Draft Regulations laid before the Scottish Parliament under section 2(8) and (9)(d) and (e) of the Pollution Prevention and Control Act 1999 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Scotland) Regulations 2012

Made - - - -

Coming into force - - *7th January 2013*



£18.50

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(**a**) (the "1999 Act") and section 2(2) of the European Communities Act 1972(**b**), and all other powers enabling them to do so.

In accordance with section 2(4) of the 1999 Act, they have consulted with the Scottish Environment Protection Agency, such bodies and persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate, and such other bodies or persons as they consider appropriate.

In accordance with section 2(8) and (9)(d) and (e) of the 1999 Act a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

PART I

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (Scotland) Regulations 2012.

(2) These Regulations come into force on 7th January 2013.

(3) These Regulations extend to Scotland only.

Interpretation: general

2.—(1) In these Regulations—

"abatement equipment" means, in relation to solvent emission activities, equipment used to abate the effects of emissions of volatile organic compounds,

"baseline report" means a report as described in paragraph 1(3) of Schedule 4,

"battery" means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable; an accumulator), but does not include any battery excluded from the scope of the Batteries Directive by Article 2(2) of that Directive,

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(**a**) 1999 c.24. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the Pollution Prevention and Control Act 1999 (the "1999 Act") and S.I. 2008/1776, and by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008 (S.I. 2008/1776). The 1999 Act is to be read subject to the gloss in section 45(3) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, so that the maximum period of imprisonment that can be imposed on summary conviction of offence triable either way under these Regulations is 12 months. Directive 2008/98/EC (O.J. L 312, 22.11.2008, p.3), Directive 2008/1/EC (O.J. L 24, 29.01.2008, p.8; as amended by Directive 2009/31/EC) and Directive 2000/60/EC (O.J. L 327, 22.12.2000, p.1; as amended by Directives 2008/105/EC and 2009/31/EC, and by Decision 2455/2001/EC) were designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by S.S.I. 2010/131. Directive 2008/112/EC (O.J. L 345, 23.12.2008, p.68) was designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by S.S.I. 2010/235. Directive 2010/75/EU (O.J. L 334, 17.12.2010, p.17) was designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by S.S.I. 2011/423.

(**b**) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) ("the 1998 Act"), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) ("the 2006 Act")). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The power is exercised in these Regulations for the purpose of designating a competent authority. The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

"change in operation" means a change in the nature or functioning of an installation or mobile plant, or an extension of the installation or plant, which may have consequences for the environment (see also the definition of "substantial change in operation"),

"co-incineration" and "incineration" have the same meanings as in Section 5.1 of Part 1 of Schedule 1,

"directly associated activity" means—

(a) in relation to an activity carried out in a stationary technical unit and falling within any description in Part 1 of Schedule 1, any directly associated activity which has a technical connection with the activity carried out in the unit and which could have an effect on pollution, and

(b) in relation to a solvent emission activity, any directly associated activity which has a technical connection with the solvent emission activity carried out on the same site and which could have an effect on any discharge of volatile organic compounds into the environment,

"emission" means in relation to—

(a) Part A installations, the direct or indirect release of a substance, a vibration, heat or noise from individual or diffuse sources in an installation into the air, water or land,

(b) Part B installations, the direct release of a substance or heat from individual or diffuse sources in an installation into the air,

(c) mobile plant, the direct release of a substance or heat from the plant into the air, and

(d) a solvent emission activity—

(i) the direct release of a substance in waste gases into the air from individual or diffuse sources forming part of that activity, and

(ii) the direct or indirect release of fugitive emissions,

"emission limit value" means the mass, expressed in terms of specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time,

"enforcement notice" has the same meaning as in regulation 55,

"environmental inspection" means the actions necessary to check and promote compliance of installations and mobile plant with permit conditions and, where necessary, to monitor the environmental impact of activities carried out under a permit, including as required—

(a) site visits,

(b) monitoring of emissions and checks of internal reports and follow-up documents,

(c) verification of self-monitoring,

(d) checking of techniques used, and

(e) checking of the adequacy of environmental management of the installation,

"environmental inspection plan" has the same meaning as in regulation 53,

"environmental quality standard" means the set of requirements which must be fulfilled at a given time in respect of a particular environment as set out in Union legislation,

"fugitive emissions" means, in relation to solvent emission activities, any emission of volatile organic compounds not in waste gases into air, soil or water as well as solvents contained in any products, unless otherwise stated in Part 2 of Annex VII of the Industrial Emissions Directive,

"hazardous substance" means substances or mixtures as defined in Article 3 of the Hazardous Substances Regulation,

"hazardous waste" means waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive,

"hybrid installation or mobile plant" means an installation or mobile plant which is subject to a hybrid permit, and cognate expressions are construed accordingly,

"hybrid permit" means a permit combining a standard rules condition with one or more other conditions under Part III of these Regulations,

"industrial battery" means any battery or battery pack which is—

(a) designed exclusively for industrial or professional uses,

(b) used as a source of power for propulsion in an electric vehicle,

(c) unsealed, but is not an automotive battery, or

(d) sealed, but is not a portable battery,

"installation" means—

(a) a stationary technical unit where one or more activities listed in Schedules 1 or 2 are carried out, and

(b) any other location on the same site where any other directly associated activities are carried out,

and references to an installation include references to part of an installation,

"landfill" has the same meaning as in Article 2(g) of Council Directive 1999/31/EC on the landfill of waste(**a**),

"mobile plant" has the meaning given by regulation 12,

"off-site condition" has the meaning given by regulation 24,

"operator" means, in relation to an installation or mobile plant, the person who has control over the operation of the installation or plant (see also paragraph (2)),

"organic compound" means any compound containing carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates,

"Part A installation" and "Part B installation" have the same meanings as regulation 12,

"permit" means, unless the context requires otherwise, a permit granted by SEPA in accordance with these Regulations,

"pollution" means emissions as a result of human activity which may—

(a) be harmful to human health or the quality of the environment,

(b) cause offence to any human sense,

(c) result in damage to material property, or

(d) impair or interfere with amenities and other legitimate uses of the environment,

and "pollutant" means any substance, vibration, heat or noise released as a result of such an emission which may have such an effect,

"portable battery" means any battery or battery pack which is sealed, can be hand-carried by an average natural person without difficulty, and is neither an automotive battery nor an industrial battery,

"prescribed fee" means a fee prescribed for a matter in a scheme imposing charges made by SEPA under section 41 of the 1995 Act(**b**),

"register" means the register maintained by SEPA under regulation 64,

"reduction scheme" means a reduction scheme which complies with Part 5 of Annex VII of the Industrial Emissions Directive,

"the relevant date" has the meaning given by regulation 1(1) of the Landfill Regulations,

"revocation notice" has the meaning given by regulation 50,

(**a**) OJ L 182, 16.7.1999, p.1, as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.11), Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1), and Directive 2011/97/EU (OJ L 328, 10.12.2011, p.49).

(**b**) 1995 c.25. Section 41 has been relevantly amended by paragraph 2 of schedule 2 to the Climate Change (Scotland) Act 2009 (asp12), by S.I. 2007/1711, 2007/3106, 2008/3087 and 2009/890, and by S.S.I. 2003/235.

"rule-making authority" means the Scottish Ministers or SEPA,

"separately collected waste" means waste which has been collected and transported in accordance with section 34(2I) of the 1990 Act,

"site report" means a report as described in paragraph 1(2) of Schedule 4

"solvents installation" has the same meaning as in regulation 12, and an activity carried out at such an installation is referred to as a "solvent emission activity",

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

"specified waste management activity" means an activity comprising—

(a) the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1,

(b) the disposal or recovery of waste falling within Sections 5.3, 5.4 or 5.6 of that Part of that Schedule, or

(c) the disposal or recovery of waste in a waste incineration installation,

"standard installation" or "standard mobile plant" means an installation or mobile plant described in standard rules, and cognate expressions are construed accordingly,

"standard rules" has the meaning given by regulation 36,

"standard rules condition" has the meaning given by regulation 37,

"standard rules permit" means a permit containing one or more standard rules conditions and, in relation to any set of standard rules, means a permit containing a standard rules condition in respect of those rules,

"start up and shut down operations" means, in relation to solvent emission activities, operations excluding regular oscillating activity phases whilst bringing an activity, an equipment item or a tank into or out of service or into or out of an idling state,

"substance" includes any chemical element and its compounds and any biological entity or micro-organism, with the exception of—

(a) radioactive substances within the meaning of Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation(**b**),

(b) genetically modified organisms within the meaning of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC(**c**), and

(c) genetically modified micro-organisms within the meaning of Directive 2009/41/EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms (recast)(**d**),

"substantial change in operation" means a change in operation which SEPA considers may have a significant negative effect on human health or the environment, or which in itself constitutes the carrying out of an activity described in Part 1 of Schedules 1 or 2 that exceeds any threshold capacity specified in those Schedules, and includes the—

(a) carrying out of solvent emissions activity—

(i) at a small solvents installation, where there is a change of the nominal capacity leading to an increase in emissions of volatile organic compounds of more than 25 percent,

(ii) at any other solvents installation, where a change of the nominal capacity leads to an increase in emissions of volatile organic compounds of more than 10 percent,

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(**a**) SEPA is established by section 20 of the Environment Act 1995 (c.25).
(**b**) OJ L 159, 29.6.96, p.1.
(**c**) OJ L 106, 17.4.2001, p.1; as amended by Commission Decision 2000/6123/EC (OJ L 200, 30.7.2002, p.22), Regulation (EC) No 1829/2003 (OJ L 268, 18.10.2003, p.1), Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p.25) and Directive 2000/27/EC of the European Parliament and of the Council (OJ L 81, 20.3.2008, p.45).
(**d**) OJ L 125, 21.5.2009, p.75.

and for that purpose—

"input" has the same meaning as in Part 4 of Schedule 2 (see the definition of "consumption"),

"nominal capacity" means the maximum mass input of organic solvents at the installation averaged over one day, if that installation is operated at its design output under conditions other than start up and shut down operations or relating to the maintenance of equipment, and

"small solvents installation" means a solvents installation—

(i) which falls within the lower threshold band of items 1, 3, 4, 5, 8, 10, 13, 16 or 17 of the table in Part 2 of Annex VII to the Industrial Emissions Directive, or

(ii) for the activities which fall under one of the other items of that Part and which has a solvent consumption of less than 10 tonnes per year,

(b) extension of the rated thermal input of a combustion plant as defined in Article 3(25) of the Industrial Emissions Directive by 50 megawatts or more,

(c) incineration or co-incineration for the first time of hazardous waste, and for that purpose "hazardous waste" has the meaning given in Section 5.1 of Part 1 of Schedule 1,

"suspension notice" has the meaning given by regulation 56(1) and (4),

"variation notice" has the meaning given by regulation 46,

"volatile organic compound" means—

(a) any organic compound having a vapour pressure of 0.01 kPa or more at 293.15K or having a corresponding volatility under the particular conditions of use, or

(b) the fraction of creosote having a vapour pressure of 0.01 kPa or more at 293.15K,

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

"waste gases" means, in relation to solvent emission activities, the final gaseous discharge containing volatile organic compounds or other pollutants from a stack or abatement equipment into the air,

"waste incineration installation" means that part of an installation or any mobile plant where—

(a) waste is incinerated or co-incinerated in an incineration or co-incineration plant falling within Part A of Section 5.1 of Part 1 of Schedule 1, or

(b) any activity falling within Part 1 of that Schedule is carried out in an incineration or co-incineration plant as defined in Section 5.1 of that Part of that Schedule, and

"waste management licence" means a waste management licence within the meaning of Part II of the 1990 Act.

