevant to the criteria referred to in paragraph (1)(a).

PART 15

Provisions relating to offences

Offences

69.—(1) A person commits an offence if the person—

(a) contravenes regulation 7;

(b) is an authorised person and fails to comply with regulation 8;

(c) fails to comply with or contravenes a general binding rule;

(d) fails to comply with or contravenes a condition of a registration;

(e) fails to comply with or contravenes a condition of a permit;

(f) fails to comply with the requirements of a regulatory notice;

(g) fails to comply with the requirements of a revocation notice;

(h) fails to comply, without reasonable excuse, with the requirements of a notice issued under regulation 37(1) (power to require provision of information);

(i) fails to comply with an order made by a court under regulation 75;

(j) makes a statement which that person knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular, if the statement is made—

(i) in purported compliance with a requirement by an enforcing officer in exercise of that officer's powers or duties;

(ii) in purported compliance with a requirement imposed by or under these Regulations; or

(iii) for the purpose of obtaining an authorisation, or securing the variation, transfer or surrender of an authorisation;

(k) intentionally makes a false entry in any record required to be kept—

(i) as a condition of an authorisation; or

(ii) in compliance with a requirement imposed by or under these Regulations;

(l) with intent to deceive, forges or uses an authorisation or a document issued or authorised to be issued under a condition of a registration or permit or required for any purpose under a condition of such a registration or permit or makes or possesses a document so closely resembling any such authorisation or document so as to be likely to deceive; or

(m) causes or permits any other person to commit an offence under sub-paragraphs (a) to (k).

(2) A person commits an offence if the person—

(a) refuses, wilfully neglects, or fails without reasonable excuse to attend a hearing which they are required to attend by a notice under paragraph 23 of schedule 4 to give evidence;

(b) wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which the person is required, or is liable to be required, to produce by a notice under paragraph 23 of schedule 4; or

(c) causes or permits any other person to commit an offence under sub-paragraph (a) or (b).

(3) A person who commits an offence under paragraph (1) is liable—

(a) on summary conviction—

(i) to a fine not exceeding £40,000 or to imprisonment for a term not exceeding 12 months, or to both; and

(ii) in the case of a continuing offence, to a further fine not exceeding £250 for every day during which the offence is continued after conviction;

(b) on conviction on indictment—

(i) to a fine or to imprisonment for a term not exceeding 5 years, or to both; and

(ii) in the case of a continuing offence to a further fine not exceeding £1,000 for every day during which the offence is continued after conviction.

(4) A person who commits an offence under paragraph (2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale or to imprisonment for a term not exceeding three months, or to both.

Offences by bodies corporate

70.—(1) Where—

(a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual; or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "relevant individual" means—

(a) in relation to a body corporate—

(i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner;

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Offences — acts or default of third person

71. Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings for the offence are taken against the first-mentioned person.

Offences – more than one authorised person

72. Where there is more than one person who is the authorised person in relation to an activity—

(a) each person is jointly and severally liable for acts or omissions arising in respect of the activity during the period in which that person is authorised; and

(b) each person may be charged with and convicted of an offence under these Regulations whether or not proceedings for the offence are taken against any of the other persons who are authorised in relation to the activity.

Offences – defences

73.—(1) A person does not commit an offence under regulation 69(1)(a) to (e) or (m) where all of the following apply—

(a) either—

(i) the contravention, failure or (as the case may be) causing or permitting was necessary to avoid, prevent or limit an imminent risk of serious harm to human health in circumstances which are the result of natural causes which are exceptional and could not reasonably have been foreseen; or

(ii) the person was acting in their capacity as a Category 1 responder or a Category 2 responder and the contravention was necessary to protect people, the environment or property from the imminent risk of serious harm;

(b) the person has taken all practicable steps to minimise environmental harm;

(c) the person has taken all practicable steps as soon as was reasonably practicable to restore the environment to its condition prior to the contravention, failure or (as the case may be) causing or permitting; and

(d) the person provided particulars of the contravention, failure or (as the case may be) causing or permitting to SEPA as soon as practicable after it occurs.

(2) In this regulation, "Category 1 responder" and "Category 2 responder" have the same meanings as in section 3 of the Civil Contingencies Act 2004(**a**).

Admissibility of evidence

74.—(1) Where—

(a) by virtue of a condition of an authorisation, an entry is required to be made in any record as to the observance of any condition of the authorisation; and

(b) the entry has not been made,

that fact is admissible as evidence that that condition has not been observed.

(**a**) 2004 c.36.

(2) Information provided or obtained pursuant to or by virtue of a condition of an authorisation including information so provided, obtained or recorded, by means of any apparatus, is admissible in evidence in any proceedings, whether against the person subject to the condition, or any other person.

(3) For the purposes of paragraph (2), apparatus is presumed in any proceedings to register or record accurately, unless the contrary is shown, or the authorisation otherwise provides.

Power of court to order offence to be remedied

75.—(1) If—

(a) a person is convicted of an offence under regulation 69(1)(a) to (l) in respect of any regulated activity which has resulted in environmental harm; and

(b) it appears to the court that it is in the power of that person to mitigate or remedy that harm,

the court may, in addition to or instead of imposing any punishment, order the person, within such time as may be fixed by the order of the court, to take such steps as may be specified in the order to remedy or mitigate the harm.

(2) Before making such an order, the court must have regard to any representations by SEPA as to the steps required to remedy or mitigate the environmental harm.

(3) The time fixed by an order of the court under paragraph (1) may be extended or further extended by a further order of the court on an application made before the end of the time originally fixed or extended under this paragraph, as the case may be.

(4) Where a person is ordered under paragraph (1) to remedy any matter, the person is not liable under regulation 69 in respect of the matter if it continues during the time fixed by the order of the court or any further time allowed under paragraph (3).

PART 16

Duties and functions of the Scottish Ministers

Guidance to SEPA

76.—(1) The Scottish Ministers may issue guidance to SEPA with respect to the carrying out of its functions under these Regulations, and SEPA must have regard to any guidance issued by the Scottish Ministers under this regulation.

(2) The Scottish Ministers may give guidance to SEPA under paragraph (1) only after consultation with SEPA.

Application of the Regulations to SEPA

77. If SEPA is in control, or intends to be in control, of the carrying on of a regulated activity, SEPA must comply with guidance issued by the Scottish Ministers in that regard.

PART 17

Miscellaneous

Crown application

78.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown.

(2) Paragraph (1) does not apply in relation to a radioactive substances activity carried on at premises—

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence; or

(b) occupied by or for the purposes of a visiting force.

(3) No contravention by the Crown of any provision of these Regulations makes the Crown criminally liable.

(4) But—

(a) the Court of Session may, on the application of the Scottish Ministers or SEPA, declare unlawful any act or omission of the Crown which constitutes such a contravention;

(b) these Regulations apply to persons in the public service of the Crown as they apply to other persons; and

(c) paragraph (3) does not affect the liability of the Crown to any civil penalties or other civil enforcement measures arising from such a contravention.

(5) For the purposes of these Regulations, persons in the service of the Crown are to be treated as employees of the Crown (whether or not they would be so treated apart from this paragraph).

(6) Nothing in this regulation authorises proceedings to be brought against Her Majesty in her private capacity (within the meaning of the Crown Proceedings Act 1947(**a**)).

(7) The following persons are treated as if they were the authorised person for the purpose of any notice served or given or any proceedings instituted in relation to a regulated activity carried on by any person acting on behalf of the Royal Household, the Duchy of Lancaster or the Duke of Cornwall or other possessor of the Duchy of Cornwall—

(a) in relation to an activity carried on by a person acting on behalf of the Royal Household, the Keeper of the Privy Purse;

(b) in relation to an activity carried on by a person acting on behalf of the Duchy of Lancaster, such person as the Chancellor of the Duchy appoints in relation to that activity;

(c) in relation to an activity carried on by a person acting on behalf of the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints in relation to that activity.

(8) In this regulation, "visiting force" means any such body, contingent, or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952(**b**).

Transitional and savings provisions

79. Schedule 5 has effect.

Consequential amendments

80. Schedule 6 has effect.

(**a**) 1947 c.44.
(**b**) 1952 c.67.

Repeals and revocations

81. Schedule 7 has effect.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

SCHEDULE 1

Regulations 16, 19, 21, 25 and 26

REGISTRATIONS AND PERMITS: PROCEDURES

PART 1

General provisions

Form of application

1. An application under these Regulations must be in writing and in such form as SEPA may from time to time require.

Accompanying information

2.—(1) An application must be accompanied by—

(a) any fee payable under a charging scheme;

(b) any information required by virtue of the technical schedule; and

(c) any other information in such form as SEPA may reasonably require.

(2) SEPA may decline to accept an application where SEPA considers any one or more of the requirements in sub-paragraph (1) are not met.

(3) Where SEPA declines to accept an application—

(a) it must inform the applicant in writing;

(b) the applicant is entitled to a refund of the fee which accompanied the application or such part of the fee as is specified in a charging scheme; and

(c) the provisions of this schedule, other than paragraphs 1 and 2, do not apply to the application.

Withdrawing an application

3.—(1) An application may be withdrawn by the applicant before it is determined.

(2) Where an application is withdrawn the applicant is not entitled to the refund of any fee which accompanied it.

Modifying an application

4. An application may be modified by the applicant before it is determined if SEPA agrees in writing to the modification.

Notifications relating to certain applications

5.—(1) This sub-paragraph applies where SEPA receives an application for a—

(a) permit;

(b) transfer of a permit;

(c) variation of a permit;

(d) surrender of a permit; or

(e) transfer of a revocation notice.

(2) Where sub-paragraph (1) applies, SEPA must notify the applicant of—

(a) the determination period that applies in respect of the application;

(b) any consultation that is required by virtue of paragraphs 7 and 8 of this schedule (including details of the consultation period); and

(c) any steps that the applicant is required to take in relation to consultation in accordance with paragraph 8(2).

Further information in respect of an application

6.—(1) This paragraph applies where SEPA receives an application for—

(a) a permit;

(b) the transfer, variation or surrender of a permit;

(c) a registration; or

(d) the transfer, variation or surrender of a registration.

(2) Where SEPA considers that it requires further information to determine an application, it may serve a notice on the applicant specifying the further information and the period within which it must be provided.

(3) Where the applicant fails to provide the information in accordance with the notice, SEPA may by further notice deem the application to be withdrawn.

(4) Where an application is deemed to be withdrawn, the applicant is not entitled to the refund of any fee which accompanied it.

(5) SEPA may carry out such examination and investigation as it considers necessary to allow it to make a determination in respect of the application.

Public Consultation: scope

7.—(1) Paragraph 8 applies to any application for a—

(a) permit;

(b) variation of a permit; or

(c) surrender of a permit (in whole or in part),

where any of the criteria in sub-paragraph (3) is met.

(2) Paragraph 8 applies to a SEPA initiated variation of a permit where any of the criteria in sub-paragraph (3) is met.

(3) The criteria are—

(a) consultation is required by the technical schedule;

(b) the permit or variation, where granted, will authorise for the first time, a regulated activity which has the potential to cause significant environmental harm;

(c) where SEPA determines paragraph 8 should apply.

Public consultation requirements

8.—(1) Subject to sub-paragraphs (2) and (3), if this paragraph applies SEPA must ensure that—

(a) the application or proposed SEPA initiated variation is publicised in such manner as SEPA thinks fit;

(b) public consultees are invited to make representations;

(c) the address to which and period within which such representations may be made is specified to the public consultees; and

(d) copies of the application or proposed SEPA initiated variation are made available to the public for such period, being a period of at least 28 days, as SEPA may determine ("the consultation period").

(2) In fulfilling the duties in sub-paragraph (1)(a) or (b), SEPA may require the applicant or authorised person to take such steps as SEPA considers appropriate.

(3) Where the applicant fails to take the steps required by SEPA, SEPA may by further notice deem the application to be withdrawn.

(4) Where an application is deemed to be withdrawn under sub-paragraph (3), the applicant is not entitled to the refund of any fee which accompanied it.

(5) Where an authorised person fails to take the steps required by SEPA in the case of a SEPA initiated variation, SEPA may take those steps and may recover the costs it reasonably incurs in doing so from that person.

(6) SEPA must consider all representations made in connection with an application or SEPA initiated variation which are received during the consultation period.

(7) SEPA must not inform the public consultees of information which is to be excluded from the register in the interests of national security or commercial confidentiality unless the Scottish Ministers direct that it must do so.

(8) In this paragraph, "public consultee" means—

(a) a person whom SEPA considers is affected by, is likely to be affected by, the application;

(b) a statutory body—

(i) required to be consulted by SEPA in terms of the technical schedule; or

(ii) whom SEPA thinks fit to consult.

Duty to determine an application

9.—(1) SEPA must grant or refuse (in whole or in part) an application.

(2) SEPA must notify the applicant of its determination and, where the application is refused, provide—

(a) grounds for the refusal; and

(b) details of any right of appeal.

Time limits for determining applications

10.—(1) Where—

(a) SEPA fails to determine an application within the determination period; and

(b) the applicant serves notice on SEPA that the applicant wishes the failure to be treated as a refusal,

the application is deemed to have been refused on the day on which the notice is served.

(2) SEPA may determine an application after the end of the determination period unless the application has been deemed refused in accordance with sub-paragraph (1).

(3) In this paragraph, "the determination period" means—

(a) for an application for—

(i) registration;

(ii) variation of a registration;

(iii) transfer of a registration;

(iv) surrender of a registration; or

(v) transfer of a revocation notice relating to a registration,

the period of 28 days beginning with the date on which SEPA receives an application;

(b) for an application for—

(i) transfer of a permit; or

(ii) transfer of a revocation notice relating to a permit,

the period of two months beginning with the date on which SEPA receives the application, or such longer period as may be agreed with the applicant in writing;

(c) for an application for—

(i) a permit;

(ii) the variation of a permit; or

(iii) the surrender of a permit,

the period of four months beginning with the date on which SEPA receives the application, or such longer period as may be agreed with the applicant in writing.

Extension of determination periods

11.—(1) Subject to sub-paragraph (2), any determination period may be extended by agreement in writing between SEPA and the applicant.

(2) The determination periods specified in paragraph 10(3)(a) cannot be extended.

Calculating the determination period

12.—(1) In calculating the determination periods specified in paragraph 10, or extended under paragraph 11, the following periods are not counted—

(a) any period during which an application for commercial confidentiality under regulation 41 is being considered;

(b) any period during which an appeal under regulation 55(1)(o) against a decision not to exclude information on the grounds of commercial confidentiality is being considered;

(c) any period beginning with the first day of a 21 day period and ending on the day on which the call-in process ends in accordance with paragraph 21.

(2) In this paragraph "21 day period" has the same meaning as in paragraph 20.

Variation Notices

13.—(1) SEPA must, on varying a permit or registration, give notice (a "variation notice") to the authorised person specifying—

(a) the variation being made;

(b) the date on which the variation is to take effect (being not earlier than the date of service of the notice); and

(c) the rights of appeal available to the authorised person.

(2) Unless the variation notice is withdrawn it has effect on the date so specified in the notice.

Surrender applications

14.—(1) In deciding whether to grant or refuse (in whole or in part) an application for surrender of a registration or permit, SEPA must consider—

(a) the impact on the environment resulting from the—

(i) carrying on of the activity; and

(ii) cessation of the carrying on of the activity; and

(b) whether it is satisfied that all reasonable steps have been taken by the authorised person to—

(i) prevent environmental harm arising as a result of the activity having been carried on;

(ii) prevent environmental harm arising as a result of the cessation of the activity; and

(iii) restore the environment affected by the activity to a satisfactory state.

(2) Where SEPA grants an application for surrender (in whole or in part) SEPA must serve notice (a "surrender notice") on the applicant in accordance with paragraph 15.

(3) An authorisation ceases to have effect on the date specified in the notice and to the extent specified in the notice.

(4) An authorisation may continue to have effect only to the extent necessary to require the taking of steps specified in a notice.

Notice of surrender

15.—(1) A surrender notice must—

(a) specify any steps which SEPA considers must be taken by the authorised person to—

(i) ensure compliance with the technical schedule;

(ii) prevent environmental harm arising as a result of the regulated activity having been carried on;

(iii) prevent environmental harm arising as a result of the cessation of the activity;

(iv) restore the environment affected by the activity to a satisfactory state; and

(v) remove any equipment, plant, articles, waste or substances associated with the activity which adversely affect the amenity of the authorised place and surrounding area; and

(b) either—

(i) provide that the authorisation ceases to have effect on the date on which SEPA confirms to the applicant in writing that the steps have been completed to its satisfaction; or

(ii) specify the date on which the authorisation ceases to have effect (being not less than 28 days from the date of service of the notice (unless a shorter period is agreed between SEPA and the authorised person)).

(2) SEPA may impose an off-site condition in a surrender notice.

(3) Where SEPA grants the application for surrender in part, a surrender notice must also specify—

(a) the extent to which the application is being granted; and

(b) any variations which are necessary to the authorisation as a result of the partial surrender.

(4) Where SEPA specifies steps to be taken by the authorised person, those steps are deemed to be conditions of the authorisation.

(5) An authorisation ceases to have effect on—

(a) the date specified in the surrender notice; or

(b) the date on which SEPA confirms to the applicant in writing that the steps specified in a surrender notice have been completed to its satisfaction.

Revocation of permits or registrations

16.—(1) A revocation notice must—

(a) specify any steps which SEPA considers must be taken by the authorised person, and the period within which those steps must be completed, to—

(i) ensure compliance with the technical schedule;

(ii) prevent environmental harm arising as a result of the activity having been carried on;

(iii) prevent environmental harm arising as a result of the cessation of the activity;

(iv) restore the environment affected by the activity to a satisfactory state; and

(v) remove any equipment, plant, articles, waste or substances associated with the activity or otherwise preserve the amenity of the authorised place and surrounding area;

(b) specify the reasons for the revocation;

(c) in the case of a partial revocation specify—

(i) the extent to which the permit or registration is being revoked; and

(ii) any variations which are necessary to the permit or registration as a result of the partial revocation; and

(d) specify the date on which the authorisation ceases to have effect which—

(i) may be the date on which SEPA confirms to the authorised person in writing that the steps have been completed to SEPA's satisfaction; or

(ii) must be at least 28 days after the date on which the notice is served.

(2) An authorisation ceases to have effect on the date specified in the revocation notice.

Interpretation: satisfactory state

17.—(1) When considering whether it is satisfied that the environment affected by an activity has been restored to a satisfactory state, SEPA may have regard to—

(a) the state of the environment as at the date the authorisation (or other licence) was granted;

(b) the state of the environment as described in any report submitted to SEPA;

(c) the remediation of any environmental harm which SEPA considers could reasonably have been caused by the activity; and

(d) such other matters as SEPA thinks fit.

(2) In this paragraph—

(a) "other licence" includes a licence, permit, registration, exemption permission, or consent issued under another regulatory regime; and

(b) "report" includes a report written for the purposes of these Regulations or for another regulatory regime.

PART 2

Call-in procedure

18.—(1) This Part applies to—

(a) an application for—

(i) grant of a permit;

(ii) variation of a permit; or

(iii) surrender of a permit; and

(b) a SEPA initiated variation,

in respect of which a third party representation has been made.

19.—(1) The Scottish Ministers may direct SEPA that an application or a SEPA initiated variation to which this Part applies is referred to the Scottish Ministers for determination.

(2) SEPA must comply with a direction made under sub-paragraph (1).

