POLICY NOTE

THE POLLUTION PREVENTION AND CONTROL (SCOTLAND) AMENDMENT REGULATIONS 2014

SSI 2014 No.

The above instrument was made in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 and all other powers enabling them to do so. It is subject to the affirmative procedure.

Policy Objective

The purpose of this instrument is to transpose Article 14 paragraphs (5) to (8) of European Directive 2012/27/EU ("The Energy Efficiency Directive") through amendments to the Pollution Prevention and Control (Scotland) Regulations 2012 ("PPC Regulations"). The Energy Efficiency Directive (EED) establishes a common framework of measures, and lays down rules designed amongst other things to drive improvements in energy efficiency in industry.

The instrument provides for a cost-benefit analysis (CBA) to be carried out in relation to measures for promoting energy efficiency in heating and cooling when certain new or refurbished installations are permitted. The requirement for the CBA ensures that all operators of appropriate installations, or prospective installations, conduct the CBA which they may not have done so otherwise. This ensures that all opportunities for energy efficiency measures using high-efficiency cogeneration, recovering waste heat and connecting to a district heating and cooling network in new or substantially refurbished installations are identified and carried out.

In order to benefit business by having as much uniformity between Scots, English and Northern Ireland law as possible, the exemption thresholds and exclusions are also set out in the instrument in a manner that is consistent with other parts of the United Kingdom.

In addition to the transposition of Article 14 (5) to (8) of the EED, minor styling corrections of errors to the PPC Regulations have been dealt with.

The regulator, the Scottish Environment Protection Agency (SEPA), has been fully consulted on the transposition and minor corrections and helped to finalise the regulations.

Consultation

Within the Scottish Government, Heat Policy, Energy Consents, Legal, Planning and Analytical staff have been consulted to progress the transposition of the Directive via the PPC Regulations.

A Scottish Government public consultation was published on 22 January 2014 and closed on 16 April 2014 on the proposed mechanism, timescale and financial implications of transposing Article 14(5) to (8) of the EED. Scotland was the only part of the UK to conduct

a full 12 week consultation. Thirteen responses were received. These came from businesses, as well as professional bodies and trade associations. A report analysing the consultation responses has been made available on the Scottish Government website[1].

In addition to the consultation, the Scottish Government participated in SEPA's PPC Users Group meeting in February 2014, and two stakeholder events chaired by Resource Efficient Scotland in Glasgow and Perth in March and April 2014. The events were attended by trade associations, developers, operators and other representative bodies. Around seventy stakeholders and fifteen PPC User group members were in attendance.

The Scottish Government and SEPA participated in the UK Transposition Group for Article 14 of the EED with Department for Energy and Climate Change, the Department for Environment, Food and Rural Affairs and the Department for the Environment Northern Ireland and the Environment Agency and Natural Resources Wales to ensure a consistent approach to implementation across the UK.

Impact Assessments

No equality impact assessment has been prepared for this instrument as there are no equalities impact issues.

Financial Effects

A Final Business and Regulatory Impact Assessment is attached. An estimate of the potential number of activities affected by the requirements of Article 14(5)-(8) has been taken from data supplied by SEPA. This is based on the EU Emissions Trading Scheme ("EU-ETS") which has the same threshold as the EED in that installations exceeding a total thermal input of 20 megawatts are required to be registered.

Currently, there are 98 activities listed on EU-ETS and 50 of these are already permitted under the PPC Regulations. There has been approximately one new entry per year onto EU-ETS in Scotland for the last few years and a further 1-2 installations are estimated as being "substantially refurbished" and covered by Article 14(5) provisions. These low figures suggest minimal impact on business as a result of the transposition.

Scottish Government
Directorate for Environment and Forestry
Environmental Quality Division
25 June 2014

[1] http://www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Pollution-1