(2) For the purposes of these Regulations—

(a) where an installation or any mobile plant has not been put into operation, the person who will have control over the operation of the installation or mobile plant when it is put into operation is to be treated as the operator of the installation or mobile plant, and

(b) where an installation or any mobile plant has ceased to be in operation, the person who holds the permit which applies to the installation or mobile plant is to be treated as the operator of the installation or mobile plant.

(3) In these Regulations a reference to a release into water includes a release into a sewer.

Interpretation: enactments etc.

3.—(1) In these Regulations—

"1990 Act" means the Environmental Protection Act 1990(**a**),

"1995 Act" means the Environment Act 1995(**b**),

(**a**) 1990 c.43.
(**b**) 1995 c.25.

"2000 Regulations" means the Pollution Prevention and Control (Scotland) Regulations 2000(**a**),

"Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC(**b**),

"EIA Directive" means Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification)(**c**),

"Hazardous Substances Regulation" means 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(**d**),

"Industrial Emissions Directive" means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast)(**e**),

"Landfill Regulations" means the Landfill (Scotland) Regulations 2003(**f**),

"Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste(**g**),

(2) An expression in relation to batteries defined in Article 3 of the Batteries Directive has the same meaning in these Regulations as in that Directive.

(3) A reference to any other term defined in the Industrial Emissions Directive has the same meaning in these Regulations as in that Directive.

Interpretation: best available techniques, etc.

4. In these Regulations—

"available techniques" means those techniques which have been developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the operator,

"BAT conclusions" means a document containing the parts of a BAT reference document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures,

"BAT reference document" means a document, resulting from the exchange of information organised for the purposes of Article 13 of the Industrial Emissions Directive, drawn up for defined activities and describing, in particular applied techniques, present emissions and consumption levels, techniques considered for the determination of best available techniques as well as BAT conclusions and any emerging techniques, giving special consideration to the matters listed in Schedule 3,

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(**a**) S.S.I. 2000/323; as amended by paragraph 7 of Part 2 of schedule 1 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), by S.I. 2007/2325, and by S.S.I. 2002/493, 2003/146, 170, 221 and 235, 2004/26, 110, 112 and 512, 2005/101, 340 and 510, 2006/127, 2008/410, 2009/247 and 336, 2010/236 and 2011/171, 226, 285 and 418, and 2012/148.

(**b**) OJ L 266, 26.9.2006, p.1, as amended by Directives 2008/12/EC (OJ L 76, 19.3.2008, p.39) and 2008/103/EC (OJ L 327, 5.12.2008, p.7).

(**c**) OJ L 175, 28.1.2012, p.40.

(**d**) OJ L No 353, 31.12.2008, p.1; as amended by Commission Regulation (EC) No 790/2009 (OJ L No 235, 5.9.2009, p.1) and Commission Regulation (EC) No 286/2011 (OJ L 83, 30.3.2011, p.1).

(**e**) OJ L 334, 17.12.2010, p.17.

(**f**) S.S.I. 2003/235; as amended by paragraph 8 of schedule 2 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and by S.S.I. 2003/343, 2009/247, 2010/60, 2011/226 and 2012/148.

(**g**) OJ L 312, 22.11.2008, p.3.

"best" means, in relation to techniques, most effective in achieving a high general level of protection of the environment as a whole,

"best available techniques" mean the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole,

"emerging technique" means a novel technique for an industrial activity that, if commercially developed, could when compared to existing best available techniques provide—

(a) a higher level of protection of the environment, or

(b) at least the same level of protection of the environment and higher cost savings,

"emission levels associated with the best available techniques" means the range of emission levels obtained under normal operating conditions using a best available technique, or combination of best available techniques, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions, and

"techniques" includes both the technology used and the way in which an installation is designed, built, maintained, operated and decommissioned.

SEPA: duties relating to best available techniques

5.—(1) SEPA must ensure that it follows or is informed of—

(a) developments in best available techniques, and

(b) the publication of any new or updated BAT conclusions.

(2) SEPA must where appropriate exercise its functions so as to encourage the development and application of emerging techniques, in particular for any technique identified in a BAT reference document.

(3) SEPA must have regard to any guidance by the Commission under Article 27 of the Industrial Emissions Directive relating to the development and application of emerging techniques.

SEPA: application forms

6. SEPA may require any application made to it under any provision of these Regulations to be made in writing on a form made available by SEPA.

SEPA: information relating to right of appeal

7. SEPA must, when issuing any decision or determination in respect of which there exists a right of appeal to the Scottish Ministers under these Regulations, inform all persons who have such a right of the existence of the right.

The Scottish Minsters and SEPA: service of notices

8.—(1) A notice served or given by the Scottish Ministers or by SEPA under these Regulations or the Landfill Regulations must be in writing.

(2) A notice may be served on or given to a person by leaving it at the proper address of the person or by sending it by post to that person at that address.

(3) A notice may—

(a) in the case of a body corporate, be served on the secretary or clerk of the body,

(b) in the case of a partnership, be served on or given to a partner or person having the control or management of the partnership business.

(4) For the purposes of this regulation, and of section 7 of the 1978 Act in its application to this regulation, the proper address of any person on or to whom any such notice is to be served or given is the last known address of that person, except that—

(a) in the case of a body corporate or their secretary or clerk, it is the address of the registered or principal office of that body,

(b) in the case of a partnership or person having the control or management of the partnership business, it is the principal office of the partnership.

(5) The principal office of a company registered outside of the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is their principal office within the United Kingdom.

(6) If the person to be served with or given any such notice has specified an address in the United Kingdom other than the proper address within the meaning of paragraph (4) as the address at which that person (or someone on behalf of that person) will accept notices of the same description as that notice, the specified address is also be treated for the purposes of this regulation and section 7 of the 1978 Act as the proper address of that person.

(7) In this regulation, "1978 Act" means the Interpretation Act 1978(**a**).

Electronic communications

9.—(1) In these Regulations—

(a) "writing" includes electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000(**b**), and

(b) a reference to a form includes an electronic form.

(2) Where an application is sent electronically—

(a) any fee, map or plan that is required to accompany the application may be sent to SEPA separately, and

(b) the application is not be treated as having being received by SEPA until the last thing so required has also been received.

PART II

COMPETENT AUTHORITY

SEPA: designation as competent authority

10. SEPA is designated as the competent authority responsible for carrying out the obligations arising from the Industrial Emissions Directive.

(**a**) 1978 c.30.
(**b**) 2000 c.7; section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).

PART III

GRANTING OF PERMITS

CHAPTER 1

General

Permits: requirement for a permit

11.—(1) This regulation applies to—

(a) a Part A installation,

(b) a Part B installation

(c) any mobile plant, and

(d) a solvents installation.

(2) No person may operate an installation or any plant to which this regulation applies except under, and to the extent, authorised by a permit.

Permits: interpretation

12.—(1) In these Regulations—

"Part A installation" means an installation where an activity listed under the heading "Part A" in any Section of Part 1 of Schedule 1 is carried out,

"Part B installation" means an installation where an activity listed under the heading "Part B" in any Section of that Part is carried out, other than a Part A installation,

"mobile plant" means plant which is—

(a) designed and intended to move or be moved regularly from place to place with a view to being used at each place (or if not so designed capable of being, and intended to be, so moved), and

(b) used to carry out an activity listed under the heading "Part B" in any Section of Part 1 of Schedule 1, and

"solvents installation" means an installation where an activity listed in the table in Part 1 of Schedule 2 is operated above the solvent consumption threshold for that activity (a "solvent emissions activity").

(2) An installation or mobile plant where an activity is carried out from time to time does not cease to require a permit in respect of the activity during those times when the activity is not carried out.

(3) An installation or mobile plant where an activity is described by reference to a threshold is such an installation or plant where the installed capacity is above the threshold, whether or not it is operated below the threshold.

(4) A Part B installation is not such an installation in respect of any activity which requires a waste management licence(**a**).

(5) For an installation—

(a) where an activity described in Part B of Section 1.1 of Part 1 of Schedule 1 is carried out, any associated storage, handling or shredding of tyres which are to be burned as part of that activity is not part of the activity,

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(**a**) 1990 c.43.

(b) where an activity described in paragraph (e) of Part B of Section 2.2 of Part 1 of Schedule 1 is carried out, any associated storage or handling of scrap which is to be heated as part of that activity (other than loading the scrap into a furnace) is not part of the activity,

(c) where an activity described in paragraph (a) of Part B of Section 5.1 of Part 1 of Schedule 1 is carried out, any associated storage or handling of wastes and residues which are to be incinerated is not part of the activity,

(d) where an activity described in Part B of Section 6.4 of Part 1 of Schedule 1 is carried out, any associated cleaning of used storage drums prior to painting or their incidental handling in connection with such cleaning is not part of the activity.