(3) The Scottish Ministers must determine a matter referred to them for determination under this paragraph in accordance with Part 3.

20. Before granting an application or issuing a variation to which this Part applies SEPA must—

(a) serve notice of its proposed determination on any person who has made a representation under paragraph 8(6) in respect of the application or SEPA initiated variation specifying that the person may, within the period of 21 days beginning with the date of service of the notice ("the 21 day period"), notify the Scottish Ministers in writing that that person objects to SEPA's proposed determination; and

(b) notify the applicant that—

(i) it has made a proposed determination, and make a copy of the proposed determination available to the applicant;

(ii) the 21 day period has commenced; and

(iii) the application will be granted as soon as practicable following the occurrence of one of the days specified in paragraph 22, unless Scottish Ministers direct otherwise.

21. SEPA must not determine an application or SEPA initiated variation to which this Part applies before the occurrence of one of the days specified in paragraph 22.

22. The days specified are—

(a) where every person who made a third party representation has waived (in writing) his or her opportunity to object before the end of the 21 day period, the day on which the last person waived his or her opportunity;

(b) where no objections have been made to the Scottish Ministers, the day on which the 21 day period expires;

(c) where Scottish Ministers have received an objection within the 21 day period—

(i) the day on which SEPA receives written notice from the Scottish Ministers confirming that the Scottish Ministers do not intend to direct SEPA to refer the application or SEPA initiated variation to them for their determination; or

(ii) where no such notice has been received from the Scottish Ministers, the day falling 28 days after the day on which the 21 day period expired;

(d) where the Scottish Ministers have directed SEPA to refer the matter to them for determination, the day on which SEPA receives a direction from Scottish Ministers under paragraph 19(1) to determine the matter in a particular way.

PART 3

Determinations of applications by the Scottish Ministers

23.—(1) This paragraph applies where Scottish Ministers have directed SEPA to refer to them for their determination an application, or any part of an application, or SEPA initiated variation, or any part of a SEPA initiated variation, under paragraph 19(1).

(2) The following provisions apply to the Scottish Ministers in respect of an application referred to them in accordance with paragraph 19(1) as they do to SEPA in respect of an application made under these Regulations—

(a) regulation 63;

(b) paragraph 6(2) and (5) of schedule 1; and

(c) paragraphs 7 and 8 of schedule 1 to the extent that SEPA has not taken the steps required by paragraph 8.

(3) When they have made a determination under this schedule, the Scottish Ministers must—

(a) direct SEPA to grant or refuse (in whole or in part) the application; or

(b) where the determination relates to a SEPA initiated variation, either—

(i) affirm SEPA's decision (in whole or in part); or

(ii) direct SEPA to withdraw the variation.

(4) The Scottish Ministers may direct SEPA to grant an application subject to conditions.

(5) The Scottish Ministers must specify to SEPA the reasons for their determination.

24. In this schedule—

"application" or "applications" includes reference to any matter which SEPA treats as having been made in terms of regulation 60 or 61;

"third party representation" means a written representation in respect of an application made to SEPA under paragraph 8.

SCHEDULE 2

Regulation 22(3)(b) and (7) and 62(7)

OFF-SITE CONDITIONS

PART 1

Procedure

1. For the purposes of this schedule SEPA imposes an off-site condition where it—

(a) grants a permit subject to an off-site condition;

(b) varies a permit—

(i) by including an off-site condition; or

(ii) by varying an off-site condition; or

(c) issues a notice under—

(i) regulation 46 (regulatory notice);

(ii) paragraph 14(2) of schedule 1 (surrender notice);

(iii) regulation 31 (revocation notices),

which includes an off-site condition.

2.—(1) SEPA may impose an off-site condition for any of the purposes specified in sub-paragraph (2).

(2) The purposes specified are—

(a) where SEPA considers it necessary to impose an off-site condition to—

(i) prevent or mitigate environmental harm;

(ii) monitor the impact of the regulated activity on the environment or on human health; or

(iii) restore the environment affected or likely to be affected by the regulated activity; and

(b) where SEPA considers that—

(i) a condition of a permit has not been complied with; and

(ii) steps should be taken in order to remedy the non-compliance.

3.—(1) Before imposing an off-site condition, SEPA must (so far as is reasonably practicable) give notice under this paragraph to every person appearing to SEPA to be a person to whom sub-paragraph (3) applies.

(2) The notice must—

(a) describe the proposed off-site condition;

(b) describe the nature of the works or actions which the authorised person under the permit may be required to carry out or complete to comply with the off-site condition; and

(c) state the representation period in relation to the condition, and the manner in which representations are to be made.

(3) This sub-paragraph applies to a person where—

(a) that person is the owner, tenant or occupier of land or property affected by the off-site condition; and

(b) rights will have to be granted by that person to the authorised person to enable the authorised person to comply with the proposed off-site condition.

(4) A person notified in accordance with this paragraph may make representations to SEPA regarding the off-site condition during the period of 28 days beginning with the date on which notice is given ("the representation period").

(5) SEPA must consider any representations made within the representation period before imposing an off-site condition.

(6) Sub-paragraphs (4) and (5) do not apply where SEPA intends to issue a regulatory notice in circumstances where it considers that there is an imminent risk of environmental harm.

4. Where SEPA imposes an off-site condition, it must provide a copy of the permit or notice containing the condition to every person specified in paragraph 3(3).

5. A person ("person A") whose consent is required for a person ("person B") to comply with an off-site condition must grant (or join in granting) person B such rights in relation to the land as are necessary for person B to comply with an off-site condition.

PART 2

Compensation for off-site conditions

6. This Part applies in any case where either—

(a) (i) SEPA has imposed an off-site condition; and

(ii) a person has granted a right (an "off-site right") which, alone or together with any other right, is necessary to enable a person to comply with the off-site condition; or

(b) (i) a person whose consent would be required for SEPA to arrange for steps to be taken under regulation 62(1), (2) or (3) has granted an off-site right to SEPA under regulation 62(6); and

(ii) the off-site right, or that right together with any other right, is necessary to enable SEPA to arrange for those steps to be taken.

7. The person to whom an off-site right has been granted must pay compensation to the person who has granted the right.

8. But where a person (other than SEPA) has failed to make payment in accordance with paragraph 7 ("the person liable")—

(a) the compensation is payable by SEPA; and

(b) SEPA is entitled to recover any payment of compensation made by it under this paragraph from the person liable.

9. Subject to paragraph 12, compensation is payable for—

(a) depreciation in the value of any relevant interest which results from the grant of the offsite right;

(b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the off-site right;

(c) loss of or damage to a relevant interest which—

(i) is attributable to the grant of the off-site right or the exercise of that right;

(ii) does not consist of depreciation in the value of that interest; and

(iii) is loss or damage for which the grantor would have been entitled to compensation for disturbance if that interest had been acquired compulsorily under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(**a**) under a notice to treat served on the date on which the off-site right is granted;

(**a**) 1947 c.42.

(d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the off-site right or the exercise of that right;

(e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of off-site right or the exercise of that right;

(f) the amount of any valuation and legal expenses reasonably incurred by the grantor in—

(i) granting the off-site right; and

(ii) preparing the application for, and negotiating the amount of, compensation (up to the point of referral to the Lands Tribunal for Scotland under paragraph 14(2)).

10.—(1) Subject to sub-paragraph (2), an entitlement to compensation under this schedule arises on the date of the grant of an off-site right.

(2) The entitlement to compensation arises on the date of the final determination of the appeal where, after the grant of an off-site right, the condition of the permit which rendered the grant of that right necessary is upheld on an appeal against that condition.

11.—(1) An application for compensation under this schedule must be made by the person granting an off-site right within a period of—

(a) six months beginning with the date on which the off-site right is first exercised; or

(b) 12 months beginning with the date on which the entitlement to compensation arises in the case of that grantor,

whichever ends later.

(2) An application must be made in writing to the person to whom the off-site right is granted at the last known address for correspondence of the person.

(3) The application must contain, or be accompanied by—

(a) a copy of the grant of the off-site right in respect of which the compensation is payable, and of any plans attached to that grant;

(b) a description of the exact nature of any interest in land in respect of which the compensation is payable;

(c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under paragraph 9(a) to (f), and showing how the amount applied for under each sub-paragraph has been calculated; and

(d) where the date on which the entitlement to compensation arises is ascertained in accordance with paragraph 10(2), a copy of the notice of the final determination of the appeal.

12.—(1) The amount to be paid by way of compensation must be assessed in accordance with this paragraph.

(2) The rules set out in section 12 of the 1963 Act have effect, so far as applicable and subject to any necessary modifications, for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) No account may be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the person granting the off-site right is (or was at the time of the enhancement) directly or indirectly concerned if—

(a) the enhancement was not reasonably necessary; and

(b) was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 9(e), expenditure incurred in the preparation of plans or on other similar preparatory matters must be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a standard security—

(a) the compensation is assessed as if the interest were not subject to that security;

(b) no compensation is payable to the creditor in respect of their interest in the land; and

(c) any compensation payable in respect of the interest subject to the security must be paid to the—

(i) creditor in that security; or

(ii) if there is more than one creditor, to the first ranking of such creditors,

provided that the sum paid must not be more than the sum due to the creditor, and must be applied by the creditor as if it were proceeds of sale.

13.—(1) Compensation payable carries interest at the rate for the time being prescribed under section 40 of the 1963 Act from the date specified in sub-paragraph (2) until payment.

(2) The specified date is—

(a) in the case of compensation payable by virtue of paragraph 9(a) or (b), the date of depreciation;

(b) in the case of compensation payable by virtue of paragraph 9(c), (d) or (e), the date on which the loss is sustained or the damage done or, where injurious affection is sustained, the date of the injurious affection;

(c) in the case of compensation payable by virtue of paragraph 9(f), the date on which the expenses become payable.

(3) If it appears to any person ("the first person") that the first person may become liable to pay to another person ("the second person") compensation or interest under this paragraph the first person may, if the second person requests the first person in writing to do so, make one or more payments on account of such compensation or interest.

(4) If, after a payment on account has been made under sub-paragraph (3)—

(a) it is agreed or determined that compensation or interest is not liable to be paid; or

(b) by reason of any agreement or determination, any payment under that sub-paragraph is shown to be excessive,

the payment or, as the case may be, excess is recoverable by the first person.

14.—(1) Compensation that is determined to be due is payable—

(a) where—

(i) the person to whom any off-site right was granted or, where compensation becomes payable by SEPA under paragraph 8, SEPA; and

(ii) the grantor or a creditor in a standard security,

agree that a single payment is to be made on a specified date, on that date;

(b) where—

(i) the person to whom any off-site right was granted or, where compensation becomes payable by SEPA under paragraph 8, SEPA; and

(ii) the grantor or a creditor in a standard security,

agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment; or

(c) in any other case, subject to any direction of the Lands Tribunal for Scotland, as soon as reasonably practicable after the amount of the compensation has been finally determined.

(2) Any dispute in relation to the payment of compensation or interest must be referred to and determined by the Lands Tribunal for Scotland.

(3) In relation to the determination of any such question, sections 9 and 11 of the 1963 Act apply as if—

(a) the reference in section 9(1) of that Act to section 8 of that Act were a reference to sub-paragraph (2); and

(b) references in section 11 of that Act to the acquiring authority were references to the person to whom any off-site right was granted.

15. In this schedule—

"1963 Act" means the Land Compensation (Scotland) Act 1963(**a**);

"granted" includes joining in granting;

"grantor" means a person mentioned in paragraph 5;

"relevant interest" means an interest in land in respect of which rights have been granted by the grantor under paragraph 5; and

"standard security" has the same meaning as in section 9 of the Conveyancing and Feudal Reform (Scotland) Act 1970(**b**).

(**a**) 1963 c.51. The 1963 Act is amended by the Town and Country Planning (Scotland) Act 1997 (1997 c.8), schedule 15(I) paragraph 6, by the Community Land Act 1975 (1975 c.77), schedule 10, paragraph 5(1) and by the Planning and Compensation Act 1991 (1991 c.34) schedule 19, paragraph 1.

(**b**) 1970 c.35.

SCHEDULE 3

Regulation 38(1) and (4)

REGISTER

Table 1

Information to be included in the register

	Information
1.	The particulars specified in regulation 12(3)(c) of any notification made to SEPA that a regulated activity is being, or is proposed to be, carried on.
2.	Any application made to SEPA for a registration.
3.	Any application made to SEPA for a permit.
4.	Any application made to SEPA for variation of a permit or a registration.
5.	Any application made to SEPA for transfer of a permit or registration.
6.	Any application made to SEPA for surrender of a permit or registration.
7.	Any modifications accepted by SEPA to an application.
8.	Any notice of surrender of a notification received by SEPA.
9.	Any application for consolidation of a permit or registration.
10.	Any consultation carried out by SEPA
11	Any representations made to SEPA— (a) in response to a consultation by SEPA as part of its public participation functions; and (b) where the person who made the representations requests these to be made available to the public at the time when representations are made.
12.	Any notice given to SEPA by an authorised person required by these Regulations.
13.	Any permit or registration granted by SEPA.
14.	Any variation, transfer, consolidation or surrender of a permit or registration made or granted by SEPA.
15.	Any revocation by SEPA of an authorisation.
16.	Any regulatory notice issued by SEPA.
17.	Any costs recovery notice issued by SEPA.
18.	Any fixed monetary penalty imposed by SEPA.
19.	Any variable monetary penalty imposed by SEPA.
20.	Any VMP undertaking accepted by SEPA.
21.	Any non-compliance penalty imposed by SEPA.
22.	Any enforcement undertaking accepted by SEPA.
23.	Any certificate of non-compliance issued by SEPA.
24.	Any notice served by SEPA withdrawing, varying or revoking another notice served by SEPA under these Regulations.
25.	Any notice of appeal against a decision by or notice issued by SEPA.
26.	The grounds of appeal submitted by the appellant.
27.	Any correspondence between the appellant and SEPA in connection with the appeal.
28.	Any representations made by any person in response to a notice by SEPA under paragraph 6 of schedule 4 advising of an appeal, but only if, or to the extent that, the person requests that these be made available to the public at the time when the representations are made.
29.	Any determination of an appeal, including any report accompanying a determination.
30.	Any information relating to the monitoring of emissions or other parameters held by SEPA and provided by an authorised person in compliance with a condition of an authorisation.
31.	Any other information given to SEPA in compliance with a condition of a permit or registration, or a general binding rule, or a notice.

32. Any information held by SEPA as a result of its monitoring of emissions or compilation of information relating to the environment, but only in so far as it relates to—

    (a) emissions from a regulated activity; or

    (b) the impact on the environment from a regulated activity.

33. Any licence, permit, registration or authorisation granted by SEPA which ceased to have effect on either—

    (a) the coming into force of these Regulations; or

    (b) the grant of an authorisation.

34. Any direction given to SEPA by Scottish Ministers under these Regulations.

35. The information referred to in paragraph 30(d) of schedule 8 (information relating to dose estimates).

36. Information relating to the regulation of radiation sources.

37. Any outline of a radioactive substances activities programme of inspections (as defined in schedule 8).

38. A summary of the main findings from the implementation of the radioactive substances activities inspection report.

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1. In this schedule, "fixed monetary penalty", "variable monetary penalty", "VMP undertaking", "enforcement undertaking", "non-compliance penalty" "certificate of non-compliance" and "notice of intent" have the same meaning as in the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015(**a**).

(**a**) S.S.I. 2015/383.

SCHEDULE 4

Regulation 55(5)

PROVISIONS RELATING TO APPEALS

PART 1

Appeals procedure

1. A person who wishes to appeal under regulation 55 must give to the Scottish Ministers written notice of the appeal together with the documents specified in paragraph 2 and must at the same time send to SEPA a copy of that notice together with copies of the documents specified.

2. The documents specified are—

(a) a written statement of the grounds of appeal;

(b) a copy of any relevant application;

(c) a copy of any relevant authorisation;

(d) a copy of any relevant correspondence between the appellant and SEPA; and

(e) a copy of any decision or notice which is the subject of the appeal.

3. An appellant may withdraw an appeal by notice to the Scottish Ministers in writing, and must send a copy of that notice to SEPA.

4. Subject to paragraph 5, notice of appeal in accordance with paragraph 1 is to be given—

(a) in the case of an appeal in relation to a revocation notice issued under regulation 31, before the date on which the revocation notice takes effect;

(b) in the case of an appeal in relation to an application for an authorisation deemed to be withdrawn by SEPA under paragraph 6(3) or 8(3) of schedule 1, before the expiry of the period of 28 days beginning with the date of the notice of withdrawal which is the subject of the appeal;

(c) in the case of an appeal in relation to an information notice served under regulation 37, before the expiry of the period of 28 days beginning with the date of the notice of determination which is the subject of the appeal;

(d) in the case of an appeal by a person whose consent is required for the authorised person to comply with an off-site condition which has been included in an authorisation, before the expiry of the period of 28 days beginning with the date of the notice given to that person under paragraph 3 of schedule 2;

(e) in the case of an appeal in relation to a decision by SEPA under regulation 41 or 42 that information is not commercially confidential, before the expiry of the period of 28 days beginning with the date of the notice of determination which is the subject of the appeal;

(f) in the case of an appeal in relation to a regulatory notice served under regulation 46, before the expiry of the period of 28 days beginning with the day on which the notice which is the subject of the appeal was given;

(g) in the case of an appeal in relation to a costs recovery notice served under regulation 51—

(i) before the expiry of the period of 28 days beginning with the date of the notice which is the subject of the appeal; or

(ii) if the appellant has requested a breakdown of costs under regulation 51(5), before the expiry of the period of 28 days beginning with the day after the day on which SEPA provided the breakdown;

(h) before the expiry of the period of 2 months beginning with the date of the notice which is the subject of the appeal in the case of each of—

(i) an appeal in relation to a refusal of a permit or registration under paragraph 9 of schedule 1;

(ii) an appeal in relation to a deemed refusal of a permit or registration under paragraph 10(1) of schedule 1;

(iii) an appeal in relation to a refusal of an application to vary a permit under regulation 25;

(iv) an appeal in relation to the conditions attached to a permit under regulation 22 or 25;

(v) an appeal in relation to a refusal or deemed refusal of an application under regulation 27 to transfer a permit;

(vi) an appeal in relation to the conditions attached to an authorisation to take account of a transfer;

(vii) an appeal in relation to a refusal or a deemed refusal to transfer the duty to comply with a revocation notice under regulation 29;

(viii) an appeal in relation to a refusal or deemed refusal of an application under regulation 30 to surrender an authorisation;

(ix) an appeal in relation to a step specified in a surrender notice served by SEPA under paragraph 15 of schedule 1;

(x) an appeal in relation to the form of authorisation granted.

5. The Scottish Ministers may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in paragraph 4.

6. SEPA must, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give written notice of it to—

(a) where the appeal is against an matter which was subject to public consultation under paragraph 8 of schedule 1, any person who made a representation to SEPA in connection with the matter; and

(b) any other person whom SEPA considers it appropriate to notify.

7. A notice under paragraph 6 must—

(a) describe the subject of the appeal;

(b) include a statement that representations with respect to the appeal may be made to the Scottish Ministers in writing within a period of 21 days beginning with the date of the notice;

(c) explain that any representations will be made available to the appellant;

(d) explain that any representations will not be made available to the public under regulation 38 unless the person requests in writing at the time that representations are made that they are made available to the public and if the representations are not made available, SEPA will make available to the public confirmation that—

(i) a representation has been made; and

(ii) the person making the representation has requested the representation not to be made public; and

(e) explain that if a hearing is to be held wholly or partly in public, a person who makes representations with respect to the appeal will be notified of the date of the hearing.