Permits: application for a permit

13.—(1) SEPA must on receiving a duly made application for a permit either—

(a) grant a permit subject to the conditions required, or authorised, to be imposed by or under these Regulations, or regulation 10 of the Landfill Regulations, or

(b) refuse the application.

(2) SEPA must refuse to grant an application for a permit if it considers that the applicant will not—

(a) be the person who will have control over the operation of the installation or mobile plant concerned after the grant of the permit, or

(b) ensure that the installation or mobile plant is operated so as to comply with the conditions which would be included in the permit.

(3) An application for a permit must be accompanied by any prescribed fee.

(4) An application for a permit may be withdrawn at any time before it is determined.

(5) Schedule 4 has effect.

Permits: authorised operations

14.—(1) A permit may authorise the operation of more than one—

(a) Part A installation,

(b) Part B installation,

(c) mobile plant, or

(d) solvents installation,

on the same site if operated by the same operator.

(2) Where the operation of mobile plant is authorised by a permit, and the—

(a) plant is used to carry out an activity on the site of an installation authorised by a separate permit, and

(b) mobile plant and installation permits impose different requirements as respects the carrying out of the activity,

the requirements of the installation permit shall prevail to the extent of any inconsistency in those requirements.

(3) Subject to paragraph (4), a permit for an installation must include a map or plan showing the site, and the location on the site, of the installation.

(4) A standard rules permit for an installation, other than a hybrid permit in respect of a standard installation, must include either—

(a) a plan as specified in paragraph (3), or

(b) the national grid reference number of the location of the installation.

Permits: powers to include conditions

15.—(1) SEPA may include a condition in a permit—

(a) imposing a limit on the amount or composition of any substance produced or utilised during the operation of the installation or mobile plant in any period, or

(b) which is supplemental or incidental to other conditions contained in the permit.

(2) SEPA may exercise the power in paragraph (1) separately from any requirement or power to include a condition in a permit provided for elsewhere in these Regulations.

(3) SEPA must not include any condition in a permit for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974(**a**)).

Permits: consolidation

16.—(1) SEPA may, where a permit is varied under regulation 46, or where a partial transfer, surrender or revocation of a permit is effected under regulations 47 to 50, replace the permit with a consolidated permit.

(2) SEPA may, where more than one permit is granted in respect of installations on the same site operated by the same operator, replace those permits with a consolidated permit.

(3) SEPA may, where more than one permit applies to mobile plant operated by the same operator, replace those permits with a consolidated permit.

Permits: greenhouse gas emissions

17.—(1) SEPA must not, where emissions of a pollutant from an installation are subject to conditions imposed for the purposes of regulation 10(2) and (3) of the ETS Regulations, include an emission limit value in a permit in respect of those emissions unless—

(a) the installation is an excluded installation for the purposes of regulation 11 of the ETS Regulations, or

(b) it considers the emission limit value is necessary to ensure that no significant local pollution is caused.

(2) SEPA may, in respect of an activity that is a Schedule 1 activity for the purpose of the ETS Regulations(**b**), choose not to impose a requirement under these Regulations relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide.

(3) Paragraph (2) does not apply to the requirement in regulation 29(1)(b).

(4) In this regulation—

"emission limit value" includes any parameter or technical measure referred to in regulation 25(3), and

"ETS Regulations" means the Greenhouse Gas Emissions Trading Scheme Regulations 2005(**c**).

Permits: fit and proper person

18.—(1) SEPA may grant a permit in respect of a specified waste management activity only if it is satisfied—

(a) that the applicant is a fit and proper person to carry out that activity, and

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(**a**) 1974 c.37.
(**b**) "Schedule 1 activity" is defined in regulation 2(1) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005.
(**c**) S.I. 2005/925, as relevantly amended by S.I. 2005/2903, 2006/737, 2007/465, 3433 and 3538, 2010/675, 1513 and 1996 and 2011/1506 and 2911.

(b) planning permission is in force under the 1997 Act where the use of the site for the activity requires such permission.

(2) A certificate under section 150 of the 1997 Act in relation to such use of the site is to be treated as if it were planning permission for that use.

(3) SEPA must determine whether a person is a fit and proper person by reference to ability of a person to fulfil the conditions of the permit which apply, or will apply, to the carrying out of that activity.

(4) A person is not a fit and proper person if, in particular, it appears to SEPA that—

(a) the person or a relevant person has been convicted of a relevant offence,

(b) the person has not made adequate financial provision (by way of security or an equivalent arrangement) to ensure that—

(i) obligations (including after-care provisions) arising from the permit in relation to the activity are met, and

(ii) any closure procedures required under the permit in relation to that activity are followed,

(c) the person and all staff engaged in carrying out such an activity will not be provided with adequate professional technical development and training, or

(d) the management of such an activity will not be in the hands of a technically competent person.

(5) Paragraph (4)(a) does not apply where SEPA considers it appropriate to treat the person as being a fit and proper person.

(6) Paragraph (4)(b) does not apply in respect of landfill sites specified in regulation 6 of the Landfill Regulations.

(7) In this regulation—

"1997 Act" means the Town and Country Planning (Scotland) Act 1997(**a**),

"relevant person" means, in relation to the holder or proposed holder of a permit—

(a) any person who has been convicted of a relevant offence carried out—

(i) in the course of that person's employment by the holder or proposed holder, or

(ii) in the course of the carrying on of any business by a partnership, one of the members of which was the holder or proposed holder,

(b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder was a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members), or

(c) where the holder or proposed holder is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members) and who—

(i) has been convicted of a relevant offence, or

(ii) was a person holding such an office in another body corporate at a time when a relevant offence for which that body corporate has been convicted was committed, and

"relevant offence" means an offence prescribed under section 74(6) of the 1990 Act(**b**) for the purposes of section 74(3)(a) of that Act.

(**a**) 1997 c.8.
(**b**) 1990 c.43; see regulation 3 of S.S.I. 2011/228.

Permits: transfer and cessation

19.—(1) A permit may be transferred only in accordance with regulation 47.

(2) A permit ceases to have effect only in accordance with regulations 48 to 50.

CHAPTER 2

Schedule 1 activities

Schedule 1 activities

20. Schedule 1 has effect.

Schedule 1: general principles

21.—(1) SEPA must on determining the conditions of a permit—

(a) take account of the general principles in paragraph (2), and

(b) in the case of a Part A installation, the additional general principles in paragraph (3).

(2) The general principles are that Part A installations, Part B installations and mobile plant should be operated in such a way that—

(a) all the appropriate preventative measures are taken against pollution, in particular through application of the best available techniques, and

(b) no significant pollution is caused.

(3) The additional general principles are that—

(a) installations should be operated in such a way that—

(i) waste generation is prevented, and where waste is produced it is, in order of priority and in accordance with the Waste Framework Directive prepared for re-use, recycled recovered or, where that is technically and economically impossible, disposed of while avoiding or reducing any impact on the environment,

(ii) energy is used efficiently, and

(iii) the necessary measures are taken to prevent accidents and limit their consequences, and

(b) the necessary measures are taken on final cessation of activities to avoid any pollution risk, and to return the site of the installation to a satisfactory state.

Schedule 1 conditions : best available techniques

22.—(1) It is a condition of a permit for a Part A or Part B installation or any mobile plant that the operator must use the best available techniques for preventing or, where that is not practicable, reducing emissions from an installation or mobile plant.

(2) Paragraph (1) does not apply to the extent that any other condition of a permit, or a standard rule which has effect as a standard rules condition, has the same effect.

Schedule 1 conditions: general provisions

23.—(1) SEPA must include in a permit for—

(a) a Part A installation the conditions SEPA considers appropriate—

(i) to comply with paragraph (2), and

(ii) to ensure, when taken with regulation 22, a high level of protection for the environment as a whole taking particular account for that purpose of the general principles in regulation 21, and

(b) a Part B installation or any mobile plant, the conditions SEPA considers appropriate, when taken with regulation 22, for the purpose of preventing or, where that is not practicable, reducing emissions into the air, taking particular account for that purpose of the general principles set out in regulation 21(2).

(2) A permit for a Part A installation must include conditions—

(a) aimed at minimising long distance or trans-boundary pollution,

(b) ensuring, where necessary, appropriate protection of the soil and groundwater including requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater,

(c) ensuring, where necessary, appropriate monitoring and management of waste produced by the installation,

(d) setting out the steps to be taken prior to the operation of the installation and after the definitive cessation of operations,

(e) relating to any period when the installation will not operate normally, including as required conditions relating to start up and shut down operations, leaks, malfunctions, momentary stoppages and definitive cessation of operations,

(f) setting out suitable emission monitoring requirements specifying measurement methodology, frequency, and evaluation procedure, including in particular—

(i) appropriate requirements in respect of the surveillance of measures taken to prevent emissions to soil and groundwater,

(ii) appropriate requirements in respect of the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found on the site, having regard for that purpose to the possibility of soil and groundwater contamination at the site,

(iii) ensuring, where regulation 25(7) applies, that results of emission monitoring are available for the same periods of time and for the same reference conditions as for the emission levels associated with the best available techniques,

(g) requiring the operator to supply SEPA regularly, and at least annually, with—

(i) the results of the monitoring of emissions, and

(ii) the other required data that enables SEPA to verify compliance with the permit conditions, and

(iii) where regulation 25(7) applies, a summary of the results of emission monitoring which allows a comparison with the emission levels associated with the best available techniques,

(h) requiring the operator to inform SEPA, without delay, of any incident or accident significantly affecting the environment, and

(i) in respect of assessment of compliance with the emission limit values.

(3) For the purposes of paragraph (2)(f)—

(a) emission monitoring requirements must where applicable be based on conclusions on monitoring as described in BAT conclusions, and

(b) periodic monitoring of—

(i) groundwater must be carried out at least every 5 years, and

(ii) soil must be carried out at least every 10 years,

unless such monitoring is based on a systematic appraisal of the risks of contamination of groundwater and soil.

Schedule 1 conditions: off-site conditions

24.—(1) SEPA may include in a permit for a Part A or Part B installation a condition requiring an operator to carry out works or do other things in relation to land not forming part of the site of

the installation (an "off-site condition"), whether or not the operator is not entitled to carry out such works or to do that thing in relation to the land.

(2) A person whose consent would be required to carry out such works, or to do that thing, must grant (or join in granting) the operator such rights in relation to the land as will enable the operator to comply with an off-site condition.

(3) Schedule 6 has effect.

Schedule 1 conditions: emission limit values and environmental quality standards

25.—(1) SEPA must ensure that a permit for a Part A or Part B installation or any mobile plant includes such conditions as it considers appropriate to comply with paragraphs (2) to (14).

(2) Subject to paragraph (3), a permit must include emission limit values for—

(a) polluting substances listed in Schedule 5, and

(b) other polluting substances,

likely to be emitted in significant quantities from an installation or any mobile plant, having regard for that purpose to the nature of the pollutant, and in the case of a Part A installation the potential for emissions to transfer pollution from one environmental medium to another.

(3) SEPA may supplement or replace an emission limit value by an equivalent parameter or technical measure ensuring an equivalent level of protection for the environment.

(4) An emission limit value must apply at the point at which the emissions leave the installation or mobile plant, any dilution before that point being disregarded for the purpose of determining the value.

(5) An emission limit value may apply to groups of pollutants rather than to individual pollutants.

(6) Where any BAT conclusions contain an emission level associated with the best available techniques described in the conclusions, an emission limit value must—

(a) ensure that, under normal operating conditions, emissions do not exceed the levels associated with the best available techniques laid down in the BAT conclusions, and

(b) be expressed for the same or a shorter period of time, and under the same reference conditions, as for the emission levels associated with the best available techniques.

(7) An emission limit value under paragraph (6) may be set at a different value, in terms of values, periods of time, and reference conditions, provided that SEPA—

(a) assesses the results of emissions monitoring at least annually,

(b) is satisfied on assessment that emissions under normal operating conditions have not exceeded the levels associated with the best available techniques during that period, and

(c) ensures that the results of emissions monitoring are available for the same period of time and reference conditions as for the emission levels associated with the best available techniques.

(8) Where any BAT conclusions describe best available techniques, but do not contain an emission level associated with the techniques, an emission limit value must—

(a) be determined by giving special consideration to the matters specified in Schedule 3, and

(b) ensure a level of environmental protection equivalent to the techniques described in the BAT conclusions.

(9) SEPA may set stricter permit conditions that those achievable by the use of best available techniques as described in BAT conclusions.

(10) Where there are no BAT conclusions for an activity, an emission limit value must be based on the best available techniques in relation to the installation or mobile plant concerned, as determined by giving special consideration to the matters specified in Schedule 3.

(11) Where an environment quality standard requires stricter conditions that those achievable by the use of best available techniques SEPA—

(a) must include additional measures or other emission limit values in a permit, and

(b) may include other measures to comply with the standard.

(12) SEPA may set a less strict emission limit value under paragraph (6) for an installation if—

(a) an assessment shows that achievement of the emission levels associated with the best available techniques as described in any BAT conclusions would lead to disproportionately higher costs compared to environmental benefits due to the—

(i) the geographical location or local environmental conditions of the installation, or

(ii) technical characteristics of the installation,

(b) the value set—

(i) does not exceed the emission limit values set out in the Annexes to the Industrial Emissions Directive, and

(ii) ensures that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved, and

(c) the permit specifies the reasons for setting the value, including the result of the assessment and the justification for the conditions imposed.

(13) SEPA may set a less strict emission limit value for an installation or any mobile plant than would otherwise be required under paragraphs (6), (8) or (10) for a total period not exceeding 9 months for the purpose of testing and use of an emerging technique.

(14) SEPA may take into account the effect of a waste water treatment plant when determining the emission limit values applying in relation to indirect releases into water from a Part A installation provided that—

(a) doing so does not lead to higher levels of pollution, and

(b) the permit ensures an equivalent overall level of protection of the environment.

(15) In this regulation, "less strict emission limit value" means a value that is less than the value that would otherwise be set if based on best available techniques.

Schedule 1 conditions: large combustion plants

26. SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of Chapter III and Annex V of the Industrial Emissions Directive.

Schedule 1 conditions: titanium dioxide

27. SEPA must ensure that a permit for an installation producing titanium dioxide contains such conditions as it considers necessary to give effect to the provisions of Chapter VI and Annex VIII of the Industrial Emissions Directive.

Schedule 1 conditions: mixing separately collected waste

28. SEPA must ensure that on or after 1st January 2014 a permit granted or varied for an activity described in Chapter 5 of Part 1 of Schedule 1, or in Section 6.8 of Chapter 6 of that Part, contains any condition SEPA considers necessary to ensure that no separately collected waste is mixed with any other waste or any material, to the extent that mixing would hamper further recycling.

Schedule 1 conditions: incineration and co-incineration of waste

29.—(1) SEPA must ensure that a permit granted or varied for the incineration or co-incineration of—

(a) waste contains such conditions as SEPA considers necessary to—

(i) give effect to the provisions of Chapter IV and Annex VI of the Industrial Emissions Directive,

(ii) ensure that on or after 1st January 2014 no separately collected waste capable of being recycled is incinerated or co-incinerated,

(b) waste with energy recovery contains such conditions as SEPA considers necessary to ensure that that the recovery of energy takes place with a high level of energy efficiency,

(c) municipal waste contains such conditions as SEPA considers necessary to ensure where practicable that no waste including non-ferrous metals or hard plastics is incinerated or co-incinerated.

(2) For the purposes of paragraph (1)(a)(i), paragraph 2.1(c) of Part 6 of Annex VI to the Industrial Emissions Directive is to be read as if for "and dioxins and furans" there is substituted "dioxins, furans, dioxin-like polychlorinated biphenyls and polycyclic aromatic hydrocarbons".

Schedule 1 conditions: incineration of batteries

30.—(1) SEPA must ensure that a permit for the incineration of waste contains a condition prohibiting the incineration of waste industrial and automotive batteries.

(2) Such a condition does not prohibit the incineration of residues of any batteries that have undergone both treatment and recycling, provided that the treatment and recycling—

(a) used best available techniques, in terms of the protection of health and the environment, and

(b) complied, at a minimum, with Union legislation, in particular as regards health and safety and waste management.

Schedule 1 conditions: waste oils

31.—(1) SEPA must ensure that a permit for an activity relating to waste oils contains a condition ensuring that, so far as technically feasible and economically viable—

(a) waste oils having different characteristics are not mixed, and

(b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(2) In this regulation, "waste oils" and "treatment" have the same meanings as in the Waste Framework Directive.

Schedule 1 conditions: volatile organic compounds

32.—(1) SEPA must ensure that a permit for a specified activity contains any condition SEPA considers necessary to ensure compliance with—

(a) Directive 94/63/EC of the European Parliament and Council on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**a**), and

(**a**) OJ L 365, 31.12.1994, p.24; as amended by Regulation (EC) No. 1882/2003 (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No. 1137/2008 (OJ L 311, 31.11.2008, p.1).

(b) Directive 2009/126/EC of the European Parliament and the Council on stage II petrol vapour recovery during the refuelling of motor vehicles at service stations(**a**).

(2) In this regulation, "specified activity" means an activity described in paragraphs (b) to (e) of Part B of Section 1.2 of Part 1 of Schedule 1.

CHAPTER 3

Schedule 2 activities

Schedule 2 activities

33. Schedule 2 has effect.

Solvents: conditions

34. SEPA must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions of Chapter V of and Annex VII to the Industrial Emissions Directive.

Solvents installations: abatement equipment

35.—(1) The operator of a solvents installation who proposes to install abatement equipment must apply for a variation under regulation 46, and must not install that equipment until after any variation is granted.

(2) Paragraph (1) does not apply where the total emissions of the solvents installation after installation will not exceed those which would have been permitted had the installation been subject to a permit containing conditions necessary to ensure compliance with Articles 59 to 62 of and, Annex VII to, the Industrial Emissions Directive.

PART IV

STANDARD RULES

Standard rules

36.—(1) A rule-making authority may make, revise or revoke rules ("standard rules") which apply to an installation or any mobile plant described in the rules.

(2) A rule-making authority must, when making or revising standard rules, ensure that the rules—

(a) give effect to the best available techniques for preventing, or where that is not practicable reducing, emissions from an installation or any mobile plant, and

(b) so far as relating to an activity set out in Annex I to the Industrial Emissions Directive, do not prescribe the use of any technique or specific technology in order to ensure compliance with Articles 14 and 15 of that Directive.

(3) A rule-making authority may only make or revise standard rules if it is satisfied that the operation of an installation or any mobile plant will, to the extent that it is covered by a standard rules condition, result in—

(a) the same level of environmental protection, and

(b) in the case of Part A installations, the same high level of integrated pollution prevention and control,

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(**a**) OJ L 285, 31.10.2009, p.36.

as would result were there no standard rules condition and the installation or mobile plant were operated under the conditions that would be included under Part II of these Regulations.

(4) A rule-making authority must—

(a) keep standard rules made by the authority under review, and

(b) revise any such rules whenever it considers necessary to do so in order to—

(i) follow developments in best available techniques, or

(ii) ensure compliance with the Industrial Emissions Directive.

(5) A rule-making authority must ensure that standard rules made by them contain a reference to the Industrial Emissions Directive.

(6) A reference to revising standard rules includes a partial revocation of the rules.

Standard rules: conditions

37.—(1) SEPA may specify in a permit for a standard installation or standard mobile plant that standard rules are to be conditions of the permit ("a standard rules condition").

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

(3) A standard rules condition may be combined with any other condition under Part III of these Regulations.

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

(5) If an installation or mobile plant becomes a standard installation or standard mobile plant, SEPA may vary the permit for the installation or plant so as to include a standard rules condition.

Standard rules: consultation

38.—(1) A rule-making authority must before making, revising or revoking standard rules consult—

(a) those persons appearing to the authority to be representative of the interests of those communities likely to be affected by the proposed rules, revision or revocation,

(b) those operators appearing to the authority to be likely to be so affected, and

(c) such other persons as appear to the authority to be likely to be affected by or otherwise have an interest in the proposed rules, revision or revocation.