8. SEPA must within 14 days of sending a notice under paragraph 6 notify the Scottish Ministers of the persons to whom and the date on which the notice was sent.

9. In the event of an appeal being withdrawn, SEPA must give written notice of the withdrawal to every person to whom notice was given under paragraph 6.

10. SEPA must make any written representations to the Scottish Ministers not later than 28 days (or such longer period as may be set by the Scottish Ministers) after receiving a copy of the documents specified in paragraph 2.

11. The appellant must make any further written representations by way of reply to any representations from SEPA not later than 28 days (or such longer period as may be set by the Scottish Ministers) after receiving a copy of SEPA's representations.

12. When SEPA or the appellant makes any representations to the Scottish Ministers they must at the same time send a copy of the representations to the other party.

13. The Scottish Ministers must send to the appellant and SEPA a copy of any representations made to them by persons to whom notice was given under paragraph 6 and must allow the appellant and SEPA a period of not less than 14 days in which to make written representations on them.

14. The Scottish Ministers may require exchanges of written representations between the parties in addition to those mentioned in paragraphs 10 and 11.

PART 2

Public hearings

15. Before determining an appeal under regulation 56, the Scottish Ministers may afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by the Scottish Ministers (the "appointed person").

16. A hearing may, if the appointed person so decides, be held wholly or partly in private.

17. Where the Scottish Ministers cause a hearing to be held, they must give the appellant and SEPA at least 28 days' written notice (or such shorter period of notice as they may agree with the appellant and SEPA) of the date, time and place fixed for the holding of the hearing.

18. Where any part of a hearing is to be held in public, the Scottish Ministers must, at least 21 days before the date fixed for the holding of the hearing—

(a) publish notice of the date, time and place fixed for the holding of the hearing in a newspaper circulating in the locality in which the regulated activity which is the subject of the appeal is carried on or is to be carried on; and

(b) give written notice of the date, time and place fixed for the holding of the hearing to every person who received notice under paragraph 6 and who has made representations to the Scottish Ministers.

19. The Scottish Ministers may vary the date fixed for the holding of any hearing, and must give such notice of the variation as appears to them to be reasonable.

20. The persons entitled to be heard at a hearing are—

(a) the appellant; and

(b) SEPA.

21. Nothing in paragraph 20 prevents the appointed person from allowing any other persons to be heard at the hearing and such permission must not be unreasonably withheld.

22. The appointed person must cause notice of the time and place of the hearing to be given to persons appearing to him or her to be interested.

23. The appointed person may—

(a) by notice in writing require—

(i) a person to attend a hearing, at a time and place stated in the notice, to give evidence;

(ii) a person to produce any documents, books or other data in the custody or under the control of the person which relate to any matter in question at the hearing; and

(b) take evidence on oath, and for that purpose administer oaths.

24. But the appointed person may not require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

25.—(1) A person who is required to give evidence at a hearing or to produce any such books or other documents is entitled to have such reasonable expenses of attendance and production of books or other documents paid to him or her.

(2) The expenses are to be treated as part of the expenses of the hearing.

26.—(1) The Scottish Ministers or the appointed person may treat as expenses incurred by them or him or her in relation to the hearing—

(a) the standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the hearing sits or the appointed person is otherwise engaged on work connected with the hearing;

(b) expenses actually incurred in connection with the hearing on travelling or subsistence allowances or the provision of accommodation or other facilities for the hearing;

(c) any expenses attributable to the appointment of an assessor to assist the appointed person;

(d) any legal expenses or disbursements incurred or made by or on behalf of the Scottish Ministers in connection with the hearing;

(e) the entire administrative expense of the hearing, including an amount as appears to the Scottish Ministers or the appointed person to be reasonable in respect of general staff expenses and overheads.

(2) In sub-paragraph (1) "the standard amount" means such an amount, if any, as the Scottish Ministers may from time to time determine and make details of publicly available.

27.—(1) The Scottish Ministers or the appointed person may make an order as to the expenses incurred in relation to a hearing (including a hearing for which arrangements have been made and does not take place)—

(a) by the Scottish Ministers or the appointed person; and

(b) by the parties to the appeal.

(2) The order may specify the person or persons by whom any of the expenses must be paid.

28.—(1) Where the Scottish Ministers or the appointed person make an order under paragraph 27 requiring a person to pay expenses, the Scottish Ministers or the appointed person must certify the amount of the expenses.

(2) The amount certified is a debt due by that person to the Scottish Ministers or the appointed person and is recoverable accordingly.

29. After the conclusion of a hearing, the appointed person must make a report to the Scottish Ministers in writing which must include the conclusions and recommendations of that person or the reasons for not making any recommendation.

PART 3

Determination of appeals

30.—(1) The Scottish Ministers must—

(a) give written notice to the appellant of their determination of the appeal;

(b) provide the appellant with the reasons for their determination; and

(c) provide the appellant with a copy of any report mentioned in paragraph 29.

(2) The Scottish Ministers must at the same time send a copy of the documents mentioned in sub-paragraph (1) to—

(a) SEPA;

(b) any person on whom notice was served under paragraph 6 and who made representations to the Scottish Ministers; and

(c) any other person who made representations in relation to the appeal at the hearing if a hearing was held.

SCHEDULE 5

Regulation 79

TRANSITIONAL AND SAVINGS PROVISIONS

PART 1

General

Interpretation

1. In this schedule—

"contaminated materials activity" means a radioactive substances activity involving radioactive material where—

(a) the material is contaminated, but not with the intention of utilising its radioactive, fissile or fertile properties; and

(b) in the absence of such contamination, the substance or article would not be radioactive material; and

(c) the radioactive material is kept on the premises on which the contamination occurred;

"concluded" means for the purposes of paragraph 3, in relation to an application, that—

(a) the application has been granted, refused or withdrawn; and

(b) the period allowed for appeals has passed or an appeal has been determined or withdrawn;

"concluded" means for the purposes of paragraph 4, in relation to an application, that—

(a) the application has been granted or withdrawn; or

(b) the application has been refused and the period allowed for appeals has passed or, where an appeal has been made during that period, the appeal has been determined or withdrawn;

"Exemption Order" means the Radioactive Substances Exemption (Scotland) Order 2011(**a**);

"existing licence" means—

(a) a registration made under section 7 or 10 of the 1993 Act; or

(b) an authorisation granted under section 13 or 14 of the 1993 Act,

before the relevant date;

"new activity" means an activity being carried on immediately before the relevant date which is—

(a) a regulated activity;

(b) an activity which the person would have been able to lawfully carry on immediately before the relevant date without an existing licence; and

(c) not—

(i) authorised by means only of being carried on in compliance with the general binding rules specified for the activity; or

(ii) a contaminated materials activity;

"relevant date" means the date these Regulations come into force in accordance with regulation 1;

(**a**) S.S.I. 2011/147.

"1993 Act" means the Radioactive Substances Act 1993(**a**);

"6 months date" means the date falling after a period of 6 months from the relevant date.

2.—(1) An existing licence which—

(a) is in effect immediately before the relevant date; and

(b) authorises an activity which is a regulated activity (within the meaning of these Regulations),

has effect on or after that date as if it were a permit (within the meaning of these Regulations) ("a deemed permit").

(2) In accordance with sub-paragraph (1)—

(a) any condition subject to which an existing licence is granted has effect as if it were a condition attached to the deemed permit;

(b) the person who is—

(i) registered under section 7 or 10 of the 1993 Act; or

(ii) has been granted an authorisation under section 13 or 14 of the 1993 Act,

is to be treated as the authorised person in respect of the deemed permit on the relevant date;

(c) where a person—

(i) is carrying on a contaminated materials activity; and

(ii) holds a deemed permit in relation to premises on which the contaminated materials activity is being carried on,

the carrying on of the contaminated materials activity is treated as authorised by the deemed permit in the period beginning with the relevant date and ending on the date on which SEPA next varies or consolidates the permit.

(3) SEPA may revoke an existing licence under regulation 31 on the ground that SEPA considers that the authorised person is not in control of the carrying on of the activity no earlier than the 6 months date.

3.—(1) If before the relevant date a person—

(a) has applied for registration under section 7 of the 1993 Act;

(b) has applied for registration under section 10 of the 1993 Act;

(c) has applied for variation or cancellation of a registration under section 12 of the 1993 Act;

(d) has applied for authorisation under section 13 of the 1993 Act;

(e) has applied for authorisation under section 14 of the 1993 Act;

(f) has applied for transfer of an authorisation under section 16A of the 1993 Act;

(g) has applied for variation or revocation of an authorisation under section 17 of the 1993 Act,

and that application has not been concluded before the relevant date, sub-paragraph (2) applies.

(2) Notwithstanding the repeal of the 1993 Act, the 1993 Act continues to have effect in relation to any application referred to in sub-paragraph (1) until the application is concluded.

(3) A registration or authorisation made or granted by SEPA following an application referred to in paragraph 3(1)(a), (b), (d) or (e) is deemed to be an "existing licence" for the purposes of this schedule.

4.—(1) This paragraph applies to a person ("A") carrying on a new activity immediately before the relevant date.

(**a**) 1993 c.12.

(2) Where A is lawfully carrying on a new activity, other than one referred to in sub-paragraph (3), immediately before the relevant date, the activity is treated as authorised under these Regulations during the period beginning with the relevant date and ending on the date specified in sub-paragraph (4).

(3) Where A is carrying on a new activity which, immediately before the relevant date, was exempted from the requirement to have an existing licence by the Exemption Order then, notwithstanding the repeal of the 1993 Act and the Exemption Order, the 1993 Act and the Exemption Order continue to have effect in relation to that activity during the period beginning with the relevant date and ending on the date specified in sub-paragraph (4).

(4) The date specified for the purposes of sub-paragraphs (2) and (3) is the later of—

(a) the 6 months date; or

(b) where an application for a permit or registration or for a variation of an existing licence, was accepted by SEPA before the 6 months date, the date on which the application is concluded.

(5) Where SEPA requires a new activity being carried on by A to be authorised by means of notification, notwithstanding regulation 13(1), a notification made before the 6 months date has effect from the 6 months date.

5.—(1) This paragraph applies to a person ("A") who has an existing licence to keep or use a sealed source which, as a result of the coming into force of these Regulations, is a high-activity sealed source ("an existing sealed source licence").

(2) A must apply in accordance with regulation 25 for a variation of an existing sealed source licence before the 6 months date.

(3) Where A fails to apply for a variation in accordance with sub-paragraph (2) before the 6 months date, the existing sealed source licence ceases to be a deemed permit on the 6 months date to the extent it relates to a high-activity sealed source.

6. The 1993 Act continues to have effect notwithstanding its repeal in respect of any notice, investigation or legal proceedings made or begun before the relevant date and not concluded by that date (including for that purpose any penalty, punishment, enforcement measures or other sanction that may be accepted or imposed in respect of a failure to comply with a requirement of the 1993 Act before the relevant date).

PART 2

Metal contamination

7.—(1) A permit for a Part A installation at which the activity described in paragraph (b)(iv) of Part A of section 5.4 of schedule 1 of the Pollution Prevention and Control (Scotland) Regulations 2012(**a**) is carried out includes the conditions specified in sub-paragraph (2).

(2) The specified conditions are—

(a) the operator must establish systems to detect the presence of radioactive contamination in materials received at the installation;

(b) the operator must inform SEPA promptly if it suspects, or has knowledge of, the presence of radioactive contamination in material at the installation (whether present in the material as received, as a result of melting of or other metallurgical operation on an orphan source or otherwise); and

(c) the operator must not dispose of any materials contaminated, or suspected to be contaminated, with radioactivity without approval from SEPA.

(**a**) S.S.I. 2012/360.

(3) This paragraph applies in the period from the relevant date until the date that SEPA varies the permit so as to include the conditions specified in sub-paragraph (2).

(4) In this paragraph—

(a) "installation" and "permit" have the same meaning as given in regulation 2(1); and

(b) "Part A installation" has the same meaning as given in regulation 12(1),

of the Pollution Prevention and Control (Scotland) Regulations 2012.

SCHEDULE 6

Regulation 80

CONSEQUENTIAL AMENDMENTS

PART 1

Public general acts

Nuclear Installations Act 1965

1.—(1) The Nuclear Installations Act 1965(**a**) is amended in accordance with sub-paragraphs (2) to (4).

(2) In section 3(14) (grant and variation of nuclear site licences)—

(a) in paragraph (b), omit "Scotland or";

(b) after paragraph (b) insert—

"(c) in relation to a site in Scotland, has the same meaning as in paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018.".

(3) In section 4(3)(d) (attachment of conditions to licences) after " (S.I. 2016/1154)", insert "or to the Environmental Authorisations (Scotland) Regulations 2018.".

(4) In section 4(7)—

(a) in paragraph (b), omit "Scotland or";

(b) after paragraph (b), insert—

"(c) in relation to a site in Scotland, has the same meaning as in paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018.".

Environmental Protection Act 1990

2.—(1) The Environmental Protection Act 1990(**b**) is amended in accordance with sub-paragraphs (2) to (4).

(2) For section 75(2)(b) (meaning of "waste") substitute—

"(b) radioactive waste, as defined in paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018, the disposal of which falls within one of the activities specified in column 1 of Part 1 of schedule 9 of those Regulations and can be carried on in accordance with the rules specified for that activity;".

(3) In section 142(7) (powers to obtain information about potentially hazardous substances), for "Radioactive Substances Act 1993" substitute "Environmental Authorisations (Scotland) Regulations 2018".

(4) In section 156(2) (power to give effect to EU and other international obligations etc.), for "Radioactive Substances Act 1993" substitute "Environmental Authorisations (Scotland) Regulations 2018".

(**a**) 1965 c.57. Sections 3 and 4 are amended by the Energy Act 2013 (c.32) schedule 12 paragraph 18.

(**b**) 1990 c.43. Section 75(2) is amended by the Waste (Scotland) Regulations 2011 (S.S.I. 2011/226) regulation 2(12). Section 142 is amended by (1) the Explosives Regulations 2014 (S.I. 2014/1638) schedule 13 paragraph 6(2) the Radioactive Substances Act 1993 (c.12) schedule 4 paragraph 8(3) the Human Medicines Regulations 2012 (S.I. 2012/1916) schedule 34 paragraph 41 and (4) the Veterinary Medicines Regulations 2006 (S.I. 2006/2407) schedule 9 paragraph 8(b). Section 156 is amended by (1) the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043) Article 6(1)(e) and (2) the Radioactive Substances Act 1993 (c.12) schedule 4 paragraph 9.

Environment Act 1995

3. In section 42(3)(b) (Approval of charging schemes) of the Environment Act 1995(**a**)—

(a) for "under section 13(1) of the Radioactive Substances Act 1993" substitute "for radioactive substances activities under the Environmental Authorisations (Scotland) Regulations 2018"; and

(b) for "that Act" substitute "those Regulations".

Food Standards Act 1999

4. In schedule 3 (the Food Standard Agency's functions under other enactments) of the Food Standards Act 1999(**b**) for paragraph 21 substitute—

"**21.**—(1) The Agency has the right to be consulted on the determination of any application for the grant or variation of an authorisation (including of any conditions to which the authorisation may be subject) under the Environmental Authorisations (Scotland) Regulations 2018 for the disposal of radioactive waste from any premises situated on a nuclear site.

(2) In sub-paragraph (1), "nuclear site" has the same meaning as in paragraph 4(1) of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018.".

Energy Act 2004

5. For section 10(2)(b) (powers for carrying out functions) of the Energy Act 2004(**c**) substitute—

"(b) power to apply for and hold authorisations (within the meaning of the Environmental Authorisations (Scotland) Regulations 2018) that relate to radioactive substances activities (within the meaning given in regulation 4 of those Regulations);".

PART 2

Subordinate legislation

Special Waste Regulations 1996

6.—(1) The Special Waste Regulations 1996(**d**) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 1(4) (citation, commencement, extent, application and interpretation), for sub-paragraph (b) in the definition of "waste" substitute—

"(b) radioactive waste within the meaning of paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018 which can be managed in accordance with the general binding rules specified in schedule 9 of those Regulations (whether or not the management of the radioactive waste requires to be notified in accordance with those Regulations);".

(3) In regulation 3 (certain radioactive waste to be special waste), for "Radioactive Substances Act 1993" substitute "Environmental Authorisations (Scotland) Regulations 2018".

(**a**) 1995 c.25. Section 42(3) is amended by (1) the Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regulation 6(3), and (2) the Food Standards Act 1999 (c.28), schedule 5, paragraph 44(2)(a) and schedule 6, paragraph 1.

(**b**) 1999 c.28

(**c**) 2004 c.20

(**d**) S.I. 1996/972. Regulation 1(4) is amended by the Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), regulation 6(2)(c). Regulation 3 is amended by the Special Waste Amendment (Scotland) Regulations 2004 (S.S.I. 2004/112), regulation 2(6).

Ionising Radiations Regulations 2017

7. For regulation 31(2)(b) (notification of certain occurrences) of the Ionising Radiations Regulations 2017(**a**) substitute—

"(b) in relation to Scotland was in accordance with an authorisation for a radioactive substances activity within the meaning given in regulation 4 of the Environmental Authorisations (Scotland) Regulations 2018.".

Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000

8. In schedule 3 (accuracy classes for filling instruments) of the Weighing Equipment (Automatic Gravimetric Filling Instruments) Regulations 2000(**b**) for "section 2 of the Radioactive Substances Act 1993" substitute "paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018".

Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003

9. In schedule 3 (requirements relating to use) of the Weighing Equipment (Automatic Rail-weighbridges) Regulations 2003(**c**) for "section 2 of the Radioactive Substances Act 1993" substitute "paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018".

Weighing Equipment (Automatic Catchweighing Instruments) Regulations 2003

10. In schedule 3 (requirements in respect of use and manner of use) of the Weighing Equipment (Automatic Catchweighing) Regulations 2003(**d**) for "section 2 of the Radioactive Substances Act 1993" substitute "paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018".

Waste Management Licensing (Scotland) Regulations 2011

11.—(1) The Waste Management Licensing (Scotland) Regulations 2011(**e**) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation), for sub-paragraph (b) in the definition of "waste" substitute—

"(b) radioactive waste within the meaning of paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018 which can be managed in accordance with the general binding rules specified in schedule 9 of those Regulations (whether or not the management of the radioactive waste requires to be notified in accordance with those Regulations);".

(3) In paragraph 38 of schedule 1 (activities exempt from waste management licensing), for "Radioactive Substances Act 1993", substitute "Environmental Authorisations (Scotland) Regulations 2018".

(**a**) S.I. 2017/1075.
(**b**) S.I. 2000/388.
(**c**) S.I. 2003/2454.
(**d**) S.I. 2003/2761.
(**e**) S.S.I. 2011/228. Regulation 2(1) is relevantly amended by the Radioactive Substances Act 1993 Amendment (Scotland) Regulations 2011 (S.S.I. 2011/207).

Water Environment (Controlled Activities) (Scotland) Regulations 2011

12. In schedule 10 (transitional and savings provisions) of the Water Environment (Controlled Activities) (Scotland) Regulations 2011(**a**) for paragraph 18(c)(ii) substitute—

"(ii) a permit or registration under the Environmental Authorisations (Scotland) Regulations 2018;".