(2) Paragraph (1) does not apply where the authority considers that a revision effects only minor administrative changes to standard rules.

Standard rules: rules by the Scottish Ministers

39. The Scottish Ministers must on making, revising or revoking standard rules—

(a) give notice to SEPA of that fact, and

(b) provide SEPA with a copy of the rules, the revision or the revocation.

Standard rules: publication

40.—(1) SEPA must publish any standard rules made by or notified to SEPA.

(2) A standard rules condition may be included in a permit from the day following the date of publication.

Standard rules: revision

41.—(1) SEPA must on standard rules being revised give notice to an operator with a standard rules permit of the—

(a) revision,

(b) date on which the revision is expected to be published, and

(c) date on which the revision is expected to take effect.

(2) SEPA must after giving such notice publish the—

(a) revision,

(b) standard rules as amended by the revision, and

(c) date on which the revision will take effect.

(3) A revision will take effect—

(a) if it makes only minor administrative changes, on the day following the date of publication, or

(b) in any other case, twelve weeks after that date.

Standard rules: revocation

42.—(1) SEPA must publish any revocation of standard rules made by or notified to it.

(2) SEPA must not include a standard rules condition relating to revoked rules in a permit after such publication.

(3) A standard rules condition included in a permit before any revocation will apply until the permit is varied, and the revoked rules continue to have effect in relation to the permit until the variation.

(4) SEPA must vary a permit affected by a revocation as soon as reasonably practicable after publication of the revocation.

Part IV: interpretation

43. In this Part of these Regulations, "publish" and cognate terms means publish on the SEPA web site.

PART V

REVIEW, VARIATION AND CESSATION OF PERMITS

Permits: review of conditions

44.—(1) SEPA must review the conditions of a permit—

(a) if pollution caused by an installation or mobile plant is of such significance that the emission limit values in the permit need to be revised, or new emission limit values need to be included,

(b) if the operational safety of the activities carried out in the installation or mobile plant requires other techniques to be used,

(c) where it is necessary to comply with a new or revised environmental quality standard in accordance with Article 18 of the Industrial Emissions Directive,

(d) within 4 years after the date of publication of BAT conclusions relating to the main activity of an installation if the permit relates to an activity in respect of which those conclusions were published, and

(e) where the permit relates to an activity not covered by any BAT conclusions and a development in best available techniques allows for the significant reduction of emissions at the installation or mobile plant.

(2) A review under paragraph (1)(d) or (e) must take into account all the new or updated BAT conclusions adopted under Article 13(5) of the Industrial Emissions Directive since the permit was granted, or last reviewed.

(3) SEPA must in addition periodically review the conditions of a permit.

(4) SEPA may review the conditions of a permit at any other time.

(5) SEPA must on carrying out a review—

(a) have regard to the results of emissions monitoring and other data that enables a comparison with the best available techniques (including if applicable techniques described in BAT conclusions), and

(b) ensure that the permit complies with the Industrial Emissions Directive, if necessary by variation or revocation of the permit.

Permits: proposed change in operation

45.—(1) An operator of an installation or mobile plant in respect of which a permit is granted must give notice to SEPA of a proposed change in operation (a "change notice") at least 14 days before making the change.

(2) A change notice must—

(a) be in writing, and

(b) contain a description of the proposed change in operation.

(3) SEPA must acknowledge receipt of a change notice.

(4) A change notice is not necessary if—

(a) the operator applies for a variation of the permit before a change in operation is made, and

(b) that application describes the proposed change.

(5) An operator must not make a change during any period beginning with the date of service on the operator of a notice under regulation 63(2) and ending on the date on which the operator provides the required information.

Permits: variation

46.—(1) SEPA must vary a permit if it considers it necessary to do so in order to ensure that the permit complies with Part II of these Regulations or regulation 10 of the Landfill Regulations.

(2) SEPA may vary the conditions of a permit at any other time.

(3) The operator of an installation or mobile plant in respect of which a permit is granted may in addition apply to SEPA for a variation of the permit.

(4) An application for variation must be accompanied by any prescribed fee.

(5) An application for variation may be withdrawn at any time.

(6) Regulation 18 applies to a variation that will authorise a specified waste management activity for the first time as if the variation were an application for a permit.

(7) Schedule 7 has effect.

(8) SEPA must on varying a permit give notice to the operator (a "variation notice") specifying the—

(a) variation of the conditions of the permit, and

(b) date on which the variation is to take effect,

and unless the variation notice is withdrawn it has effect on the date so specified.

(9) A variation notice must, unless the notice relates to an application for variation, require the operator to pay the fee within the period specified in the notice.

(10) SEPA must give notice to the operator if an application for variation is refused.

(11) This regulation and Schedule 7 apply to a variation of a provision of a permit in the same manner as they apply to the variation of a condition.

Permits: transfer

47.—(1) SEPA may transfer all or part of a permit to another person where paragraphs (2) or (3) apply.

(2) This paragraph applies where the existing and proposed permit holders make a joint application to SEPA to approve the transfer of all or part of a permit.

(3) This paragraph applies where SEPA considers that all or part of a permit should be transferred to a new holder, and the proposed holder consents to the transfer.

(4) An application for a transfer must be accompanied by the permit and by any prescribed fee.

(5) An application for a transfer must include the address, telephone number and email address for each of the existing and proposed permit holders and (if different) a correspondence address.

(6) An application for a partial transfer must—

(a) identify the installation or mobile plant to which the transfer applies, and

(b) in the case of an installation, include a map or plan identifying the part of the site to which the application relates.

(7) An application for the transfer of a permit in respect of a specified waste management activity must include any information that it is intended SEPA should consider when determining whether the transferee is a fit and proper person, and for that purpose regulation 18 applies to a transfer in the same manner as it applies to the grant of a permit.

(8) SEPA must approve an application for transfer unless it considers that the—

(a) proposed holder will not be the person with control of the operation of the installation or mobile plant after any transfer,

(b) in the case of a permit authorising the carrying out of a specified waste management activity, the proposed holder is not a fit and proper person for the purposes of regulation 18, or

(c) the proposed holder will not ensure compliance with the permit conditions.

(9) SEPA must effect a transfer—

(a) in the case of a partial transfer—

(i) by issuing a new permit to the proposed holder for that part of the installation or mobile plant to which the transfer relates, and

(ii) returning the original permit to the existing holder endorsed in respect of the transfer and any variation of the permit conditions,

(b) in any other case, by endorsing the permit in respect of the new holder and any variation of the permit conditions.

(10) A transfer of all or part of a permit has effect on the date specified in the permit or the endorsement, provided that where paragraph (2) applies the date must be as agreed by the existing and proposed permit holders.

(11) SEPA may vary the conditions of a permit only if it considers it necessary to do so to take account of the transfer.

(12) SEPA must where paragraph (2) applies give notice to the existing and proposed permit holders if it decides not to approve the transfer.

(13) The existing permit holder may by notice to SEPA hold the application as being refused if SEPA have failed to make a determination within the specified period.

(14) In paragraph (13), the specified period is the period of two months beginning with the date of receipt of an application under paragraph (2), or such longer period as SEPA may agree in writing with the existing and proposed permit holders.

Permits: surrender of a Part A permit

48.—(1) The operator of a Part A installation may apply to SEPA to surrender all or part of a permit for the installation.

(2) An application must be accompanied by the permit and any prescribed fee.

(3) An application must provide—

(a) the telephone number, address and email address of the operator and (if different) a correspondence address,

(b) in the case of a partial surrender, a description of the part to be surrendered including a map or plan of the site,

(c) a report describing the condition of the site affected by the surrender (the "closure report"), identifying in particular any changes from the condition of the site as described in the—

(i) site report, and

(ii) where applicable, the baseline report,

(d) a description of the steps that have been taken to avoid pollution risks from the site, including any steps that have been taken to—

(i) return the site to a satisfactory state, and

(ii) remove, control, contain or reduce any relevant hazardous substance in soil and groundwater.

(4) SEPA may by notice—

(a) require the operator to provide further information in relation to the site as specified in the notice within the period so specified,

(b) treat the application as having been withdrawn if the information is not provided within that period.

(5) SEPA must determine an application within—

(a) the 3 month period beginning on the date of receipt of the application, or

(b) such longer period as SEPA and the operator may agree in writing.

(6) The 3 month period does not include any period beginning with the date on which notice under paragraph (4)(a) is served and ending on the date on which the information is provided.

(7) The operator may by notice to SEPA hold the application as being refused at the end the period provided for under paragraph (5) if SEPA have failed to make a determination within that period.

(8) SEPA must approve an application if it is satisfied that all appropriate measures have been taken to—

(a) avoid pollution risk resulting from the operation of the installation,

(b) return the site to a satisfactory state, taking into account the technical feasibility of the measures,

(c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its the current or approved future use, ceases to pose a significant risk to human health or the environment.

(9) SEPA must give notice of approval or rejection of the application to the operator (the "determination notice").

(10) If the application is approved the permit (or part of the permit) ceases to have effect on the date specified in the determination notice.

(11) SEPA may vary a condition of the permit if it considers it necessary to do so as a result of approval of a partial surrender, and the condition as varied has effect on the date specified in the determination notice.

(12) In this regulation a reference to any relevant hazardous substance only includes such a substance that is in soil or groundwater as a result of the permitted activities.

(13) In this regulation—

"Part A installation" does not include that part of an installation where a relevant waste activity is carried out,

"pollution risk" includes—

(a) subject to sub-paragraph (b), only those risks arising from the carrying out of an activity under the permit after the date of the permit,

(b) in respect of a specified waste management activity, only those risks arising after the relevant date,

"relevant date" means—

(a) where an activity was carried out under a waste management licence that ceased to have effect under section 35(11A) of the 1990 Act(**a**) on the date of the permit, the date of the licence, or

(b) the date of the permit,

"relevant waste activity" means the incineration of non-hazardous waste—

(a) in an incineration plant with a capacity of less than 1 tonne per hour, or

(b) in a co-incineration plant, unless the incineration is carried out as part of any other Part A activity,

"waste management licence" has the same meaning as in section 35(12) of the 1990 Act, and includes a disposal licence which is treated as a site licence by virtue of section 77(2) of that Act.