Environmental Regulation (Significant Environmental Harm) (Scotland) Order 2014

13.—(1) The Environmental Regulation (Significant Environmental Harm) (Scotland) Order 2014(**b**) is amended in accordance with sub-paragraphs (2) and (3).

(2) In the schedule (specified enactments), omit—

(a) paragraph 7; and

(b) paragraph 14.

(3) After paragraph 18 of the schedule insert—

"**19.** The Environmental Authorisations (Scotland) Regulations 2018.".

Environmental Regulation (Relevant Offences) (Scotland) Order 2014

14.—(1) The Environmental Regulation (Relevant Offences) (Scotland) Order 2014(**c**) is amended in accordance with sub-paragraphs (2) to (5).

(2) In schedule 1 (relevant offences for the purposes of section 34 of the Regulatory Reform (Scotland) Act 2014 (compensation orders against persons convicted of relevant offences))—

(a) omit paragraph 3; and

(b) after paragraph 14 insert—

"**15.** An offence under any of the following provisions of the Environmental Authorisations (Scotland) Regulations 2018—

(a) regulation 69(1)(a) (contravention of regulation 7 (carrying on an activity otherwise than in accordance with an authorisation));

(b) regulation 69(1)(b) (contravention of regulation 8);

(c) regulation 69(1)(c) (failure to comply with or contravention of a general binding rule);

(d) regulation 69(1)(d) (failure to comply with or contravention of a condition of a registration);

(e) regulation 69(1)(e) (failure to comply with or contravention of a condition of a permit);

(f) regulation 69(1)(f) (failure to comply with the requirements of a regulatory notice);

(g) regulation 69(1)(g) (failure to comply with the requirements of a revocation notice);

(h) regulation 69(1)(i) (failure to comply with an order of a court); and

(i) regulation 69(1)(m) (causing or permitting any other person to commit an offence), where the offence caused or permitted is an offence referred to in this paragraph.".

(**a**) S.S.I. 2011/209. Paragraph 18 is relevantly amended by the Pollution Prevention and Control (Scotland) Regulations 2012 (S.S.I. 2012/360) schedule 11, paragraph 25(2).
(**b**) S.S.I. 2014/324.
(**c**) S.S.I. 2014/319.

(3) In schedule 2 (relevant offences for the purposes of section 35 of the Regulatory Reform (Scotland) Act 2014 (fines: courts to consider financial benefits))—

(a) omit paragraph 5; and

(b) after paragraph 26 insert—

"**27.** An offence under any of the following provisions of the Environmental Authorisations (Scotland) Regulations 2018—

(a) regulation 69(1)(a) (contravention of regulation 7 (carrying on an activity otherwise than in accordance with an authorisation));

(b) regulation 69(1)(b) (contravention of regulation 8);

(c) regulation 69(1)(c) (failure to comply with or contravention of a general binding rule);

(d) regulation 69(1(d) (failure to comply with or contravention of a condition of a registration);

(e) regulation 69(1(e) (failure to comply with or contravention of a condition of a permit);

(f) regulation 69(1(f) (failure to comply with the requirements of a regulatory notice);

(g) regulation 69(1(g) (failure to comply with the requirements of a revocation notice);

(h) regulation 69(1)(h) (failure to comply with an information notice without reasonable excuse);

(i) regulation 69(1)(i) (failure to comply with an order by a court);

(j) regulation 69(1)(j) (making a false, misleading or reckless statement);

(k) regulation 69(1)(k) (making a false entry);

(l) regulation 69(1)(l) (forging a document); and

(m) regulation 69(1)(m) (causing or permitting any other person to commit an offence), where the offence caused or permitted is an offence referred to in this paragraph.".

(4) In schedule 3 (relevant offences for the purposes of section 36 of the Regulatory Reform (Scotland) Act 2014 (power to order conviction etc. for offence to be publicised))—

(a) omit paragraph 3; and

(b) after paragraph 14, insert—

"**15.** An offence under any of the following provisions of the Environmental Authorisations (Scotland) Regulations 2018—

(a) regulation 69(1)(a) (contravention of regulation 7 (carrying on an activity otherwise than in accordance with an authorisation));

(b) regulation 69(1)(b) (contravention of regulation 8);

(c) regulation 69(1)(c) (failure to comply with or contravention of a general binding rule);

(d) regulation 69(1(d) (failure to comply with or contravention of a condition of a registration);

(e) regulation 69(1(e) (failure to comply with or contravention of a condition of a permit);

(f) regulation 69(1(f) (failure to comply with the requirements of a regulatory notice);

(g) regulation 69(1(g) (failure to comply with the requirements of a revocation notice);

(h) regulation 69(1)(i) (failure to comply with an order by a court);

(i) regulation 69(1)(j) (making a false, misleading or reckless statement);

(j) regulation 69(1)(k) (making a false entry);

(l) regulation 69(1)(l) (forging a document); and

(m) regulation 69(1)(m) (causing or permitting any other person to commit an offence), where the offence caused or permitted is an offence referred to in this paragraph.".

(5) In schedule 4 (relevant offences for the purposes of sections 38 and 39 of the Regulatory Reform (Scotland) Act 2014 (vicarious liability and liability where activity carried out by arrangement with another)), after paragraph 9 insert—

"**10.** An offence under any of the following provisions of the Environmental Authorisations (Scotland) Regulations 2018—

(a) regulation 69(1)(a) (contravention of regulation 7 (carrying on an activity otherwise than in accordance with an authorisation));

(b) regulation 69(1)(c) (failure to comply with or contravention of a general binding rule);

(c) regulation 69(1(d) (failure to comply with or contravention of a condition of a registration);

(d) regulation 69(1(e) (failure to comply with or contravention of a condition of a permit);

(e) regulation 69(1)(j) (making a false, misleading or reckless statement);

(f) regulation 69(1)(k) (making a false entry);

(g) regulation 69(1)(l) (forging a document); and

(h) regulation 69(1)(m) (causing or permitting any other person to commit an offence), where the offence caused or permitted is an offence referred to in this paragraph.".

The Environmental Regulation (Liability where Activity Carried Out by Arrangement with Another) (Scotland) Order 2014

15. In the schedule (specified activities) of the Environmental Regulation (Liability where Activity Carried Out by Arrangement with Another) (Scotland) Order 2014(**a**), after paragraph 5 insert—

"**Radioactive substances activity**

6.—(1) The carrying on of a radioactive substances activity.

(2) In this paragraph, "radioactive substances activity" has the same meaning as given in regulation 4 of the Environmental Authorisations (Scotland) Regulations 2018.".

Environmental Regulation (Enforcement Measures) (Scotland) Order 2015

16.—(1) The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015(**b**) is amended in accordance with sub-paragraphs (2) and (3).

(2) In schedule 4 (relevant offences and fixed penalty amounts), in the Table omit the rows which relate to—

(a) section 32(1);

(b) section 33(1), (2) and (3); and

(c) section 34A(1) and (2),

of the Radioactive Substances Act 1993(**c**).

(**a**) S.S.I. 2014/323.
(**b**) S.S.I. 2015/383.
(**c**) 1993 c.12.

(3) In schedule 4, after the row "Regulation 41(5) (failing to produce a document or record)" insert the following rows to the Table—

"**Environmental Authorisations (Scotland) Regulations 2018**

Regulation 69(1)(a) (contravention of regulation 7 (carrying on an activity otherwise than in accordance with an authorisation))	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(b) (contravention of regulation 8)	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(c) (failure to comply with or contravention of a general binding rule	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(d) (failure to comply with or contravention of a condition of a registration)	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(e) (failure to comply with or contravention of a condition of a permit)	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(f) (failure to comply with the requirements of a regulatory notice)	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(g) (failure to comply with the requirements of a revocation notice)	*YES*	*YES*	*YES*	*MEDIUM*
Regulation 69(1)(h) (failure to comply with an information notice)	*YES*	*YES*	*YES*	*LOW*
Regulation 69(1)(i) (failure to comply with an order of a court)	*NO*	*NO*	*NO*	
Regulation 69(1)(j) (making of a false, misleading or reckless statement)	*YES*	*YES*	*YES*	*HIGH*
Regulation 69(1)(k) (making a false entry)	*YES*	*YES*	*YES*	*HIGH*
Regulation 69(1)(l) (forging a document)	*YES*	*YES*	*YES*	*HIGH*
Regulation 69(1)(m) (causing or permitting any other person to commit an offence), where the person caused or permitted a person to commit an offence—				
(a) under regulation 69(1)(a), (b), (c), (d), (e), (f) or (g)	*YES*	*YES*	*YES*	*MEDIUM*
(b) under regulation 69(1)(h)	*YES*	*YES*	*YES*	*LOW*
(c) under regulation 69(1)(j), (k), or (l).	*YES*	*YES*	*YES*	*HIGH*".

Scottish Landfill Tax (Administration) Regulations 2015

17. In regulation 29(9) of the Scottish Landfill Tax (Administration) Regulations 2015(**a**) (bodies eligible for approval) for sub-paragraph (m) substitute—

"(m)a requirement imposed by the Environmental Authorisations (Scotland) Regulations 2018, or by a notice or order served, given, or made under those Regulations;".

Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

18. In entry 3(h) of the table in paragraph 2 of schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of "Schedule 2 development") of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations

(**a**) S.S.I. 2015/3.

2017(**a**) for "Radioactive Substances Act 1993" substitute "Environmental Authorisations (Scotland) Regulations 2018".

(**a**) S.S.I. 2017/102.

SCHEDULE 7

Regulation 81

REPEALS AND REVOCATIONS

PART 1

Public general acts

1. The enactments listed in column 1 of the Table are repealed to the extent specified in column 3.

Legislation	*Reference*	*Extent of repeal*
1. Clean Air Act 1993	1993 c.11	Schedule 4, paragraph 6
2. Radioactive Substances Act 1993	1993 c.12	Sections 1 to 24, sections 26 to 28, sections 30 to 46 and schedules 1 to 6
3. Environment Act 1995	1995 c.25	Sections 21(1)(e), 21(2)(d), paragraphs (f) and (g) in the definition of "environmental waste" in section 56(1), paragraph (l) in the definition of "pollution control function" in section 108(15), section 114(2)(a)(vi), paragraph 8 of schedule 17, paragraph 6 of schedule 19 and paragraphs 202 to 206, 208 to 212, 214, 215, 217, 219, 220, 223, 224, 228 and 230 of schedule 22
4. Planning (Consequential Provisions) (Scotland) Act 1997	1997 c.11	Paragraph 54 of schedule 2
5. Food Standards Act 1999	1998 c.28	Paragraph 43(2) to (4) and (6) of schedule 5
6. Energy Act 2004	2004 c.20	Sections 72 to 75, and paragraphs 1 to 8 and 10 to 12 of schedule 15
7. Energy Act 2013	2013 c.32	Section 155(7)(d), and paragraphs 66 to 68 of schedule 12
8. Regulatory Reform (Scotland) Act 2014	2014 asp 3	Paragraphs 27 and 42 of schedule 3
9. Food (Scotland) Act 2015	2015 asp 1	Paragraph 5(2) and (3) of the schedule

PART 2

Subordinate legislation

2. The enactments listed in column 1 of the Table are revoked to the extent specified in column 3.

Legislation	*Reference*	*Extent of revocation*
1. The Radioactive Substances (Appeals) Regulations 1990	*S.I. 1990/2504*	The whole instrument
2. The Radioactive Substances (Records of Convictions) Regulations 1992	*S.I. 1992/1685*	The whole instrument
3. Radioactive Substances (Basic Safety Standards) (Scotland) Regulations 2000	*S.S.I. 2000/100*	The whole instrument
4. The High-activity Sealed Radioactive Sources and Orphan Sources Regulations 2005	*S.I. 2005/2686*	The whole instrument
5. The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006	*S.S.I 2006/181*	Paragraph 7 of Part IV of schedule 1
6. The Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order 2009	*S.S.I 2009/319*	Paragraph 5 of schedule 2
7. The Radioactive Substances Act 1993 Amendment (Scotland) Regulations 2011	*S.S.I. 2011/207*	Regulations 4 and 6 to 9, and the schedule
8. The Radioactive Substances Exemption (Scotland) Order 2011	*S.S.I. 2011/147*	The whole instrument

SCHEDULE 8

Regulation 6(3)

RADIOACTIVE SUBSTANCES ACTIVITIES

PART 1

Scope and interpretation

Scope

1. Paragraph 2 applies for the interpretation of—

(a) this schedule;

(b) schedule 9; and

(c) the definition of radioactive substances activity.

2.—(1) "Radioactive substances activity" does not include—

(a) any activity involving radioactive material carried on by a licensee on a nuclear site;

(b) the transport of radioactive material or radioactive waste, including its receipt for transport and its storage during transport;

(c) the disposal of radioactive waste in the form of human excreta where—

(i) the radioactive waste arises as a consequence of the medical administration of radioactive material for the purpose of diagnosis, treatment or trials; and

(ii) the disposal occurs at a place other than the place of administration of the radioactive material;

(d) the disposal of radioactive waste at a site to which a PPC permit or waste management licence applies where—

(i) the radioactive waste may be disposed of in normal refuse in accordance with general binding rules; and

(ii) the radioactive waste has not been segregated from non-radioactive waste;

(e) the disposal of waste described in paragraph 6(1)(a) or (b) at a site to which a PPC permit or waste management licence applies where the activity of the waste does not exceed 5 becquerels per gram.

(2) A radioactive substances activity is not being carried on by the owner or occupier of premises where radioactive material is present in or on a vehicle, vessel or aircraft and either—

(a) the vehicle, vessel or aircraft is on those premises in the course of a journey;

(b) the vehicle, vessel or aircraft is in its operational life; or

(c) in the case of a vessel which is on those premises otherwise than in the course of a journey the material is used in propelling the vessel or is kept in or on the vessel for use in propelling it.

Interpretation

3.—(1) In this schedule—

"Basic Safety Standards Directive" means Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising

radiation and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom(**a**);

"IAEA Categories 1 to 4" means categories 1 to 4 as defined by the International Atomic Energy Agency in Categorisation of Radioactive Sources (RS-G-1.9)(**b**);

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**c**);

"medical exposure" means exposure incurred by patients or asymptomatic individuals as part of their own medical or dental diagnosis or treatment, and intended to benefit their health, as well as exposure incurred by carers and comforters and by volunteers in medical or biomedical research;

"occupational exposure" means exposure of workers, apprentices and students incurred in the course of their work;

"optimisation" means keeping the magnitude of individual doses, the likelihood of exposure and the number of individuals exposed as low as reasonably achievable taking into account the current state of technical knowledge and economic and social factors and related expressions are to be construed accordingly;

"orphan source" means a source containing radioactive material or radioactive waste which is neither—

(a) subject to an authorisation; nor

(b) on a nuclear site;

"PPC permit" means a permit granted under regulation 13 of the Pollution Prevention and Control (Scotland) Regulations 2012(**d**);

"public exposure" means the exposure of individuals resulting from—

(a) the disposal of radioactive waste;

(b) the introduction of radioactive material into organisms or the environment; or

(c) the contamination of the environment,

but excluding any occupational or medical exposure;

"radiation protection expert" means an individual who has, or group of individuals who have, the knowledge, training and experience needed to give radiation protection advice in order to ensure the effective protection of individuals, and whose competence in that respect is recognised by SEPA;

"radioactive waste disposal notice" has the meaning given in paragraph 36;

"relevant liquid" means a liquid which—

(a) is non-aqueous; or

(b) is classified (or would be so classified in the absence of its radioactivity) under Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006(**e**) as having any of the following hazard classes and hazard categories (as defined in that Regulation)—

(i) acute toxicity: categories 1, 2 or 3;

(ii) skin corrosion/irritation: category 1 corrosive, sub-categories: 1A, 1B or 1C; or

(iii) hazardous to the aquatic environment: acute category 1 or chronic categories 1 or 2;

(**a**) OJ L 13, 17.1.2014, p.1.

(**b**) Categorization of radioactive sources. — Vienna : International Atomic Energy Agency, 2005 (IAEA safety standards series, ISSN 1020–525X ;ISBN 92–0–103905–0).

(**c**) 1994 c.39. Section 2 was amended by schedule 22, paragraph 232(1), of the Environment Act 1995 (c.25).

(**d**) S.S.I. 2012/360.

(**e**) OJ L 353, 31.12.2008, p.1.

"relevant water authority" means —

(a) Scottish Water; or

(b) a district salmon fishery board established under section 14 of the Salmon Act 1986(**a**);

"Table 1", "Table 2", "Table 3", "Table 4" and "Table 5" mean the tables with those numbers in Part 6;

"unsealed source" means a radioactive source that is not a sealed source;

"waste management licence" means a licence granted under section 35 of the Environmental Protection Act 1990(**b**).

(2) Where any radionuclide carries the suffix "+" or "sec" in this schedule—

(a) that radionuclide represents the parent radionuclide in secular equilibrium with the corresponding daughter radionuclides which are identified in column 2 of Table 3 adjacent to the description of the parent radionuclide; and

(b) a concentration value given in a table in this schedule in relation to a parent radionuclide refers to the value for the parent radionuclide alone, but already takes into account the daughter radionuclides present.

Interpretation: this schedule and schedule 9

4.—(1) In this schedule and in schedule 9—

"disposal" includes—

(a) discharge (whether into the environment or into a sewer or drain);

(b) abandonment;

(c) burial;

(d) deposit;

"nuclear site" means—

(a) any site in respect of which a nuclear site licence is for the time being in force; or

(b) any site in respect of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not yet come to an end;

"nuclear site licence", "licensee" and "period of responsibility" have the meanings given in section 26 of the Nuclear Installations Act 1965(**c**);

"radioactive substance" means radioactive material or radioactive waste.

(2) For the purposes of this schedule and schedule 9, any substance or article which is discharged, discarded or otherwise dealt with as if it were waste is presumed to be waste unless the contrary is proved.

(3) Any reference in this schedule, in schedule 5 or in schedule 9, to the contamination of a substance or article is a reference to its becoming radioactive or its possessing increased radioactivity as a result of either or both of—

(a) the absorption, admixture or adhesion of radioactive material or radioactive waste; and

(b) the emission of neutrons or ionising radiations.

(**a**) 1986 c.62. Section 14 is repealed in relation to specified areas by (1) the Scotland Act 1998 (River Tweed) Order 2006 (S.S.I. 2006/2913) schedule 4(2), paragraph 1 and (2) the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15) schedule 4 paragraph 1.

(**b**) 1990 c.43. Section 35 is amended by regulation 2(5) of the Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), by the Environment Act 1995 (c.25) schedule 22 paragraph 66(2), by the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) schedule 10, Part 1, paragraph 3(4), and by the Regulatory Reform (Scotland) Act 2014 (asp 3) schedule 3, Part 1, paragraph 3(2).

(**c**) 1965 c.57. The Act is relevantly amended by the Energy Act 2013 (c.32) schedule 12, Part II, paragraphs 17 and 20.

(4) Where any reference is made to a substance or article possessing a concentration of radioactivity which exceeds the value shown in a particular column of a table in this schedule or in schedule 9, that value is exceeded—

(a) where only one radionuclide which is included in that table is present in the substance or article, if the concentration of the radionuclide exceeds the concentration specified in the appropriate entry in the appropriate column of that table; or

(b) where more than one such radionuclide is present, if the sum of the quotient values of all the radionuclides in the substance or article, as determined by the summation rule following that table as it applies to that column, is greater than one.