Permits: notification of surrender of an installation or mobile plant permit

49.—(1) This regulation applies where an operator of an installation, other than a Part A installation for the purposes of regulation 48 or any mobile plant ceases or intends to cease operation of all or part of the installation or mobile plant.

(2) An operator may give notice to SEPA of the surrender of all or any part of a permit.

(3) A notice under paragraph (2) (a "surrender notice") must include—

(a) the operator's telephone number, address and email address and (if different) a correspondence address,

(b) in the case of a partial surrender of a permit applying to a Part B installation, a description of the surrender unit and a map or plan identifying the part of the site used for the operation of the surrender unit,

(c) in the case of a partial surrender of a permit applying to mobile plant, a list of the mobile plant to which it applies, and

(d) the date on which the surrender is to take effect.

(4) The date on which the surrender is to take effect must be at least 28 days after the date on which the surrender notice is served on SEPA.

(5) A permit ceases to have effect—

(a) on the date specified in the surrender notice, or

(**a**) 1990 c.43. Section 35(11A) of the 1990 Act was inserted by S.S.I. 2000/323.

(b) to the extent of the surrender in the case of partial surrender—

(i) on that date, or

(ii) where paragraph (6) applies, on the later of that date or the date of variation of the remaining part of the permit.

(6) SEPA must if it considers it necessary to vary the conditions of the permit to take account of a partial surrender—

(a) give notice to the operator that it intends to vary the permit, and

(b) serve a variation notice on the operator under regulation 46.

Permits: revocation of permits

50.—(1) SEPA may at any time revoke all or part of permit by serving a notice ("a revocation notice") on the operator.

(2) SEPA may in particular serve a revocation notice where—

(a) a permit authorises the carrying out of a specified waste management activity and it appears to SEPA that the operator has ceased to be a fit and proper person by reason of—

(i) the operator or a relevant person having been convicted of a relevant offence within the meaning of regulation 18, or

(ii) the management of the activity has ceased to be in the hands of a technically competent person,

(b) the holder of the permit has ceased to be the operator of the installation or plant covered by the permit.

(3) A revocation notice may—

(a) revoke a permit entirely,

(b) revoke a permit only to the extent that it authorises the operation of some of the installations or mobile plant to which it applies,

(c) revoke a permit only to the extent that it authorises the carrying out of some of the activities which may be carried out in an installation or by means of mobile plant to which it applies.

(4) A revocation notice must specify—

(a) the date on which the revocation takes effect (which must be at least 28 days after the date on which the notice is served), and

(b) in the case of a partial revocation, the extent to which the permit is being revoked.

(5) Where a permit for a Part A installation is revoked under paragraph (3)(a) or (b), and SEPA considers that the operator must take steps in respect of the installation once no longer operating to—

(a) avoid any pollution risk resulting from the operation of the installation on the site,

(b) return the site to a satisfactory state, taking into account the technical feasibility of the steps, or

(c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its the current or approved future use, ceases to pose a significant risk to human health or the environment,

the revocation notice must specify any steps that must be taken in respect of the site (or part of the site where applicable) that are further to those required by the permit.

(6) Subject to regulation 58(10) and paragraph (7), a permit ceases to have effect in whole or part from the date specified in the notice.

(7) Where paragraph (5) applies, the permit—

(a) continues to have effect in so far as it requires steps to be taken until SEPA issues a certificate of completion stating that it is satisfied that the steps have been taken, and.

(b) any steps specified under paragraph (5) are to be treated as conditions of the permit, and regulations 46, 55, and 67 apply in relation to such steps, and to any other conditions in the permit which require steps to be taken until SEPA issues a certificate of completion.

(8) SEPA may withdraw a revocation notice before the date on which the revocation has effect.

(9) Regulation 48(12) applies for the purpose of deciding in this regulation whether a pollution risk results from the operation of a Part A installation as it applies for the purposes of regulation 48.

PART VI

COMPLIANCE

SEPA: duty to ensure compliance

51. SEPA must take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of a permit are complied with.

Operators: duty to report breach of permit

52. An operator of an installation or any mobile plant must immediately give notice to SEPA of any breach of a condition of the permit for the installation or mobile plant.

SEPA: environmental inspection plan

53.—(1) SEPA must maintain an environmental inspection plan in respect of Part A installations.

(2) An environmental inspection plan must—

(a) include a general assessment of relevant significant environmental issues,

(b) state the geographical area, and the installations, covered by the plan,

(c) provide for the carrying out of environmental inspections, and

(d) provide for the frequency of environmental inspections.

(3) An environmental inspection plan may be comprised of one or more plans, documents or strategies, and may be prepared at a national, regional or local level.

(4) SEPA must regularly review, and where appropriate update or replace, an environmental inspection plan.

SEPA: environmental inspection of Part A installations

54.—(1) SEPA must carry out an environmental inspection of a Part A installation.

(2) SEPA must, in particular, ensure that an environmental inspection is carried out—

(a) to investigate as soon as possible—

(i) serious environmental complaints,

(ii) serious environmental accidents, and

(iii) incidents and occurrences of non-compliance, and

(b) where appropriate, before granting a permit and on the review or variation of a permit.

(3) The period between site visits for the purpose of an environmental inspection must be based on a systematic appraisal of risk, and must not exceed—

(a) one year for an installation posing the highest risk,

(b) three years for an installation posing the lowest risk.

(4) An additional site visit must take place within 6 months of the identification in an environmental inspection of an important case of non-compliance with permit conditions.

(5) SEPA must prepare a report on a site visit (a "site visit report") describing its—

(a) findings regarding compliance with the permit, and

(b) conclusions on whether any further action is needed.

(6) SEPA must notify a site visit report to the operator of the installation within 2 months of the site visit taking place.

(7) SEPA must include the particulars of a site visit report in the register within 4 months of the site visit taking place.

(8) In this regulation, "systematic appraisal of risk" means an appraisal by SEPA of the environmental risks of an installation based on—

(a) the potential and actual impacts on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment, and the risk of accidents,

(b) the record of compliance with permit conditions, and

(c) participation by the operator in the Union eco-management and audit scheme under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)(**a**).

SEPA: enforcement notices

55.—(1) SEPA may serve a notice (an "enforcement notice") on the operator of an installation or mobile plant in respect of which a permit is granted if it considers that—

(a) the operator has contravened, is contravening, or is likely to contravene any condition of a permit, or

(b) an incident or accident significantly affecting the environment has occurred as a result of the operation of the installation or mobile plant.

(2) An enforcement notice served under sub-paragraph (a) of paragraph (1) must—

(a) state why SEPA consider that there is, or is likely to be, such a contravention,

(b) specify the matter constituting the contravention, or making it likely that the contravention will arise (as the case may be), and

(c) specify the steps the operator must take to remedy the contravention, or to remedy the matter making it likely that the contravention will arise (as the case may be).

(3) An enforcement notice served under sub-paragraph (b) of paragraph (1) must specify the steps that the operator must take—

(a) to limit the environmental consequences of the incident or accident, and

(b) to prevent further possible incidents or accidents.

(4) An enforcement notice must specify the period within which steps must be taken.

(5) The steps that may be specified in an enforcement notice may, without prejudice to the generality of paragraph (3), include steps that must be taken to remedy the effects of any pollution caused by the contravention.

(6) The operator of the installation or mobile plant must comply with an enforcement notice.

(7) SEPA may withdraw an enforcement notice at any time.

(**a**) OJ L 342, 22.12.2009, p.1.

SEPA: suspension notices

56.—(1) SEPA must give notice under this regulation to the operator of an installation or any mobile plant if it considers that any aspect of the operation of the installation or mobile plant—

(a) poses an immediate danger to human health,

(b) threatens to create an immediate significant adverse effect upon the environment, or

(c) involves some other risk of serious pollution.

(2) Paragraph (1) does not apply where SEPA intends to arrange for steps to be taken under regulation 57(1) in relation to such operation of the installation or mobile plant.

(3) Paragraph (1) applies whether or not the particular manner of operation is regulated by, or contravenes, a condition of the permit.

(4) SEPA may give notice under this regulation to an operator carrying out specified waste management activities if it considers that the operator has ceased to be a fit and proper person in relation to those activities by reason of management of the activities having ceased to be in the hands of a technically competent person.

(5) A notice under paragraph (1) or (4) (a "suspension notice") must—

(a) state why SEPA considers that the suspension notice is required,

(b) in the case of a suspension notice under paragraph (1), specify—

(i) the nature of the harm that is being (or may be) caused by the operation of the installation or mobile plant,

(ii) the steps that must be taken to remedy the harm or remove a risk, and

(iii) the period within which those steps must be taken,

(c) state the extent to which the permit ceases to have effect to authorise the operation of the installation or mobile plant, or the carrying out of an activity in the installation or by means of the mobile plant, and

(d) where the permit is to continue to have effect to authorise an activity any steps, in addition to those already required under the permit, that are to be taken in carrying out that activity.

(6) The operator of the installation or mobile plant must comply with a suspension notice.

(7) A permit ceases to have effect, to the extent stated in the suspension notice, on service of the notice.

(8) SEPA may withdraw a notice at any time, and must withdraw a notice if satisfied—

(a) in the case of a notice under paragraph (1), that the steps required by the notice to remove the risk of pollution have been taken,

(b) in the case of a notice under paragraph (4), that the management of the activities is in the hands of a technically competent person.

SEPA: power to prevent or remedy pollution

57.—(1) SEPA may arrange for steps to be taken to remove an imminent risk of serious pollution if it considers that the operation of any installation or mobile plant regulated by a permit, or the operation in a particular manner, involves such a risk.

(2) SEPA may arrange for steps to be taken towards remedying the effects of pollution caused by the commission of an offence under regulation 67(1)(a), (b) or (d).

(3) SEPA must, at least seven days before steps are taken under paragraph (2), give notice to the operator of those steps.

(4) SEPA may recover the cost of taking steps under this regulation from the operator of the installation or mobile plant concerned.

(5) Paragraph (4) does not apply in respect of costs—

(a) for steps taken under paragraph (1), if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken,

(b) which the operator shows to have been unnecessarily incurred by SEPA.

PART VII

APPEALS

Appeals to the Scottish Ministers and to the sheriff

58.—(1) A person—

(a) who has been refused a permit after an application under regulation 13,

(b) who has been refused the variation of a permit after an application under regulation 46,

(c) who is aggrieved by the conditions attached to a permit granted to that person—

(i) after application under regulation 13, or

(ii) by a variation notice following an application under regulation 46,

(d) whose application for a transfer under regulation 47 has been refused, or who is aggrieved by the conditions attached to a permit to take account of such transfer,

(e) whose application under regulation 48 to surrender a permit has been refused, or who is aggrieved by the conditions attached to that person's permit to take account of the surrender,

(f) whose request to begin closure procedure is not approved under regulation 17(3)(b) of the Landfill Regulations,

(g) who is aggrieved by a decision under paragraph 1(3)(b) of Schedule 5 to the Landfill Regulations,

may appeal against the decision of SEPA to the Scottish Ministers.

(2) A person—

(a) who is served with a variation notice (other than in respect of an application for variation),

(b) a revocation notice,

(c) an enforcement notice,

(d) a suspension notice, or a

(e) closure notice under regulation 18(1) of the Landfill Regulations,

may appeal against the notice to the Scottish Ministers.

(3) Paragraphs (1) and (2) do not apply where the decision or notice (as the case may be) gives effect to a direction under paragraph (4), or under—

(a) regulation 60,

(b) paragraph 19(7) of Schedule 4, or

(c) paragraph 6(7) of Schedule 7.

(4) On determining an appeal against a decision of SEPA under paragraph (1), the Scottish Ministers may—

(a) affirm the decision,

(b) where the decision was a refusal to grant a permit or to vary the conditions of a permit, direct SEPA to grant the permit or to vary the conditions of the permit,

(c) where the decision was as to the conditions attached to a permit, quash all or any of the conditions of the permit,

(d) where the decision was a refusal to effect the transfer or accept the surrender of a permit, direct SEPA to effect the transfer or accept the surrender,

and the Scottish Ministers may give directions as to the conditions to be attached to the permit. where they exercise a power in sub-paragraph (b) or (c).

(5) On determining an appeal against a notice under paragraph (2), the Scottish Ministers may—

(a) quash or affirm the notice,

(b) if affirming it, may do so either in its original form or with such modifications as they think fit.

(6) An appeal may be taken to the sheriff against a determination by the Scottish Ministers under paragraphs (4) and (5) by—

(a) SEPA, or

(b) any person referred to in paragraphs (1) or (2) who is affected by the determination.

(7) The appeal referred to in paragraph (6) must be made by summary application within 21 days from the date of the decision of the Scottish Ministers.

(8) In disposing of an appeal taken under paragraph (6), the sheriff may take any step open to the Scottish Ministers under paragraphs (4) and (5).

(9) The determination or disposal of an appeal which relates to a decision to include in a permit a standard rules condition does not affect the continued validity of the relevant standard rules.

(10) In an appeal under—

(a) paragraph (1)(c), (d) or (e) in relation to a conditions attached to a permit, the bringing of the appeal does not suspend the operation of the condition, and

(b) paragraph (2), the bringing of the appeal does not suspend the operation of an enforcement notice, a suspension notice or a variation notice.

(11) In an appeal under paragraph (2) against a revocation notice, the notice if affirmed does not take effect until—

(a) expiry of the period referred to in paragraph (7), or

(b) withdrawal of the appeal.

(12) In an appeal under paragraph (1)(g) in relation to closure procedure, or under paragraph (2) against a closure notice, the closure procedure may not begin until—

(a) determination of the appeal, or

(b) withdrawal of the appeal.

(13) Where the Scottish Ministers give directions as to a condition to be included in a permit—

(a) Part II of these Regulations, and

(b) regulation 37, or the appropriate provisions of regulation 10 of the Landfill Regulations,

apply as if SEPA were determining whether to include the condition.

(14) Schedule 8 has effect.

(15) In an appeal under paragraph (1)(g) where a waste management licence ("a licence") is in force, this regulation and Schedule 8 apply as if a reference—

(a) to a permit is a reference to a licence,

(b) to an operator is a reference to a licence holder, and

(c) to an installation or mobile plant is a reference to a landfill.

Interest for the purposes of the Industrial Emissions Directive

59. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law is deemed to have an interest for the purposes of Article 25(1)(a) of the Industrial Emissions Directive, and rights capable of being impaired for the purposes of Article 25(1)(b) of that Directive.

PART VIII

THE SCOTTISH MINISTERS

Scottish Ministers: directions to SEPA

60.—(1) The Scottish Ministers may give a direction to SEPA of a general or specific character with respect to the carrying out of its functions under these Regulations or the Landfill Regulations.

(2) Without prejudice to paragraph (1), the Scottish Ministers may direct SEPA—

(a) to exercise (or refrain from exercising) any functions under these Regulations or the Landfill Regulations,

(b) to exercise (or refrain from exercising) any function in such circumstances, or in such manner, as may be specified,

(c) as to the objectives which are to be achieved by any condition of a permit.

(3) Where the Scottish Ministers receive information under Article 26(1) of the Industrial Emissions Directive in relation to the operation of an installation outside of the United Kingdom, they must direct SEPA to take such steps as SEPA consider appropriate for the purposes of—

(a) bringing the information to the attention of the persons in Scotland likely to be affected by the operation of the installation, and

(b) providing such persons with an opportunity to comment on that information.

(4) Any direction given under these Regulations must be in writing and may be varied or revoked by a further direction.

(5) It is the duty of SEPA to comply with any direction which is given to it under these Regulations.

Scottish Ministers: guidance to SEPA

61.—(1) The Scottish Ministers may issue guidance to SEPA with respect to the carrying out of any of its functions under these Regulations or the Landfill Regulations.

(2) In carrying out any of its functions under these Regulations or the Landfill Regulations, SEPA must have regard to any guidance issued by the Scottish Ministers under this regulation.

Scottish Ministers: emission plans

62.—(1) Subject to paragraph (3), the Scottish Ministers may make plans for—

(a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source within Scotland,

(b) the allocation of quotas relating to such emissions.

(2) Where the Scottish Ministers allocate a quota in a plan made under paragraph (1), they may also make a scheme for the trading or other transfer of the quota so allocated.

(3) This regulation does not apply to an emission plan.

(4) In this regulation—

(a) "emission" means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land, and

(b) "emission plan" has the meaning given in the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**a**).

(**a**) S.I. 2007/2325; as amended by S.I. 2007/3476 and 3538 and 2010/675.

PART IX

INFORMATION AND PUBLICITY

Scottish Ministers and SEPA: powers in respect of information

63.—(1) The Scottish Ministers may by written notice require SEPA to provide such information about the discharge of a function of SEPA under these Regulations or the Landfill Regulations as is specified in the notice.

(2) The Scottish Ministers or SEPA may by written notice, for the purposes of the discharge of their functions under these Regulations or the Landfill Regulations, require any person to provide such information as is specified in the notice, in such form and within such period as is specified in the notice.

(3) For the purposes of this regulation the—

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

(b) compilation of an inventory of emissions (whether or not from installations or mobile plant) is treated as a function of SEPA under these Regulations.

(4) The information which a person may be required to furnish under paragraph (2) does include information on emissions 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 compile for the purpose of complying with the notice.

SEPA: public register

64.—(1) Subject to regulations 65 and 66 and to paragraphs 2 to 4 of Schedule 9, SEPA must maintain a register ("the register") containing the particulars described in paragraph 1 of that Schedule.

(2) Where, by virtue of regulation 66, information of any description is excluded from the register under this regulation, a statement must be entered in the register indicating the existence of information of that description.

(3) SEPA must—

(a) secure that the register is available, at all reasonable times, for inspection by the public free of charge, and

(b) afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(4) The register may be kept in any form.

(5) The Scottish Ministers may give SEPA directions requiring the removal from the register of any specified information—

(a) not prescribed for inclusion by paragraph 1 of Schedule 9, or

(b) which, under regulation 66, ought to have been excluded from the register.

Register: exclusion of information affecting national security

65.—(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.

(**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.

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

Register: exclusion of confidential information

66.—(1) No information relating to the affairs of any individual or business may be included in the register without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

(a) is, in relation to that individual or person, commercially confidential, and

(b) is not required to be included in the register in pursuance of a direction under paragraph (9),

but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by SEPA or, as the case may be, on appeal.

(2) Where information is furnished to SEPA for the purpose of these Regulations, the person furnishing it may apply 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) and SEPA must determine whether the information is or is not commercially confidential.

(3) Notice of determination under paragraph (2) must be given to the applicant within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) SEPA is deemed to have determined, at the end of the period referred to in sub-paragraph (a), that information is not commercially confidential if—

(a) it fails to give notice of determination of an application under paragraph (2) within the period allowed by or under paragraph (3), and

(b) the applicant notifies SEPA in writing that it has so failed.

(5) Subject to section 113 of the 1995 Act, where it appears to SEPA that any information which has been obtained by it under or by virtue of any provision of these Regulations and is required to be included in the register, unless excluded under this regulation, might be commercially confidential, SEPA must (unless the information is the subject of an application under paragraph (2))—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in the register, unless excluded under this regulation, and

(b) give that person a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential, and

(ii) of making representations to SEPA for the purpose of justifying any such objection,

and if representations are made SEPA must, having taken the representations into account, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under paragraph (2) or (5), SEPA determines that information is not commercially confidential—

(a) the information must not be entered in the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under paragraph (4), as the case may be, and

(b) that person may, before the end of that period, appeal to the Scottish Ministers against the decision,

and, where an appeal is brought under this regulation in respect of any information, the information must not be entered in the register until the end of the period of 21 days following the day on which the appeal is finally determined or is withdrawn.

(7) A person who wishes to appeal to the Scottish Ministers under paragraph (6) must—

(a) give the Scottish Ministers notice of the appeal together with—

(i) a statement of the grounds of appeal, and

(ii) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing, or to be disposed of by way of written representations, and

(b) send SEPA, at the same time, a copy of that notice and those statements.