Interpretation: radioactive material and radioactive waste

5. In these Regulations—

"high-activity sealed source" means a sealed source where the activity of the contained radionuclide is equal to or exceeds the relevant activity value laid down in Table 4;

"radioactive material" means a substance or article which is not waste, and which satisfies the requirements of any of paragraphs 6, 7 or 8 as the paragraph applies to such a substance or article;

"radioactive waste" means a substance or article which is waste, and which satisfies the requirements of any of paragraph 6, 7 or 8; and

"sealed source" means a radioactive source in which the radioactive substance is permanently sealed in a capsule or incorporated in a solid form with the objective of preventing, under normal conditions of use, any dispersion of radioactive substances.

NORM industrial activity

6.—(1) Sub-paragraph (2) applies to a substance or article which—

(a) arises from or is used in a NORM industrial activity; or

(b) is contaminated by a substance or article described in head (a), including where such contamination occurs indirectly through another contaminated substance or article.

(2) A substance or article to which this sub-paragraph applies is radioactive material or radioactive waste where it has a concentration of radioactivity which exceeds the following values in Table 1—

(a) for a solid substance or article or a relevant liquid substance, the value specified in column 2;

(b) for any other liquid substance, the value specified in column 3; or

(c) for a gaseous substance, the value specified in column 4.

(3) In this schedule, "NORM industrial activity" means an industrial activity involving radionuclides of natural, terrestrial or cosmic origin and includes the following industrial activities—

(a) production and use of thorium, or thorium compounds, and the production of products where thorium is deliberately added;

(b) production and use of uranium, or uranium compounds, and the production of products where uranium is deliberately added;

(c) extraction, production and use of rare earth elements and rare earth element alloys;

(d) mining and processing of ores other than uranium ore;

(e) production of oil and gas;

(f) removal and management of radioactive scales and precipitates from equipment associated with industrial activities;

(g) any industrial activity utilising phosphate ore;

(h) manufacture of titanium dioxide pigments;

(i) the extraction and refining of zircon and manufacture of zirconium compounds;

(j) production of tin, copper, aluminium, zinc, lead and iron and steel;

(k) activities related to coal mine de-watering plants;

(l) water treatment associated with provision of drinking water;

(m) the remediation of contamination from NORM industrial activities;

(n) china clay extraction; and

(o) geothermal energy production.

(4) But "NORM industrial activity" does not include an activity where radionuclides of natural, terrestrial or cosmic origin are processed for their radioactive fissile or fertile properties.

Processed radionuclides of natural terrestrial or cosmic origin

7. A substance or article is radioactive material or radioactive waste where—

(a) it contains one or more of the radionuclides of natural terrestrial or cosmic origin which are listed in column 1 of Table 2;

(b) the substance or article—

(i) is processed or is intended to be processed for the radioactive, fissile or fertile properties of those radionuclides; or

(ii) is contaminated by a substance or article to which sub-paragraph (i) applies, including where such contamination occurs indirectly through another contaminated substance or article; and

(c) the substance or article is—

(i) a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2; or

(ii) any other liquid or a gas.

Radionuclides not of natural terrestrial or cosmic origin

8. A substance or article which contains one or more radionuclides that are not of natural terrestrial or cosmic origin is radioactive material or radioactive waste where—

(a) it is a solid or a relevant liquid and it has a concentration of radioactivity which exceeds the value specified in column 2 of Table 2; or

(b) it is any other liquid or a gas.

Radionuclides with a short half-life

9. A substance or article is not radioactive material or radioactive waste where none of the radionuclides which it contains or which it consists of has a half-life exceeding 100 seconds.

Radionuclides not of natural terrestrial or cosmic origin in background radioactivity

10.—(1) A substance or article is not radioactive material or radioactive waste where—

(a) it is contaminated as a result of a climatic process, or a combination of such processes, by radionuclides which—

(i) are not of natural terrestrial or cosmic origin; and

(ii) are not present in the substance or article at a concentration that exceeds that found normally in such a substance or article in the United Kingdom; and

(b) in the absence of such contamination, the substance or article would not otherwise be radioactive material or radioactive waste.

(2) In this paragraph, a "climatic process" includes wind, precipitation and the general circulation of the atmosphere and oceans.

Substances or articles after disposal

11.—(1) A substance or article is not radioactive material or radioactive waste during the excluded period where—

(a) the substance or article has been disposed of lawfully, and at the time of the disposal no further act of disposal is intended in respect of it; or

(b) the substance or article—

(i) is contaminated by a substance or article to which head (a) applies, including where such contamination occurs indirectly through another contaminated substance or article;

(ii) in the absence of such contamination, would not otherwise be radioactive material or radioactive waste; and

(iii) is not contaminated with the intention of using its radioactive, fissile or fertile properties.

(2) In sub-paragraph (1), "the excluded period" means the period—

(a) beginning at the relevant start time; and

(b) ending in the circumstances specified in sub-paragraph (4).

(3) The relevant start time—

(a) where the substance or article has been disposed of and—

(i) is solid at the time of the disposal;

(ii) is disposed of by abandonment, burial or deposit (whether underground or otherwise) on premises in accordance with an authorisation,

is the time of the revocation or surrender of that authorisation and where any conditions applied to a surrender notice have ceased to apply;

(b) where the substance or article is contaminated by a substance or article to which head (a) applies, including where such contamination occurs indirectly through another contaminated substance or article, is the time of the revocation of the authorisation referred to in head (a)(ii); or

(c) in relation to any other substance or article—

(i) is the time of the disposal; or

(ii) where the substance or article is one to which sub-paragraph (1)(b) applies, is the time of the disposal of the substance or article that caused it, directly or indirectly, to be contaminated.

(4) Where, after the beginning of the excluded period, the relevant substance or article is subject to a process which leads to an increase in the radiation exposure of the public or any plant or animal, the excluded period ends at the time of that increase.

Historic radium contamination

12. A substance or article is not radioactive material or radioactive waste where the substance or article arises from the remediation of land contaminated by radium and—

(a) the substance or article contains Ra-226 or its progeny;

(b) in the absence of Ra-226 or its progeny, the substance or article would not otherwise be radioactive material or radioactive waste;

(c) the contamination occurred prior to 13th May 2001; and

(d) the concentration of Ra-226 and any progeny resulting from the decay of Ra-226 does not exceed the following values—

(i) for a substance or article which is a solid or a substance which is a relevant liquid, 1 becquerel per gram;

(ii) for a substance which is any other liquid, 1 becquerel per litre; or

(iii) for a substance which is a gas, 0.01 becquerels per cubic metre.

PART 2

Amendments to common framework provisions

General Binding Rules – disapplication

13. A person carrying on a regulated activity specified in column 1 of Part 1 of schedule 9 in compliance with the general binding rules specified for that activity is not authorised under these Regulations where—

(a) the radioactive substance involved has been deliberately diluted to meet a value specified in schedule 9; or

(b) the person who generated the radioactive waste did not take all practicable measures available to minimise the quantity of radionuclides generated as waste.

Authorisation by permit or registration

14.—(1) SEPA may only authorise the activities to which sub-paragraph (2) applies by granting a permit.

(2) This sub-paragraph applies to—

(a) the deliberate administration of radioactive substances to an animal for the purpose of veterinary diagnosis, treatment or research (in so far as the radiation protection of the public is concerned);

(b) the management of radioactive waste on a nuclear site;

(c) the management of radioactive waste at a uranium mine;

(d) any activity involving a high-activity sealed source;

(e) the operation, decommissioning and closure of a facility for the long term storage or disposal of radioactive waste;

(f) the management of radioactive waste for the purpose of long term storage or disposal; and

(g) the discharge of significant amounts of radioactive waste into the environment.

Applications

15.—(1) SEPA must ensure that information to be included in an application for a permit or registration for a radioactive substances activity is—

(a) relevant to radiation protection; and

(b) commensurate with the nature of the activity and the radiological risks involved.

(2) In determining the information to be included in an application for a permit for a radioactive substances activity, SEPA must take into account the following for the purposes of ensuring adequate protection against public exposure—

(a) responsibility and organisational arrangements for protection and safety;

(b) staff competency, including information and training;

(c) design features of the premises and of radiation sources;

(d) anticipated public exposures in normal operation;

(e) safety assessment of the activity and the premises in order to—

(i) estimate, to the extent practicable, the probability and magnitude of a potential exposure;

(ii) assess the quality and extent of protection and safety provisions, including engineering features, as well as administrative procedures; and

(iii) define the operational limits and conditions of operation;

(f) emergency procedure;

(g) maintenance, testing, inspection and servicing so as to ensure that the radiation source and the premises continue to meet the design requirements, operational limits and conditions of operation throughout their lifetime;

(h) management of radioactive waste and arrangements for the disposal of such waste; and

(i) quality assurance.

Consultation: local authorities and relevant water authorities

16. Where it appears to SEPA that the disposal of radioactive waste is likely to involve the need for special precautions to be taken by a local authority or a relevant water authority, SEPA must consult the authority regarding the special precautions which may need to be taken before granting an authorisation.

Consultation: security of sealed sources

17.—(1) SEPA must, insofar as it is reasonably practicable and before carrying out any of its functions under regulation 18, 19, 23, 25, 27, 30 or 31 in relation to an authorisation for an activity to which sub-paragraph (3) applies, consult—

(a) the police; and

(b) such other persons as appear to it to be appropriate,

regarding the security of premises on which the activity is, or is proposed to be, carried on.

(2) Where sub-paragraph (3) applies, SEPA must have regard to any advice it receives within such time as SEPA believes is reasonable from the police or other persons before—

(a) determining the authorisation or effecting any variation, surrender or revocation of the authorisation; or

(b) imposing any limitations or conditions in the authorisation.

(3) This sub-paragraph applies to a radioactive substances activity involving sealed sources in IAEA categories 1 to 4.

Refusal of applications

18.—(1) SEPA must refuse to grant an application for a permit for a radioactive substances activity involving a high-activity sealed source unless it is satisfied that the applicant has made either—

(a) adequate arrangements for the safe management and control of the source, including arrangements for when it becomes waste; or

(b) adequate provision, by way of a financial provision or any other appropriate equivalent means, for the safe management of a source where—

(i) it becomes waste;

(ii) the authorised person becomes insolvent; or

(iii) the authorised person ceases to carry on the radioactive substance activities.

(2) SEPA must refuse to grant an application for a permit for a radioactive substances activity involving a sealed source in IAEA Categories 1 to 4 unless it is satisfied that the applicant has made adequate arrangements for the security of the source.

(3) Sub-paragraph (2) does not apply to an application involving a high-activity sealed source which is proposed to be managed only on a nuclear site.

19. SEPA must refuse to grant an authorisation for a radioactive substances activity unless the activity has been found to be justified within the meaning of the phrase "found to be justified" given in regulation 4(4) of the Justification of Practices Involving Ionising Radiation Regulations 2004(**a**).

Authorisation conditions: general

20. SEPA must ensure that a permit or registration for a radioactive substances activity includes such conditions as it considers appropriate to—

(a) prevent the deliberate dilution of radioactive waste for the purpose of being released from regulatory control unless the dilution takes place in normal operations where radioactivity is not a concern or the dilution is a result of mixing radioactive waste with a non-radioactive material for the purposes of re-use or recycling;

(b) ensure adequate protection against any public exposure or contamination liable to extend—

(i) beyond the authorised place; or

(ii) to the ground beneath the authorised place;

(c) ensure that the authorised person—

(i) optimises the level of radiation protection for members of the public;

(ii) uses adequate equipment and procedures for measuring and assessing exposure of members of the public and radioactive contamination of the environment;

(iii) checks that equipment used for measuring and assessing exposure of members of the public and radioactive contamination of the environment is effective and is adequately maintained and calibrated;

(d) ensure that the authorised person seeks appropriate advice from a radiation protection expert in relation to—

(i) the matters set out in sub-paragraph (c); and

(ii) such other matters as SEPA thinks fit,

(e) ensure that the authorised person makes arrangements for keeping control of radioactive material with regard to its location, use and, when it becomes radioactive waste, its management;

(f) ensure, as appropriate and to the extent possible, that the authorised person keeps records of an unsealed source which the authorised person is authorised to hold, including records of location, transfer and disposal or discharge;

(g) ensure that the authorised person keeps records of all sealed sources which the authorised person is authorised to hold, including records of location, transfer and disposal;

(h) ensure that the authorised person informs SEPA promptly of any loss, theft, significant spill, or unauthorised use or release of radioactive material in the form of an unsealed source;

(i) ensure that the authorised person informs SEPA promptly of a transfer of a high-activity sealed source;

(j) ensure that the authorised person informs SEPA promptly of the loss, significant leakage, theft or unauthorised use of a sealed source;

(**a**) S.I. 2004/1769.

(k) ensure that the authorised person implements a recording and analysis system of significant events involving or potentially involving accidental or unintended public exposure to radioactivity;

(l) ensure that in the event of the public exposure to radioactivity otherwise than in accordance with an authorisation, the authorised person—

(i) informs SEPA without delay;

(ii) carries out a full investigation into the event, and provides SEPA with the results of the investigation, without delay; and

(iii) takes corrective measures to avoid the recurrence of similar events; and

(m) ensure that the authorised person makes adequate arrangements for the security of sealed sources.

Authorisation conditions: discharge limits

21.—(1) SEPA must ensure that a permit or registration for a radioactive substances activity includes such conditions as it considers appropriate to apply limits for—

(a) the discharge of radioactive waste; and

(b) the introduction of radioactive material into the environment.

(2) SEPA must for the purposes of setting conditions required by sub-paragraph (1)—

(a) take into account the results of any optimisation of radiation protection;

(b) reflect good practice in the operation of similar facilities; and

(c) take into account, where appropriate, the results of a generic screening assessment based on internationally recognised scientific guidance to demonstrate that environmental criteria for long-term human health protection are met.

Authorisation conditions: monitoring

22.—(1) SEPA must ensure that a permit or registration for a radioactive substances activity to which sub-paragraph (3) applies includes such conditions as it considers appropriate to ensure—

(a) the authorised person carries out appropriate monitoring and evaluation of radioactive discharges into the environment in normal operation of the activity; and

(b) the results of the monitoring and evaluation are reported to SEPA.

(2) For the purposes of sub-paragraph (1), where the radioactive substances activity is carried on a nuclear site, the permit or registration conditions imposed must require the monitoring of radioactive discharges and reporting to SEPA of such information on radioactive discharges as the Scottish Ministers direct.

(3) This sub-paragraph applies to radioactive substances activities which involve either or both the—

(a) disposal of radioactive waste; or

(b) introduction of radioactive material to the environment.

Authorisation conditions: high-activity sealed sources

23. SEPA must ensure that a permit for a radioactive substances activity involving a high-activity sealed source includes such conditions as it considers appropriate to—

(a) ensure that the authorised person ascertains that, before a high activity sealed source is transferred, the transferee is legally entitled to hold the source;

(b) ensure the authorised person informs SEPA of the particulars (including the date, details of the source and identity and location of the transferee) of a transfer of a high-activity sealed source;

(c) set out requirements specifying—

(i) responsibilities;

(ii) minimum staff competency, including information and training;

(iii) minimum performance criteria for the source, source container and additional equipment;

(iv) emergency procedures and communication links;

(v) work procedures to be followed;

(vi) maintenance of equipment, sources and containers; and

(vii) adequate management of waste sources, including agreements regarding the transfer, if appropriate, of waste sources to a manufacturer, a supplier, another authorised person or a waste disposal or storage facility;

(d) require that the authorised person—

(i) undertakes suitable tests, such as leak tests based on international standards, regularly in order to check and maintain the integrity of a source;

(ii) regularly verifies at specific intervals that a source and, where relevant, the equipment containing the source, remain present and in apparently good condition at their place of use or storage;

(iii) ensures that a source is subject to adequate documented measures, such as written protocols and procedures, aimed at preventing unauthorised access to or loss or theft of the source or its damage by fire;

(iv) arranges for a check on the integrity of a source after any event, including fire, that may have damaged the source and notifies SEPA of the event and the measures taken;

(v) promptly after a source becomes radioactive waste—

(aa) returns the source to the supplier;

(bb) places the source in a facility for long term storage or disposal; or

(cc) transfers it to another person;

(vi) ensures that a source is accompanied by written information which—

(aa) confirms that the source is identified and marked with a unique number and that the number remains legible; and

(bb) includes photographs of the source, source container, transport packaging, device and equipment as appropriate; and

(vii) makes adequate arrangements (including financial provision) for the safe management and control of the high-activity source.

Authorisation conditions: manufacture and supply of high-activity sealed sources

24. SEPA must ensure that a permit for a radioactive substances activity involving the manufacture or supply of a high-activity sealed source includes such conditions as it considers appropriate to—

(a) ensure that a source is identified by a unique number which, where practicable, must be engraved or stamped on the source;

(b) ensure either that a source container is engraved or stamped with the source's unique number or, if the container is a reusable transport container, that the container, at least, bears information on the nature of the source;

(c) ensure a source container and, where practicable, the source are marked and labelled with an appropriate sign to warn people of the radiation hazard; and

(d) require the manufacturer of the source to provide a photograph of each manufactured source design type and a photograph of the typical source container.

Authorisation conditions: records of high-activity sealed sources

25. SEPA must ensure that a permit for a radioactive substances activity involving a high-activity sealed source includes such conditions as it considers appropriate to require the authorised person—

(a) to keep records which include as a minimum the information set out in Table 5;

(b) to provide a copy of the records, or make a copy available, to SEPA on request;

(c) to provide SEPA with a copy of the records—

(i) after acquisition of a source;

(ii) if the information indicated on the records has changed; and

(iii) if the authorised person is no longer holding the source; and

(d) to provide SEPA with the details of any person or disposal or storage facility to which the source is transferred.

PART 3

Duties of SEPA

Optimisation and dose limits

26.—(1) SEPA must exercise its relevant functions in relation to radioactive substances activities to ensure that the radiation protection of individuals subject to public exposures is optimised.

(2) SEPA must exercise its relevant functions in relation to radioactive substances activities to ensure that the sum of doses to an individual does not exceed—

(a) an effective dose of 1 millisievert in a year;

(b) an equivalent dose for the lens of the eye of 15 millisieverts in a year;

(c) an equivalent dose for the skin of 50 millisieverts in a year, averaged over any 1 cm^2 of skin regardless of the area exposed.

(3) In these Regulations, "effective dose" and "equivalent dose" have the same meaning as in the Basic Safety Standards Directive.

(4) In order to estimate effective and equivalent doses, SEPA must use the values and relationships recommended in—

(a) chapters 4 and 5 of ICRP Publication 116(**a**) for the estimation of doses from external exposure; and

(b) chapter 1 of ICRP Publication 119(**b**) for the estimation of doses from internal exposure.

Dose constraints

27.—(1) In carrying out its relevant functions in relation to radioactive substances activities, SEPA must have regard to the following maximum doses which may result from the planned carrying on of a radioactive substances activity, for use at the planning stage in radiation protection—

(a) 0.3 millisieverts per year from any source from which radioactive discharges are first made on, or after, 13th May 2000; or

(b) 0.5 millisieverts per year from the discharges from any single site.

(**a**) ICRP, 2010. Conversion Coefficients for Radiological Protection Quantities for External Radiation Exposures. ICRP Publication 116, Ann. ICRP 40(2-5).

(**b**) ICRP, 2012. Compendium of Dose Coefficients based on ICRP Publication 60. ICRP Publication 119, Ann. ICRP 41(Suppl.)

(2) For the purposes of sub-paragraph (1), the maximum doses do not apply to doses which arise from medical exposures.

Estimation of doses to the members of the public

28.—(1) SEPA must make arrangements for the estimation of doses to members of the public from radioactive substances activities.

(2) The arrangements must be proportionate to the risk of exposure to radiation from the activities involved.

29. SEPA must—

(a) identify radioactive substances activities for which an assessment of doses to members of the public is to be carried out; and

(b) specify that an assessment may be carried out either—

(i) in a realistic way; or

(ii) by screening assessment.

30. Where it has specified that an assessment must be carried out in a realistic way, SEPA must—

(a) decide on a reasonable extent of surveys to be conducted and information to be taken into account in order to identify the representative person, taking into account the effective pathways for transmission of the radioactive substances;

(b) decide on a reasonable frequency of monitoring of the relevant parameters as determined in sub-paragraph (a);

(c) ensure that the estimates of doses to the representative person include—

(i) assessment of the doses due to external radiation, indicating, where appropriate, the type of the radiation in question;

(ii) assessment of the intake of radionuclides, indicating the nature of the radionuclides and, where necessary, their physical and chemical states, and determination of the activity concentrations of these radionuclides in food and drinking water or other relevant environmental media; and

(iii) assessment of the doses that the representative person, as identified in sub-paragraph (a), is liable to receive; and

(d) keep records relating to—

(i) estimates of intakes of radionuclides; and

(ii) the results of the assessment of the doses received by the representative person.

Inspections

31.—(1) SEPA must establish and maintain a programme of inspections (a "radioactive substances activities programme of inspections") for each type of radioactive substances activity.

(2) The programme must take into account—

(a) the potential magnitude and nature of the hazard associated with each type of radioactive substances activity;

(b) a general assessment of radiation protection issues in radioactive substances activities; and

(c) the state of compliance with each of—

(i) these Regulations;

(ii) any authorisation.

(3) SEPA must prepare a report (a "radioactive substances inspection report") on an inspection describing its findings from the inspection.

(4) SEPA must communicate a radioactive substances inspection report to any authorised person SEPA considers appropriate.

(5) SEPA must compile information ("radioactive substances protection and safety information") relating to the protection of human health and the environment, and the safety of the public concerning—

(a) significant lessons learned from inspections;

(b) significant lessons learned from reported incidents and accidents; and

(c) related findings.

Record keeping

32.—(1) SEPA must keep records of an authorisation granted for an activity involving a high-activity sealed source.

(2) The records must include details of—

(a) the radionuclide in the source;

(b) the radionuclide's activity at the time of manufacture or, if not known, the activity at the time of the first placing on the market or at the time the authorised person acquired the source; and

(c) the type of source.

(3) SEPA must keep the records up to date, including following transfer of a source.

Sealed sources

33. SEPA must establish a system to enable an authorised person to inform SEPA of a transfer of a high-activity sealed source.

Orphan Sources

34.—(1) SEPA must, for the purpose specified in sub-paragraph (2), promptly provide specialised technical advice and assistance to a person who—

(a) suspects the presence of an orphan source; and

(b) does not normally carry on radioactive substances activities.

(2) The purpose is to ensure—

(a) the protection of members of the public from radiation; and

(b) the safety of the source.

35.—(1) SEPA must have plans, preparations or provisions in place to—

(a) control and recover any orphan source; and

(b) deal with an emergency due to an orphan source.

(2) The plans, preparations or provisions required by sub-paragraph (1) include the drawing up of appropriate response plans and measures.

36.—(1) Where SEPA is satisfied that radioactive waste ought to be disposed of and it is unlikely that the waste will be disposed of in accordance with an authorisation on the grounds that either—

(a) the premises where the waste is located are unoccupied;

(b) the occupier is absent or insolvent;

(c) the occupier is a member of the public; or

(d) for any other reason,

SEPA may serve a notice ("a radioactive waste disposal notice") on a person requiring the person to dispose of the radioactive waste in a specified manner.

(2) The person on whom SEPA may serve a radioactive waste disposal notice includes the occupier of the premises where the radioactive waste is located or, if the premises are unoccupied, the owner of the premises.

(3) A radioactive waste disposal notice must specify—

(a) the radioactive waste to be disposed of;

(b) the person who is required to dispose of the radioactive waste;

(c) the manner in which the radioactive waste is to be disposed of;

(d) the date by which the radioactive waste is to be disposed of; and

(e) the reasons why SEPA is satisfied that the radioactive waste is unlikely to be disposed of in accordance with an authorisation (which may include that the radioactive waste is on premises occupied by a member of the public).

(4) This sub-paragraph applies where SEPA has served a radioactive waste disposal notice and the person on whom it was served has failed to comply with it (in whole or in part).

(5) Where sub-paragraph (4) applies, SEPA may—

(a) dispose of radioactive waste; and

(b) recover from the occupier of the premises, or, if the premises are unoccupied, from the owner of the premises, any expenses reasonably incurred from disposing of the waste.

PART 4

Local authorities

37. Where an authorisation requires or permits radioactive waste to be removed to a place provided by a local authority as a place for the disposal of waste, the local authority must—

(a) accept any radioactive waste removed to that place in accordance with the authorisation; and

(b) deal with it in the manner indicated in the authorisation.

38. Where a local authority or relevant water authority takes any special precautions in respect of radioactive waste disposed of in accordance with an authorisation, and those precautions are taken—

(a) in compliance with the conditions subject to which the authorisation was granted; or

(b) with the prior approval of SEPA as being precautions which in the circumstances ought to be taken by that authority,

the local authority or relevant water authority is entitled to make such charges, in respect of the taking of those precautions, as may be agreed between that authority and the person to whom the authorisation was granted, or, in default of such agreement, as may be determined by SEPA and to recover the charges so agreed or determined from the person to whom the authorisation was granted.

PART 5

Radioactivity to be disregarded for purposes of certain statutory provisions

Statutory provisions

39.—(1) No account is to be taken of any radioactivity possessed by any substance, article or premises for the purposes of—

(a) the operation of a statutory provision to which sub-paragraph (2) applies; or

(b) the exercise or performance of a power or duty conferred or imposed by, or for the enforcement of, such a statutory provision.

(2) This paragraph applies to—

(a) the statutory provisions contained in, or for the time being having effect by virtue of—

(i) section 16 of the Clean Air Act 1993(**a**);

(ii) the Sewerage (Scotland) Act 1968(**b**);

(iii) the Planning (Hazardous Substances) (Scotland) Act 1997(**c**);

(iv) section 201 of the Local Government (Scotland) Act 1973(**d**);

(v) sections 30A and 56(1) and (2) of the Control of Pollution Act 1974(**e**);

(vi) sections 70, 71 and 75 of the Water (Scotland) Act 1980(**f**);

(vii) part III of the Environmental Protection Act 1990(**g**);

(b) any enactment for the time being in force whereby an enactment specified in head (a) is amended, extended or superseded; and

(c) any statutory provision contained in, or for the time being having effect by virtue of a local enactment whether passed or made before or after the passing of these Regulations (in whatever terms the provision is expressed) in so far as—

(i) the management of waste or any description of waste, or of any substance which is a nuisance, or so as to be a nuisance, or of any substance which is, or so as to be, prejudicial to health, noxious, polluting or of any similar description, is prohibited or restricted by the statutory provision; or

(ii) a power or duty is conferred or imposed by the statutory provision on SEPA, a local authority or a relevant water authority, or on any officer of a local authority, to take any action (whether by way of legal proceedings or otherwise) for preventing, restricting or abating such management of waste as is mentioned in sub-paragraph (i).

(3) In this paragraph—

"statutory provision" means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act or Act of the Scottish Parliament, whether of a general or a special nature; and

"local enactment" means—

(a) a local or private Act;

(**a**) 1993 c.11.
(**b**) 1968 c.47.
(**c**) 1997 c.10.
(**d**) 1973 c.65.
(**e**) 1974 c.40. Section 30A was inserted by section 168 and paragraph 4 of schedule 23 of the Water Act 1989 (c.15).
(**f**) 1980 c.45.
(**g**) 1990 c.43.

(b) an Act of the Scottish Parliament the Bill for which was a private Bill for the purposes of the standing orders of the Scottish Parliament; or

(c) an order confirmed by Parliament or the Scottish Parliament or brought into operation in accordance with special parliamentary procedure.

(4) In this paragraph any reference to disposal, in relation to a statutory provision, is a reference to discharging or depositing a substance or allowing a substance to escape or to enter a stream or other place, as may be mentioned in that provision.

PART 6

Tables

Table 1

Concentration of radionuclides: NORM industrial activities

Radionuclide	*Solid or relevant liquid concentration in becquerels per gram (Bq/g)*	*Any other liquid concentration becquerels per litre (Bq/l)*	*Gaseous concentration in becquerels per cubic metre (Bq/m^3)*
U-238sec	1	0.1	0.001
U-238+	5	10	0.01
U-234	5	10	0.01
Th-230	10	10	0.001
Ra-226+	1	1	0.01
Pb-210+	5	0.1	0.01
Po-210	5	0.1	0.01
U-235sec	1	0.1	0.0001
U-235+	5	10	0.01
Pa-231	5	1	0.001
Ac-227+	1	0.1	0.001
Th-232sec	1	0.1	0.001
Th-232	5	10	0.001
Ra-228+	1	0.1	0.01
Th-228+	1	1	0.001

"The table 1 summation rule" means the sum of the quotient A/B where—

(a) "A" means the quantity of each radionuclide listed in column 1 of Table 1 that is present in the substance or article; and

(b) "B" means the quantity of that radionuclide specified in (as appropriate)—

(i) column 2 of Table 1 where the substance or article is a solid or a relevant liquid;

(ii) column 3 of Table 1 where the substance or article is any other liquid; or

(iii) column 4 of Table 1 where the substance or article is a gas.

Table 2

Concentration of radionuclides

Radionuclide	*Concentration in becquerels per gram (Bq/g)*
H-3	10^2
Be-7	10
C-14	10
F-18	10
Na-22	0.1

Na-24	1
Si-31	10^3
P-32	10^3
P-33	10^3
S-35	10^2
Cl-36	1
Cl-38	10
K-42	10^2
K-43	10
Ca-45	10^2
Ca-47	10
Sc-46	0.1
Sc-47	10^2
Sc-48	1
V-48	1
Cr-51	10^2
Mn-51	10
Mn-52	1
Mn-52m	10
Mn-53	10^2
Mn-54	0.1
Mn-56	10
Fe-52+	10
Fe-55	10^3
Fe-59	1
Co-55	10
Co-56	0.1
Co-57	1
Co-58	1
Co-58m	10^4
Co-60	0.1
Co-60m	10^3
Co-61	10^2
Co-62m	10
Ni-59	10^2
Ni-63	10^2
Ni-65	10
Cu-64	10^2
Zn-65	0.1
Zn-69	10^3
Zn-69m+	10
Ga-72	10
Ge-71	10^4
As-73	10^3
As-74	10
As-76	10
As-77	10^3
Se-75	1
Br-82	1
Rb-86	10^2
Sr-85	1
Sr-85m	10^2
Sr-87m	10^2

Sr-89	10^3
Sr-90+	1
Sr-91+	10
Sr-92	10
Y-90	10^3
Y-91	10^2
Y-91m	10^2
Y-92	10^2
Y-93	10^2
Zr-93	10
Zr-95+	1
Zr-97+	10
Nb-93m	10
Nb-94	0.1
Nb-95	1
Nb-97+	10
Nb-98	10
Mo-90	10
Mo-93	10
Mo-99+	10
Mo-101+	10
Tc-96	1
Tc-96m	10^3
Tc-97	10
Tc-97m	10^2
Tc-99	1
Tc-99m	10^2
Ru-97	10
Ru-103+	1
Ru-105+	10
Ru-106+	0.1
Rh-103m	10^4
Rh-105	10^2
Pd-103+	10^3
Pd-109+	10^2
Ag-105	1
Ag-108m+	0.1
Ag-110m+	0.1
Ag-111	10^2
Cd-109+	1
Cd-115+	10
Cd-115m+	10^2
In-111	10
In-113m	10^2
In-114m+	10
In-115m	10^2
Sn-113+	1
Sn-125	10
Sb-122	10
Sb-124	1
Sb-125+	0.1
Te-123m	1
Te-125m	10^3

Te-127	10^3
Te-127m+	10
Te-129	10^2
Te-129m+	10
Te-131	10^2
Te-131m+	10
Te-132+	1
Te-133+	1
Te-133m+	1
Te-134	10
I-123	10^2
I-125	10^2
I-126	10
I-129	0.01
I-130	10
I-131+	1
I-132	10
I-133	10
I-134	10
I-135	10
Cs-129	10
Cs-131	10^3
Cs-132	10
Cs-134	0.1
Cs-134m	10^3
Cs-135	10^2
Cs-136	1
Cs-137+	1
Cs-138	10
Ba-131	10
Ba-140	1
La-140	1
Ce-139	1
Ce-141	10^2
Ce-143	10
Ce-144+	10
Pr-142	10^2
Pr-143	10^3
Nd-147	10^2
Nd-149	10^2
Pm-147	10^3
Pm-149	10^3
Sm-151	10^3
Sm-153	10^2
Eu-152	0.1
Eu-152m	10^2
Eu-154	0.1
Eu-155	1
Gd-153	10
Gd-159	10^2
Tb-160	1
Dy-165	10^3
Dy-166	10^2

Ho-166	10^2
Er-169	10^3
Er-171	10^2
Tm-170	10^2
Tm-171	10^3
Yb-175	10^2
Lu-177	10^2
Hf-181	1
Ta-182	0.1
W-181	10
W-185	10^3
W-187	10
Re-186	10^3
Re-188	10^2
Os-185	1
Os-191	10^2
Os-191m	10^3
Os-193	10^2
Ir-190	1
Ir-192	1
Ir-194	10^2
Pt-191	10
Pt-193m	10^3
Pt-197	10^3
Pt-197m	10^2
Au-198	10
Au-199	10^2
Hg-197	10^2
Hg-197m	10^2
Hg-203	10
Tl-200	10
Tl-201	10^2
Tl-202	10
Tl-204	1
Pb-203	10
Pb-210+	0.01
Pb-212+	1
Bi-206	1
Bi-207	0.1
Bi-210	10
Bi-212+	1
Po-203	10
Po-205	10
Po-207	10
Po-210	0.01
At-211	10^3
Ra-223+	1
Ra-224+	1
Ra-225	10
Ra-226+	0.01
Ra-227	10^2
Ra-228+	0.01
Ac-227+	0.01

Ac-228	1
Th-226+	10^2
Th-227	1
Th-228+	0.1
Th-229+	0.1
Th-230	0.1
Th-231	10^2
Th-232	0.01
Th-232+	0.01
Th-232sec	0.01
Th-234+	10
Pa-230	10
Pa-231	0.01
Pa-233	10
U-230+	1
U-231	10^2
U-232+	0.1
U-233	1
U-234	1
U-235+	1
U-235sec	0.01
U-236	10
U-237	10^2
U-238+	1
U-238sec	0.01
U-239	10^2
U-240+	10^2
Np-237+	1
Np-239	10^2
Np-240	10
Pu-234	10^2
Pu-235	10^2
Pu-236	1
Pu-237	10^2
Pu-238	0.1
Pu-239	0.1
Pu-240	0.1
Pu-241	10
Pu-242	0.1
Pu-243	10^3
Pu-244+	0.1
Am-241	0.1
Am-242	10^3
Am-242m+	0.1
Am-243+	0.1
Cm-242	10
Cm-243	1
Cm-244	1
Cm-245	0.1
Cm-246	0.1
Cm-247+	0.1
Cm-248	0.1
Bk-249	10^2

Cf-246	10^3
Cf-248	1
Cf-249	0.1
Cf-250	1
Cf-251	0.1
Cf-252	1
Cf-253	10^2
Cf-253+	1
Cf-254	1
Es-253	10^2
Es-254+	0.1
Es-254m+	10
Fm-254	10^4
Fm-255	10^2
Any other solid or relevant liquid radionuclide that is not of natural terrestrial or cosmic origin	0.01 or that concentration which gives rise to a dose to a member of the public of 10 microsieverts per year calculated by reference to guidance by Euratom in RP 122 part 1(**a**).

"The table 2 summation rule" means the sum of the quotient A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 2 that is present in the substance or article; and

(b) "B" means the quantity of that radionuclide specified in column 2 of Table 2.

Table 3

Radionuclides in secular equilibrium

Parent Radionuclide	*Daughter Radionuclides*
Fe-52+	Mn-52m
Zn-69m+	Zn-69
Sr-90+	Y-90
Sr-91+	Y-91m
Zr-95+	Nb-95m
Zr-97+	Nb-97m, Nb-97
Nb-97+	Nb-97m
Mo-99+	Tc-99m
Mo-101+	Tc-101
Ru-103+	Rh-103m
Ru-105+	Rh-105m
Ru-106+	Rh-106
Pd-103+	Rh-103m
Pd-109+	Ag-109m
Ag-108m+	Ag-108
Ag-110m+	Ag-110
Cd-109+	Ag-109m
Cd-115+	In-115m
Cd-115m+	In-115m
In-114m+	In-114
Sn-113+	In-113m
Sb-125+	Te-125m

(**a**) European Commission: Guidance on General Clearance Levels for Practices, Radiation Protection 122, 2000.

Te-127m+	Te-127
Te-129m+	Te-129
Te-131m+	Te-131
Te-132+	I-132
Te-133+	I-133, Xe-133m, Xe-133
Te-133m+	Te-133, I-133, Xe-133m, Xe-133
I-131+	Xe-131m
Cs-137+	Ba-137m
Ce-144+	Pr-144, Pr-144m
Pb-210+	Bi-210, Po-210
Pb-212+	Bi-212, Tl-208
Bi-212+	Tl-208
Ra-223+	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224+	Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Ra-226+	Rn-222, Po-218, Pb-214, Bi-214, Po-214
Ra-228+	Ac-228
Ac-227+	Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211
Th-226+	Ra-222, Rn-218, Po-214
Th-228+	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Th-229+	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Tl-209, Pb-209
Th-232+	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Th-232sec	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Po-212, Tl-208
Th-234+	Pa-234m, Pa-234
U-230+	Th-226, Ra-222, Rn-218, Po-214
U-232+	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
U-235+	Th-231
U-235sec	Th-231, Pa-231, Ac-227, Th-227, Fr-223, Ra-223, Rn-219, Po-215, Pb-211, Bi-211, Tl-207, Po-211
U-238+	Th-234, Pa-234m, Pa-234
U-238sec	Th-234, Pa-234m, Pa-234, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
U-240+	Np-240m, Np-240
Np-237+	Pa-233
Pu-244+	U-240, Np-240m, Np-240
Am-242m+	Np-238
Am-243+	Np-239
Cm-247+	Pu-243
Cf-253+	Cm-249
Es-254+	Bk-250
Es-254m+	Fm-254

Table 4

Activity Levels defining high-activity sealed sources

Radionuclide	*Activity (TBq)*
Am-241	6 × 10 –2
Am-241/Be-9(1)	6 × 10 –2
Cf-252	2 × 10 –2
Cm-244	5 × 10 –2
Co-60	3 × 10 –2
Cs-137	1 × 10 –1
Gd-153	1 × 10 0
Ir-192	8 × 10 –2
Pm-147	4 × 10 1
Pu-238	6 × 10 –2
Pu-239/Be-9[(1)]	6 × 10 –2
Ra-226	4 × 10 –2
Se-75	2 × 10 –1
Sr-90 (Y-90)	1 × 10 0
Tm-170	2 × 10 1
Yb-169	3 × 10 –1
Any other radionuclide	The D-value defined for that radionuclide in "Dangerous quantities of radioactive material (D-values)"(**a**)

[(1)] The activity given is that of the alpha-emitting radionuclide.

(**a**) Published by the International Atomic Energy Agency in Vienna, Austria (publication date August 2006) (IAEA-EPR-D-Values 2006).

Table 5

Information to be provided in records for high-activity sealed sources

STANDARD RECORD SHEET FOR HIGH-ACTIVITY SEALED SOURCES (HASS) (*optional in italics*)		
1. HASS identification number *Manufacturer device number* *Field of use:*	**2. Identification of the licenced undertaking** Name: Address: Country: Manufacturer ☐ Supplier ☐ User ☐	**3. Location of HASS (Use or storage) if not the same as in 2.** Name: Address: Country: Fixed use ☐ Storage ☐ Mobile use ☐
4. Recording Date of start of recording: Date of transfer of records to historic files:	**5. Licence** Number: Date of issue: Date of expiry:	**6. Operational controls of HASS** Date: . . . . . . Date: . . . . . . Date: . . . . .
7. HASS characteristics *Year of manufacture:* Radionuclide: Activity at the date of manufacturing Activity reference date: Manufacturer/Supplier (*): Name. Address. Country: Physical and chemical characteristics *Source type identification:* *Capsule identification:* *ISO classification:* *ANSI classification* *LAEA source category:* *Neutron source:* Yes ☐ No ☐ *Neutron source target:* *Neutron flux*	**8. Receipt of HASS** Date of receipt: . . . . . . Receipt from: Name: Address. Country: Manufacturer ☐ Supplier ☐ User ☐ **9. Transfer of HASS** Date of transfer: Transfer to: Name: Address: Country: Licence number. Date of issue. Date of expiry. Manufacturer ☐ Supplier ☐ User ☐ Facility for long term storage or disposal ☐	Date. . . . . . Date: . . . . . . Date: . . . . . . Date. . . . . . Date. . . . . . Date: . . . . . . Date: . . . . . . Date: . . . . . . Date. . . . . . **10. Further information** Loss ☐ Date of loss: Theft ☐ Date of theft: *Findings:* Yes ☐ No ☐ *Date:* *Place:* *Other information:*

(*) Where the manufacturer of the source is established outside the Community, the name and address of the importer-supplier may be provided instead.

SCHEDULE 9

Regulation 10

GENERAL BINDING RULES

PART 1

General binding rules

Column 1 ***Activity***	***Column 2*** ***General Binding Rules***
1. The management of a category 5 sealed source.	(a) The radioactive substances common rules; (b) a non-metallic category 5 sealed source must only be disposed of in normal refuse; (c) the activity of an individual category 5 sealed source disposed of must not exceed 2×10^5 becquerels; (d) more than one source must not be disposed of in any 0.1 m^3 of normal refuse; (e) the total activity of category 5 sealed sources disposed of in normal refuse from premises in a year must not exceed 1×10^7 becquerels; (f) a metallic category 5 sealed source must only be disposed of by landfill.
2. The management of a smoke detector.	(a) The total number of smoke detectors kept on a premises, and not affixed to the premises, must not exceed 500. (b) a smoke detector must be managed in a manner which prevents the dispersal of radionuclides; (c) a smoke detector must only be disposed of in normal refuse; (d) more than one smoke detector must not be disposed of in any 0.1 m^3 of normal refuse.
3. The management of a tritium source.	(a) The radioactive substances common rules; (b) the total activity of tritium sources, other than Class B gaseous tritium light devices and Class C gaseous tritium light devices, on a premises must not exceed 5×10^{12} becquerels; (c) the total activity of Class B gaseous tritium light devices and Class C gaseous tritium light devices on a premises must not exceed 3×10^{13} becquerels;

	(d) a tritium source with an activity greater than 2×10^{10} becquerels must not be disposed of;
	(e) a tritium source must only be disposed of in normal refuse;
	(f) more than one tritium source must not be disposed of in any 0.1 m^3 of normal refuse;
	(g) the total activity of tritium sources disposed of in normal refuse from a premises in a year must not exceed 1×10^{13} becquerels.
4. The management (other than the disposal) of an electrodeposited source.	(a) The radioactive substances common rules.
5. The management of a barium eluting source.	(a) The radioactive substances common rules;
	(b) the total activity of all barium eluting sources kept on a premises must not exceed 4×10^5 becquerels of Cs-137+;
	(c) a waste barium eluting source must only be disposed of in normal refuse;
	(d) more than one barium eluting source must not be disposed of in any 0.1 m^3 of normal refuse;
6. The management of a thorium alloy.	(a) The radioactive substances common rules;
	(b) a thorium alloy must only be disposed of by landfill.
7. The management of a uranium or thorium compound.	(a) The radioactive substances common rules;
	(b) a uranium or thorium compound which is solid waste must only be disposed of in normal refuse;
	(c) the total quantity of uranium or thorium in a uranium or thorium compound disposed of from a premises in normal refuse must not exceed 0.5 kilogrammes per week;
	(d) a uranium or thorium compound which is aqueous waste must be disposed of to a relevant sewer;
	(e) the total quantity of uranium or thorium in a uranium or thorium compound disposed of from a premises to a relevant sewer must not exceed 0.5 kilogrammes per year.
8. The management of a medical or veterinary radioactive substance.	(a) The radioactive substances common rules;
	(b) a medical or veterinary radioactive substance must only be—
	(i) disposed of in normal refuse; or

(ii) disposed into—

(aa) a relevant sewer;

(bb) a river, which at the time of any disposal into it of aqueous radioactive waste has a flow rate which is not less than $1m^3s^{-1}$; or

(cc) the sea;

(c) a single item of medical or veterinary radioactive waste must not be disposed of in normal refuse if its activity exceeds—

(i) 4×10^5 becquerels for tritium or C-14; or

(ii) 4×10^4 becquerels for any other radionuclide;

(d) the total activity of medical or veterinary radioactive waste disposed of per 0.1 m^3 of normal refuse must not exceed—

(i) 4×10^6 becquerels for tritium or C-14; or

(ii) 4×10^5 becquerels for any other radionuclide;

(e) the total activity of medical or veterinary waste disposed of in normal refuse from a premises in a year must not exceed—

(i) 2×10^9 becquerels for tritium or C-14; or

(ii) 2×10^8 becquerels for any other radionuclide;

(f) if the medical or veterinary waste consists of human excreta, the total activity of liquid aqueous waste disposed of from a premises to a relevant sewer in a year must not exceed—

(i) 1×10^{10} becquerels for Tc-99m; or

(ii) 5×10^9 becquerels for the sum of all other radionuclides;

(g) if the medical or veterinary waste does not consist of human excreta, the total activity of liquid aqueous waste disposed of from a premises to a relevant sewer in a year must not exceed—

(i) 1×10^8 becquerels for the sum of the following radionuclides: H-3, C-11, C-14, F-18, P-32, P-33, S-

	35, Ca-45, Cr-51, Fe-55, Ga-67, Sr-89, Y-90, Tc-99m, In-111, I-123, I-125, I-131, Sm-153, Tl-201; or (ii) 1 x 10^6 becquerels for the sum of all other radionuclides; (h) if the waste does not consist of human excreta, the concentration of liquid aqueous waste disposed of from a premises to a relevant sewer must not exceed 100 becquerels per millilitre.
9. The management (other than disposal) of a NORM containing substance.	(a) The radioactive substances common rules; (b) the total activity of NORM containing substances transferred from a premises in a year to a person for disposal in a landfill must not exceed the value specified in column 3 of Table 1; (c) the total activity of NORM containing substances transferred from a premises in a year to a person for incineration must not exceed the value specified in column 4 of Table 1.
10. The disposal of gaseous radioactive waste which— (a) contains no radionuclides other than Kr-85; and (b) arises from lamps containing Kr-85.	(a) The total amount of gaseous Kr-85 waste disposed of from premises in a year must not exceed 1×10^{11} becquerels; (b) gaseous Kr-85 waste must be adequately dispersed from the building in which it arose so that it does not enter, or re-enter, a building.
11. Any other radioactive substances activity, not falling within any other activity description in this schedule, where— (a) the total activity of a radionuclide does not exceed the value specified in column 2 of Table 2; or (b) the concentration of radioactivity of a radionuclide does not exceed the value specified in column 3 of Table 2.	(a) The radioactive substances common rules; (b) a solid radioactive substance must only be disposed of in normal refuse; (c) a single item of radioactive waste must not be disposed of in normal refuse if it exceeds— (i) 4×10^5 becquerels for tritium or C-14; or (ii) 4×10^4 becquerels for any other radionuclide; (d) the total activity of radioactive substances disposed of per 0.1 m^3 of normal refuse must not exceed— (i) 4×10^6 becquerels for tritium or C-14; or (ii) 4×10^5 becquerels for any other radionuclide;

(e) an aqueous liquid radioactive substance must only be disposed of into—

(i) a relevant sewer;

(ii) a river, which at the time of any disposal into it of aqueous radioactive waste has a flow rate which is not less than $1m^3s^{-1}$; or

(iii) the sea;

(f) the total activity of liquid aqueous radioactive waste disposed of from a premises in a year must not exceed—

(i) 1×10^8 becquerels for the sum of the following radionuclides: H-3, C-11, C-14, F-18, P-32, P-33, S-35, Ca-45, Cr-51, Fe-55, Ga-67, Sr-89, Y-90, Tc-99m, In-111, I-123, I-125, I-131, Sm-153, T1-201; or

(ii) 1×10^6 becquerels for the sum of all other radionuclides;

(g) the concentration of liquid aqueous radioactive waste disposed of from a premises must not exceed 100 becquerels per millilitre;

(h) gaseous waste must not be disposed of unless—

(i) it consists of fugitive releases from a container; and

(ii) it is dispersed from a building in such a way that it does not enter or re-enter a building.

PART 2

Interpretation of general binding rules

1. In this schedule—

"barium eluting source" means a source which—

(a) consists of Cs-137+ in a sealed container which is designed and constructed to allow the elution of Ba-137m;

(b) is radioactive material or radioactive waste solely because of that Cs-137+; and

(c) does not contain an activity exceeding 4×10^4 becquerels of Cs-137+;

"category 5 sealed source" means a source, or an aggregate of sources, that would fall within category 5 as defined by the International Atomic Energy Agency in Categorisation of Radioactive Sources (RS-G-1.9)(**a**);

(**a**) INTERNATIONAL ATOMIC ENERGY AGENCY, Categorization of Radioactive Sources, IAEA Safety Standards Series No. RS-G-1.9, IAEA, Vienna (2005).

"Class A gaseous tritium light device" means such a device where the activity of the device does not exceed 2×10^{10} becquerels of tritium;

"Class B gaseous tritium light device" means such a device which is installed or intended to be installed on premises and where the activity—

(a) in each sealed container in the device does not exceed 8×10^{10} becquerels of tritium; and

(b) of the device does not exceed 1×10^{12} becquerels of tritium;

"Class C gaseous tritium light device" means such a device installed or intended to be installed—

(a) in a vessel or aircraft; or

(b) in a vehicle or other equipment used or intended to be used by the armed forces of the Crown;

"disposed of in normal refuse" means disposed of with substantial quantities of non-radioactive waste for landfill or incineration or composting where the radioactive waste will be mixed with such non-radioactive waste for the purposes of such burial, incineration or recovery;

"electrodeposited source" means an article where radionuclides are electrodeposited onto a metal substrate and which is radioactive material or radioactive waste solely because it contains Ni-63 or Fe-55 the total activity of which does not exceed—

(a) 6×10^8 becquerels of Ni-63; or

(b) 2×10^8 becquerels of Fe-55;

"gaseous tritium light device" means a sealed source (or such a source which has become broken) which incorporates tritium in a device which is an illuminant, instrument, sign or indicator;

"luminised article" means an article other than a sealed source—

(a) which is made wholly or partly from a luminescent substance in the form of a film or a paint;

(b) the activity of which does not exceed 4×10^9 becquerels;

"manage" means any activity involving radioactive material or radioactive waste except the production of radionuclides or the manufacture of radioactive sources and related expressions are to be construed accordingly;

"medical or veterinary radioactive substance" means radioactive material or radioactive waste (other than a sealed source) which is intended for use, is used, or arises from medical or veterinary diagnosis or treatment or clinical or veterinary trials;

"relevant sewer" means—

(a) a public sewer; or

(b) a private sewer which leads to a sewage treatment works that—

(i) has the capacity to handle a minimum of $100m^3$ of sewage per day; and

(ii) discharges treated sewage only to the sea, to a tidal estuary or to a river that has a flow rate of not less than $1m^3s^{-1}$;

"sea" includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

"sealed source" means a radioactive source in which the radioactive substance is permanently sealed in a capsule or incorporated in a solid form with the objective of preventing, under normal conditions of use, any dispersion of radioactive substances;

"sewer", "public sewer", "private sewer", "sewage treatment works" and "sewage" have the same meanings as in section 59(1) of the Sewerage (Scotland) Act 1968(**a**);

"smoke detector" means a smoke detector incorporating a sealed source the total activity of which does not exceed 4×10^4 becquerels;

"Table 1" and "Table 2" mean the tables with that number in Part 3;

"thorium alloy" means a substance or article which is, or contains—

(a) magnesium alloy;

(b) thoriated tungsten; or

(c) dross from hardener alloy,

in which the thorium content does not exceed 4% by mass;

"a tritium foil source" means an article which has a mechanically tough surface into which tritium is incorporated the total activity of which does not exceed 2×10^{10} becquerels;

"tritium source" means radioactive material or radioactive waste which contains no radionuclides except for tritium and which is either—

(a) a gaseous tritium light device;

(b) a sealed source;

(c) a tritium foil source; or

(d) a luminised article;

"uranium or thorium compound" means a substance or article which is radioactive material or radioactive waste solely because it is or contains metallic uranium or thorium or prepared compounds of uranium or thorium, and in respect of which metal or compound the proportion of—

(a) U-235 in the uranium it contains is no more than 0.72% by mass; and

(b) any isotope of thorium it contains is present in the isotopic proportions found in nature.

Interpretation: NORM

2.—(1) In this schedule, "NORM containing substance" means a solid substance or article which—

(a) is either—

(i) radioactive material or radioactive waste under paragraph 6(2) of schedule 8; or

(ii) except where sub-paragraph (2) applies, radioactive waste under paragraph 7 of schedule 8 arising from the remediation of land contaminated by radium;

(b) contains one or more of the radionuclides which are listed in column 1 of Table 1; and

(c) has a concentration of radioactivity that does not exceed the value specified in column 2 of Table 2 in respect of that radionuclide.

(2) Land is not contaminated under sub-paragraph (1)(a)(ii) unless the contamination occurred prior to 13th May 2000.

Interpretation: radioactive substances common rules

3.—(1) In this schedule, "radioactive substances common rules" means the following rules—

(a) a radioactive substance must be managed in a manner which prevents the reckless or accidental dispersal of radionuclides and, in the case of a sealed source, which prevents any dispersal of radionuclides;

(**a**) 1968 c.47 as relevantly amended by the Water Industry (Scotland) Act 2002 (asp 3), schedule 5, paragraph 41(b)(iv) and the Water Environment and Water Services (Scotland) Act 2003 (asp 3), schedule 3, paragraph 23(a).

(b) a radioactive substance must be managed safely and securely to minimise the risk of—

(i) unauthorised or accidental use;

(ii) loss; and

(iii) theft;

(c) records of a radioactive substance must be kept—

(i) from receipt of a radioactive substance until at least 2 years after the date of its transfer or disposal;

(ii) which include, as a minimum, a description of each source, article or radioactive substance, the location where it is normally kept or used, details of any transfer, and details of any disposal;

(d) where practicable, a radioactive substance must be marked or labelled as radioactive but any labelling or marking must be removed before it is disposed of in normal refuse;

(e) SEPA must be promptly notified of a loss or theft (or suspected loss or theft) of radioactive substances where the total amount of radioactive substances lost or stolen (or suspected to have been lost or stolen) from the premises, together with the amount of other substances lost or stolen from the premises in the preceding 12 months, exceeds the value that is ten times the value for the relevant radionuclide in column 3 of Table 2;

(f) a radioactive substance must not be transferred to a person who is not legally entitled to manage it;

(g) a radioactive substance must be transferred or disposed of as soon as practicable after it becomes waste.

PART 3

Tables

Table 1

NORM waste concentrations and maximum disposal quantities

Radionuclide	*NORM concentration (Bq/g)*	*NORM total activity for landfill (GBq/year)*	*NORM total activity for incineration (MBq/year)*
U-238sec	5	50	100
U-238+	5	50	100
U-234	5	50	100
Th-230	5	50	100
Ra-226+	5	50	100
Pb-210+	100	1000	100
Po-210	100	1000	100
U-235sec	5	50	100
U-235+	5	50	100
Pa-231	5	50	100
Ac-227+	5	50	100
Th-232sec	5	50	100
Th-232	5	50	100
Ra-228+	5	50	100
Th-228+	5	50	100

The summation rule in respect of column 2 of Table 1 is the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 1 that is present in the radioactive waste; and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 1.

The summation rule in respect of columns 3 and 4 of Table 1 is the sum of the quotients C/D where—

(a) "C" means the quantity of each radionuclide listed in column 1 of Table 1 that is present in the radioactive waste; and

(b) "D" means the quantity of that radionuclide specified in column 3 or 4 (as appropriate) of Table 1.

Table 2

Table of radionuclide activity values

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[1])*	*Activity (becquerels)*
H-3	1×10^6	1×10^9
Be-7	1×10^3	1×10^7
C-14	1×10^4	1×10^7
O-15	1×10^2	1×10^9
F-18	1×10^1	1×10^6
Na-22	1×10^1	1×10^6
Na-24	1×10^1	1×10^5
Si-31	1×10^3	1×10^6
P-32	1×10^3	1×10^5
P-33	1×10^5	1×10^8
S-35	1×10^5	1×10^8
Cl-36	1×10^4	1×10^6
Cl-38	1×10^1	1×10^5
Ar-37	1×10^6	1×10^8
Ar-41	1×10^2	1×10^9
K-40[1]	1×10^2	1×10^6
K-42	1×10^2	1×10^6
K-43	1×10^1	1×10^6
Ca-45	1×10^4	1×10^7
Ca-47	1×10^1	1×10^6
Sc-46	1×10^1	1×10^6
Sc-47	1×10^2	1×10^6
Sc-48	1×10^1	1×10^5
V-48	1×10^1	1×10^5
Cr-51	1×10^3	1×10^7
Mn-51	1×10^1	1×10^5
Mn-52	1×10^1	1×10^5
Mn-52m	1×10^1	1×10^5
Mn-53	1×10^4	1×10^9
Mn-54	1×10^1	1×10^6
Mn-56	1×10^1	1×10^5
Fe-52	1×10^1	1×10^6
Fe-55	1×10^4	1×10^6
Fe-59	1×10^1	1×10^6
Co-55	1×10^1	1×10^6
Co-56	1×10^1	1×10^5
Co-57	1×10^2	1×10^6
Co-58	1×10^1	1×10^6
Co-58m	1×10^4	1×10^7

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[(1)])*	*Activity (becquerels)*
Co-60	1×10^{1}	1×10^{5}
Co-60m	1×10^{3}	1×10^{6}
Co-61	1×10^{2}	1×10^{6}
Co-62m	1×10^{1}	1×10^{5}
Ni-59	1×10^{4}	1×10^{8}
Ni-63	1×10^{5}	1×10^{8}
Ni-65	1×10^{1}	1×10^{6}
Cu-64	1×10^{2}	1×10^{6}
Zn-65	1×10^{1}	1×10^{6}
Zn-69	1×10^{4}	1×10^{6}
Zn-69m	1×10^{2}	1×10^{6}
Ga-72	1×10^{1}	1×10^{5}
Ge-71	1×10^{4}	1×10^{8}
As-73	1×10^{3}	1×10^{7}
As-74	1×10^{1}	1×10^{6}
As-76	1×10^{2}	1×10^{5}
As-77	1×10^{3}	1×10^{6}
Se-75	1×10^{2}	1×10^{6}
Br-82	1×10^{1}	1×10^{6}
Kr-74	1×10^{2}	1×10^{9}
Kr-76	1×10^{2}	1×10^{9}
Kr-77	1×10^{2}	1×10^{9}
Kr-79	1×10^{3}	1×10^{5}
Kr-81	1×10^{4}	1×10^{7}
Kr-83m	1×10^{5}	1×10^{12}
Kr-85	1×10^{5}	1×10^{4}
Kr-85m	1×10^{3}	1×10^{10}
Kr-87	1×10^{2}	1×10^{9}
Kr-88	1×10^{2}	1×10^{9}
Rb-86	1×10^{2}	1×10^{5}
Sr-85	1×10^{2}	1×10^{6}
Sr-85m	1×10^{2}	1×10^{7}
Sr-87m	1×10^{2}	1×10^{6}
Sr-89	1×10^{3}	1×10^{6}
Sr-90+	1×10^{2}	1×10^{4}
Sr-91	1×10^{1}	1×10^{5}
Sr-92	1×10^{1}	1×10^{6}
Y-90	1×10^{3}	1×10^{5}
Y-91	1×10^{3}	1×10^{6}
Y-91m	1×10^{2}	1×10^{6}
Y-92	1×10^{2}	1×10^{5}
Y-93	1×10^{2}	1×10^{5}
Zr-93+	1×10^{3}	1×10^{7}
Zr-95	1×10^{1}	1×10^{6}
Zr-97+	1×10^{1}	1×10^{5}
Nb-93m	1×10^{4}	1×10^{7}
Nb-94	1×10^{1}	1×10^{6}
Nb-95	1×10^{1}	1×10^{6}
Nb-97	1×10^{1}	1×10^{6}
Nb-98	1×10^{1}	1×10^{5}
Mo-90	1×10^{1}	1×10^{6}

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[1])*	*Activity (becquerels)*
Mo-93	1×10^3	1×10^8
Mo-99	1×10^2	1×10^6
Mo-101	1×10^1	1×10^6
Tc-96	1×10^1	1×10^6
Tc-96m	1×10^3	1×10^7
Tc-97	1×10^3	1×10^8
Tc-97m	1×10^3	1×10^7
Tc-99	1×10^4	1×10^7
Tc-99m	1×10^2	1×10^7
Ru-97	1×10^2	1×10^7
Ru-103	1×10^2	1×10^6
Ru-105	1×10^1	1×10^6
Ru-106+	1×10^2	1×10^5
Rh-103m	1×10^4	1×10^8
Rh-105	1×10^2	1×10^7
Pd-103	1×10^3	1×10^8
Pd-109	1×10^3	1×10^6
Ag-105	1×10^2	1×10^6
Ag-108m	1×10^1	1×10^6
Ag-110m	1×10^1	1×10^6
Ag-111	1×10^3	1×10^6
Cd-109	1×10^4	1×10^6
Cd-115	1×10^2	1×10^6
Cd-115m	1×10^3	1×10^6
In-111	1×10^2	1×10^6
In-113m	1×10^2	1×10^6
In-114m	1×10^2	1×10^6
In-115m	1×10^2	1×10^6
Sn-113	1×10^3	1×10^7
Sn-125	1×10^2	1×10^5
Sb-122	1×10^2	1×10^4
Sb-124	1×10^1	1×10^6
Sb-125	1×10^2	1×10^6
Te-123m	1×10^2	1×10^7
Te-125m	1×10^3	1×10^7
Te-127	1×10^3	1×10^6
Te-127m	1×10^3	1×10^7
Te-129	1×10^2	1×10^6
Te-129m	1×10^3	1×10^6
Te-131	1×10^2	1×10^5
Te-131m	1×10^1	1×10^6
Te-132	1×10^2	1×10^7
Te-133	1×10^1	1×10^5
Te-133m	1×10^1	1×10^5
Te-134	1×10^1	1×10^6
I-123	1×10^2	1×10^7
I-125	1×10^3	1×10^6
I-126	1×10^2	1×10^6
I-129	1×10^2	1×10^5
I-130	1×10^1	1×10^6
I-131	1×10^2	1×10^6

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[1])*	*Activity (becquerels)*
I-132	1×10^{1}	1×10^{5}
I-133	1×10^{1}	1×10^{6}
I-134	1×10^{1}	1×10^{5}
I-135	1×10^{1}	1×10^{6}
Xe-131+	1×10^{4}	1×10^{4}
Xe-133	1×10^{3}	1×10^{4}
Xe-135	1×10^{3}	1×10^{10}
Cs-129	1×10^{2}	1×10^{5}
Cs-131	1×10^{3}	1×10^{6}
Cs-132	1×10^{1}	1×10^{5}
Cs-134+	1×10^{3}	1×10^{5}
Cs-134	1×10^{1}	1×10^{4}
Cs-135	1×10^{4}	1×10^{7}
Cs-136	1×10^{1}	1×10^{5}
Cs-137+	1×10^{1}	1×10^{4}
Cs-138	1×10^{1}	1×10^{4}
Ba-131	1×10^{2}	1×10^{6}
Ba-140+	1×10^{1}	1×10^{5}
La-140	1×10^{1}	1×10^{5}
Ce-139	1×10^{2}	1×10^{6}
Ce-141	1×10^{2}	1×10^{7}
Ce-143	1×10^{2}	1×10^{6}
Ce-144+	1×10^{2}	1×10^{5}
Pr-142	1×10^{2}	1×10^{5}
Pr-143	1×10^{4}	1×10^{6}
Nd-147	1×10^{2}	1×10^{6}
Nd-149	1×10^{2}	1×10^{6}
Pm-147	1×10^{4}	1×10^{7}
Pm-149	1×10^{3}	1×10^{6}
Sm-151	1×10^{4}	1×10^{8}
Sm-153	1×10^{2}	1×10^{6}
Eu-152	1×10^{1}	1×10^{6}
Eu-152m	1×10^{2}	1×10^{6}
Eu-154	1×10^{1}	1×10^{6}
Eu-155	1×10^{2}	1×10^{7}
Gd-153	1×10^{2}	1×10^{7}
Gd-159	1×10^{3}	1×10^{6}
Tb-160	1×10^{1}	1×10^{6}
Dy-165	1×10^{3}	1×10^{6}
Dy-166	1×10^{3}	1×10^{6}
Ho-166	1×10^{3}	1×10^{5}
Er-169	1×10^{4}	1×10^{7}
Er-171	1×10^{2}	1×10^{6}
Tm-170	1×10^{3}	1×10^{6}
Tm-171	1×10^{4}	1×10^{8}
Yb-175	1×10^{3}	1×10^{7}
Lu-177	1×10^{3}	1×10^{7}
Hf-181	1×10^{1}	1×10^{6}
Ta-182	1×10^{1}	1×10^{4}
W-181	1×10^{3}	1×10^{7}
W-185	1×10^{4}	1×10^{7}

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[1])*	*Activity (becquerels)*
W-187	1×10^{2}	1×10^{6}
Re-186	1×10^{3}	1×10^{6}
Re-188	1×10^{2}	1×10^{5}
Os-185	1×10^{1}	1×10^{6}
Os-191	1×10^{2}	1×10^{7}
Os-191m	1×10^{3}	1×10^{7}
Os-193	1×10^{2}	1×10^{6}
Ir-190	1×10^{1}	1×10^{6}
Ir-192	1×10^{1}	1×10^{4}
Pt-191	1×10^{2}	1×10^{6}
Pt-193m	1×10^{3}	1×10^{7}
Pt-197	1×10^{3}	1×10^{6}
Pt-197m	1×10^{2}	1×10^{6}
Au-198	1×10^{2}	1×10^{6}
Au-199	1×10^{2}	1×10^{6}
Hg-197	1×10^{2}	1×10^{7}
Hg-197m	1×10^{2}	1×10^{6}
Hg-203	1×10^{2}	1×10^{5}
Tl-200	1×10^{1}	1×10^{6}
Tl-201	1×10^{2}	1×10^{6}
Tl-202	1×10^{2}	1×10^{6}
Tl-204	1×10^{4}	1×10^{4}
Pb-203	1×10^{2}	1×10^{6}
Pb-210+	1×10^{1}	1×10^{4}
Pb-212+	1×10^{1}	1×10^{5}
Bi-206	1×10^{1}	1×10^{5}
Bi-207	1×10^{1}	1×10^{6}
Bi-210	1×10^{3}	1×10^{6}
Bi-212+	1×10^{1}	1×10^{5}
Po-203	1×10^{1}	1×10^{6}
Po-205	1×10^{1}	1×10^{6}
Po-207	1×10^{1}	1×10^{6}
Po-210	1×10^{1}	1×10^{4}
At-211	1×10^{3}	1×10^{7}
Rn-220+	1×10^{4}	1×10^{7}
Rn-222+	1×10^{1}	1×10^{8}
Ra-223+	1×10^{2}	1×10^{5}
Ra-224+	1×10^{1}	1×10^{1}
Ra-225	1×10^{2}	1×10^{5}
Ra-226+	1×10^{1}	1×10^{4}
Ra-227	1×10^{2}	1×10^{6}
Ra-228+	1×10^{1}	1×10^{5}
Ac-228	1×10^{1}	1×10^{6}
Th-226+	1×10^{3}	1×10^{7}
Th-227	1×10^{1}	1×10^{4}
Th-228+	1×10^{0}	1×10^{4}
Th-229+	1×10^{0}	1×10^{3}
Th-230	1×10^{0}	1×10^{1}
Th-231	1×10^{3}	1×10^{7}
Th-234+	1×10^{3}	1×10^{5}
Pa-230	1×10^{1}	1×10^{6}

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[1])*	*Activity (becquerels)*
Pa-231	1×10^{0}	1×10^{3}
Pa-233	1×10^{2}	1×10^{7}
U-230	1×10^{1}	1×10^{5}
U-231	1×10^{2}	1×10^{7}
U-232+	1×10^{0}	1×10^{3}
U-233	1×10^{1}	1×10^{4}
U-234	1×10^{1}	1×10^{4}
U-235+	1×10^{1}	1×10^{4}
U-236	1×10^{1}	1×10^{4}
U-237	1×10^{2}	1×10^{6}
U-238+	1×10^{1}	1×10^{4}
U-239	1×10^{2}	1×10^{6}
U-240	1×10^{3}	1×10^{7}
U-240+	1×10^{1}	1×10^{6}
Np-237+	1×10^{0}	1×10^{3}
Np-239	1×10^{2}	1×10^{7}
Np-240	1×10^{1}	1×10^{6}
Pu-234	1×10^{2}	1×10^{7}
Pu-235	1×10^{2}	1×10^{7}
Pu-236	1×10^{1}	1×10^{4}
Pu-237	1×10^{3}	1×10^{7}
Pu-238	1×10^{0}	1×10^{4}
Pu-239	1×10^{0}	1×10^{4}
Pu-240	1×10^{0}	1×10^{3}
Pu-241	1×10^{2}	1×10^{5}
Pu-242	1×10^{0}	1×10^{4}
Pu-243	1×10^{3}	1×10^{7}
Pu-244	1×10^{0}	1×10^{4}
Am-241	1×10^{0}	1×10^{4}
Am-242	1×10^{3}	1×10^{6}
Am-242m+	1×10^{0}	1×10^{4}
Am-243+	1×10^{0}	1×10^{3}
Cm-242	1×10^{2}	1×10^{5}
Cm-243	1×10^{0}	1×10^{4}
Cm-244	1×10^{1}	1×10^{4}
Cm-245	1×10^{0}	1×10^{3}
Cm-246	1×10^{0}	1×10^{3}
Cm-247	1×10^{0}	1×10^{4}
Cm-248	1×10^{0}	1×10^{3}
Bk-249	1×10^{3}	1×10^{6}
Cf-246	1×10^{3}	1×10^{6}
Cf-248	1×10^{1}	1×10^{4}
Cf-249	1×10^{0}	1×10^{3}
Cf-250	1×10^{1}	1×10^{4}
Cf-251	1×10^{0}	1×10^{3}
Cf-252	1×10^{1}	1×10^{4}
Cf-253	1×10^{2}	1×10^{5}
Cf-254	1×10^{0}	1×10^{3}
Es-253	1×10^{2}	1×10^{5}
Es-254	1×10^{1}	1×10^{4}
Es-254m	1×10^{2}	1×10^{6}

Radionuclide	*Activity Concentration (kilobecquerels per kilogram[(1)])*	*Activity (becquerels)*
Fm-254	1×10^4	1×10^7
Fm-255	1×10^3	1×10^6
Any other radionuclide that is— (a) not of natural terrestrial cosmic origin; or (b) listed in Table 1 of schedule 8.	10^3, or the quantity given in respect of that radionuclide in the Health Protection Agency's publication "Exempt Concentrations and Quantities for Radionuclides not included in the European Basic Safety Standards Directive"[(2)].	1, or the concentration given in respect of that radionuclide in the document referenced in column 2.

[(1)] Potassium salts in quantities less than 1000kg are exempted.

[(2)] National Radiological Protection Board, Didcot (United Kingdom) 1999.

The summation rule in respect of column 2 of Table 2 is the sum of the quotients A/B where—

(a) "A" means the concentration of each radionuclide listed in column 1 of Table 2 that is present in the radioactive material or radioactive waste; and

(b) "B" means the concentration of that radionuclide specified in column 2 of Table 2.

The summation rule in respect of column 3 of Table 2 is the sum of the quotients C/D where—

(a) "C" means the quantity of each radionuclide listed in column 1 of Table 2 that is present in the radioactive material or radioactive waste; and

(b) "D" means the quantity of that radionuclide specified in column 3 of Table 2.

+Parent radionuclides, and their progeny whose dose contributions are taken into account in the dose calculation (thus requiring only the exemption level of the parent radionuclide to be considered), are listed in the following:

Parent radionuclide	*Progeny*
Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108m	Ag-108
Cs-137	Ba-137m
Ba-140	La-140
Ce-144	Pr-144
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Rn-220	Po-216
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-226	Ra-222, Rn-218, Po-214
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209

Parent radionuclide	*Progeny*
Th-234	Pa-234 m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-240	Np-240 m
Np237	Pa-233
Am-242m	Am-242
Am-243	Np-239

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 18 and 58 of the Regulatory Reform (Scotland) Act 2014 (2014 asp 3). They provide a framework for the authorisation of environmental activities (which are defined as regulated activities and currently include only radioactive substances activities) in Scotland. They repeal the Radioactive Substances Act 1993 (1993 c.12), and provide a new regulatory framework for radioactive substances activities.

These Regulations transpose provisions of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p.1) ("the BSSD").

These Regulations come into force on 1st September 2018 and have effect subject to the transitional and savings provisions in schedule 5. A registration or authorisation under the Radioactive Substances Act 1993 is deemed to be an authorisation. Activities which are not regulated under the Radioactive Substances Act 1993 but which are radioactive substances activities under these Regulations will generally require an authorisation by the date falling after the end of a period of 6 months from the date these Regulations come into force.

Part 1 of these Regulations provides for meaning of terms used in these Regulations, and the requirement for a person in control of a regulated activity to have an authorisation. Regulation 9 provides for general aims which SEPA must take into account when carrying out its functions.

Part 2 of these Regulations provides for the carrying on of regulated activities in accordance with general binding rules. Schedule 9 sets out the general binding rules which are specified for radioactive substances activities.

Part 3 of these Regulations provides for the carrying on of regulated activities in accordance with a notification, including cessation of the activity and surrender of the notification.

Part 4 of these Regulations provides for the carrying on of regulated activities in accordance with a registration, including the form of applications, the content of a registration and the grant and variation of a registration.

Part 5 of these Regulations provides for the carrying on of regulated activities in accordance with a permit, including the form of an application, the content of a permit and the grant, variation and review of a permit. Schedule 1 makes further provision for the procedures for applying for and granting a registration or permit, and schedule 2 provides for the imposition by SEPA of requirements in permits and notices relating to land not controlled by the authorised person.

Part 7 allows for determination of standard rules. A permit or a registration may be subject to standard rules.

Part 8 of these Regulations provides for the transfer, revocation and surrender of registrations and permits.

Part 9 of these Regulations provides for the Scottish Ministers and SEPA having power to require information for specified purposes and for the requirement for SEPA to make information available to the public via a register. Provision is made for certain categories of information to be excluded from the register. Schedule 3 sets out the information to be included in the register.

Part 10 of these Regulations provides for enforcement. SEPA has power under regulation 46 to serve regulatory notices which can include a requirement for a regulated activity to cease. Regulatory notices may require action to be taken on land not in control of the authorised person.

Under Part 11 of these Regulations SEPA may serve a cost recovery notice requiring payment of the costs incurred in serving a regulatory notice or a remediation notice. Regulation 51 sets out the costs that may be recovered and the requirements for a notice. Regulation 54 contains provisions for the service of all forms of notice provided for in these Regulations.

Part 12 of these Regulations provides for appeals to the Scottish Ministers, for the effect of an appeal on the matter being appealed, and the determination of appeals by the Scottish Ministers. Schedule 4 makes further provision in relation to appeals.

Part 13 of these Regulations provide for SEPA's functions and duties. SEPA is given power to impose authorisations, to escalate or de-escalate authorisations and to consolidate authorisations. Regulation 59 requires SEPA to carry out its functions in accordance with the technical schedule. Part 14 of these Regulations provides for the publication of guidance by SEPA.

Part 15 of these Regulations provides for the creation of criminal offences, as well as the creation of a defence and provision relating to the admissibility of evidence. Regulation 75 gives power to a court to order an offence to be remedied.

Part 16 allows the Scottish Ministers to give guidance to SEPA in relation to SEPA's functions under these Regulations and in connection with the carrying on of a regulated activity by SEPA.

Part 17 provides that these Regulations bind the Crown with the exception of premises used by the Crown for defence purposes.

Schedules 6 and 7 provide for consequential modifications and repeals and revocations.

Schedule 8 is the technical schedule which defines the scope of a radioactive substances activity, and the specific requirements that apply to applications and authorisations for radioactive substances activities. Provision is made in this schedule for certain provisions in the BSSD, including Articles 5 and 12 (paragraph 26), 29(1) and (2) (paragraph 15), 65 to 67 (paragraphs 20 to 22), 85, 86 and 88 to 91 (paragraphs 23 to 25), 87 (paragraph 18), 90 (paragraph 32), 92 (paragraph 34), 94 (paragraphs 35 and 36) and 104 (paragraph 31).

A Business and Regulatory Impact Assessment has been prepared and placed in the Environmental Quality Division, Directorate for Environment & Forestry, Victoria Quay, Edinburgh EH6 6QQ. An updated transposition note is submitted with the Policy Note which is available alongside the instrument on www.legislation.gov.uk.

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S201805081019 05/2018 19585

http://www.legislation.gov.uk/id/sdsi/2018/9780111039014