(8) The Scottish Ministers—

(a) may, before giving notice of their determination of an appeal under paragraph (6), afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by them and must do so in any case where a request is duly made by the appellant or SEPA to be so heard, and

(b) must, when issuing their determination, advise the appellant of the right of appeal under paragraph (13).

(9) The Scottish Ministers may give to SEPA a direction as to specified information, or descriptions of information, which the public interest requires to be included in the register notwithstanding that the information may be commercially confidential.

(10) Information excluded from the register ceases to be commercially confidential at the end of—

(a) the period of four years beginning with the date of the determination by virtue of which it was excluded,

(b) such shorter period as may be specified in the notice of that determination for the purpose of this paragraph,

provided that the person who provided the information may apply to SEPA for the information to remain excluded on the ground that it should be treated as commercially confidential, and SEPA must determine whether or not that is the case.

(11) Paragraphs (6) to (8) apply in relation to a determination under paragraph (10) as they apply in relation to a determination under paragraph (2) or (5).

(12) Information is, for the purposes of any determination under this regulation, commercially confidential in relation to any individual or other person if including it in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

(13) SEPA, or the person referred to in paragraph (6)(a), may appeal to the sheriff against the decision of the Scottish Ministers made under that paragraph.

(14) An appeal under paragraph (13) is by summary application, and must be made within 21 days of the decision of the Scottish Ministers under paragraph (6).

PART X

PROVISION AS TO OFFENCES

Offences

67.—(1) It is an offence for a person—

(a) to contravene regulation 11,

(b) to fail to comply with or to contravene a condition of a permit,

(c) to fail to comply with regulation 45(1),

(d) to fail to comply with the requirements of—

(i) an enforcement notice,

(ii) a suspension notice, or

(iii) a closure notice under regulation 18(1) of the Landfill Regulations,

(e) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under regulation 63(2),

(f) to fail, without reasonable excuse, to comply with regulation 52,

(g) to make a statement which that person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations or the Landfill Regulations, or

(ii) for the purpose of obtaining the grant of a permit issued under these Regulations to that person or any other person, or

(iii) for the purpose of obtaining the variation, transfer or surrender of a permit,

(h) intentionally to make a false entry in any record required to be kept under a condition of a permit,

(i) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a permit, or required for any purpose under such a condition, or to make or possess a document so closely resembling any such document as to be likely to deceive,

(j) to fail to comply with an order made by a court under regulation 70,

(k) to fail to comply with Part 3 of Schedule 2.

(2) A person guilty of an offence under sub-paragraph (a), (b), (d), (f) or (j) of paragraph (1) is liable—

(a) on summary conviction, to a fine not exceeding £40,000 or to imprisonment for a term not exceeding twelve months, or to both,

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(3) A person guilty of an offence under sub-paragraph (c), (e) or (g) to (k) of paragraph (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) Where an offence under this regulation is committed by a body corporate or a partnership and is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) a person who was purporting to act in any such capacity (or, in the case of a partnership, a partner or a person who was purporting to act as such),

that person as well as the body corporate or the partnership (as the case may be) is guilty of that offence and is liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to the acts or defaults of a member in connection with the functions of management of that member as if that member were a director of the body corporate.

(6) Where the commission by any person of an offence under this regulation 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 paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

Courts: enforcement

68. SEPA may, if it considers that proceedings for an offence under regulation 67(1)(d) would not afford an effective remedy against a person who has failed to comply an enforcement notice or a suspension notice, take proceedings in any court of competent jurisdiction for the purpose of securing compliance with such a notice.

Courts: admissibility of evidence

69.—(1) A statement by an operator made to SEPA for the purposes of complying with regulation 52 may only be used in a prosecution for an offence under regulation 67(1)(f) where in giving evidence the operator makes a statement inconsistent with it.

(2) Where—

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

(b) the entry has not been made,

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

Courts: power to order cause of offence to be remedied

70.—(1) Where a person is convicted of an offence under regulation 67(1)(a), (b) or (d) in respect of any matters which appear to the court to be matters which it is in the power of that person to remedy, the court may, in addition to or instead of imposing any punishment, order that person, within such time as may be fixed by the order of the court, to take such steps as may be specified in that order for remedying those matters.

(2) 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 as originally fixed or extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matter, that person is not liable under regulation 67 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 (2).

PART XI

CROWN APPLICATION, ETC

Application to the Crown

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

(2) No contravention by the Crown of any provision of these Regulations or the Landfill Regulations makes the Crown criminally liable for the contravention, and no proceedings may be taken against the Crown under these Regulations, but the Court of Session may on an application

by SEPA declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) The provisions of these Regulations and the Landfill Regulations apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State has certified in relation to functions under these Regulations or the Landfill Regulations that it is requisite or expedient in the interests of national security that powers of entry exercisable under section 108 of the 1995 Act should not be exercisable in respect of premises held or used by or on behalf of the Crown, then those powers are not so exercisable.

(5) The following persons are treated as if they were the operator of the installation or mobile plant concerned for the purpose of any notice served or given or any proceedings instituted in relation to an installation or mobile plant operated or controlled 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 installation or mobile plant operated or controlled by a person acting on behalf of the Royal Household, the Keeper of the Privy Purse,

(b) in relation to an installation or mobile plant operated or controlled by a person acting on behalf of the Duchy of Lancaster, such person as the Chancellor of the Duchy appoints in relation to that installation or mobile plant,

(c) in relation to an installation or mobile plant operated or controlled 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 installation or mobile plant.

Transitional provisions

72. Schedule 10 has effect.

Consequential amendments

73. Schedule 11 has effect.

Revocations

74. Schedule 12 has effect.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

SCHEDULE 1

Regulations 2, 12 and 20

ACTIVITIES AND INSTALLATIONS AND MOBILE PLANT

PART 1

ACTIVITIES

CHAPTER 1: ENERGY INDUSTRIES

SECTION 1.1 *Combustion*

PART A

Burning any fuel in a combustion appliance with a rated thermal input of 50 megawatts or more.

Interpretation of Part A

For the purposes of Part A, where two or more appliances with an aggregate rated thermal input of 50 megawatts or more are operated on the same site by the same operator those appliances are be treated as a single appliance with a rated thermal input of 50 megawatts or more.

PART B

Unless described in Part A of this section—

(a) Burning any fuel in a boiler or furnace with a rated thermal input of more than 20 megawatts and less than 50 megawatts,

(b) Burning any fuel in a gas turbine or compression ignition engine with a rated thermal input of more than 20 megawatts and less than 50 megawatts.

Interpretation of Section 1.1

For the purposes of section 1.1—

"rated thermal input" is the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

SECTION 1.2: *Gasification, liquefaction and refining activities*

PART A

(a) Refining gas including natural gas or its products,

(b) Production of coke,

(c) Pyrolysis, carbonisation, distillation, gasification, liquefaction, partial oxidisation or other heat treatment of coal (other than drying of coal), lignite, oil, or other carbonaceous material or mixtures, otherwise than with a view to making charcoal,

(d) Gasification or liquefaction of fuels other than as described in paragraph (c) in installations with a total rated thermal input of 20 megawatts or more,

(e) The refining of mineral oils, or the loading, unloading or other handling of, the storage of, or other physical, chemical or thermal treatment of—

(i) crude oil, or

(ii) stabilised crude petroleum.

(f) Purifying or refining any of the products of an activity mentioned in paragraph (a) or its conversion into a different product.

Nothing in paragraph (c) or (f) refers to the use of any substance as a fuel or its incineration or pyrolysis as a waste or to any activity for the treatment of sewage sludge.

In paragraph (c), the heat treatment of oil does not include heat treatment of waste oil or waste emulsions containing oil in order to recover the oil from aqueous emulsions.

Interpretation of Part A

In Part A—

"carbonaceous material" includes such materials as charcoal, coke, peat, rubber and wood, and

"rated thermal input" has the same meaning as in Section 1.1.

PART B

(a) Blending odorant for use with natural gas or liquefied petroleum gas,

(b) The following activities:—

(i) the storage of petrol in stationary storage tanks at a terminal, or the loading or unloading of petrol into or from a road tanker, a rail tanker or an inland waterway vessel at a terminal,

(ii) the unloading of petrol into stationary storage tanks at a service station if the total quantity of petrol unloaded into such tanks at the service station in any 12 month period is likely to be equal to or greater than $500m^3$.

(c) Motor vehicle refuelling activities at an existing service station if the petrol refuelling throughput at the station in any 12 month period is more than $3000m^3$,

(d) Motor vehicle refuelling activities at a new service station if the petrol refuelling throughput at the station in any 12 month period is, or is intended to be, $500m^3$ or more,

(e) Motor vehicle refuelling activities at a new service station if the petrol refuelling throughput at the station in any 12 month period is, or is intended to be, $100m^3$ or more and the service station is under permanent living quarters or working areas.

Interpretation of Part B

1. In Part B—

"existing service station" means a service station—

(a) which is put into operation, or

(b) for which planning permission under the Town and Country Planning (Scotland) Act 1997(**a**) is granted,

before 31st December 2011,

"inland waterway vessel" means a vessel, other than a sea-going vessel, having a total dead weight of 15 tonnes or more,

"new service station" means a service station which is put into operation on or after 1st January 2012, and includes an existing service station where a major refurbishment is completed on or after that date (and for that purpose a major refurbishment means a significant alteration or renewal of the station infrastructure, in particular the tanks and pipes),

"petrol" means any petroleum derivative, with or without additives, having a Reid vapour pressure of 27.6 kPa or more which is intended for use as a fuel for motor vehicles, other than liquefied petroleum gas,

(**a**) 1997 c.8, to which there are amendments not relevant to these Regulations.

"service station" means any premises where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks other than premises used only in connection with the construction and delivery of new vehicles,

"terminal" means any premises which are used for the storage and loading of petrol into road tankers, rail tankers or inland waterway vessels.

2.—(1) Any expression used in Part B and in a Directive specified in sub-paragraph (2) has the same meaning in that Part as in the Directive.

(2) The specified Directives are—

(a) European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(**a**), and

(b) Directive 2009/126/EC of the European Parliament and the Council on stage II petrol vapour recovery during the refuelling of motor vehicles at service stations(**b**).

CHAPTER 2 PRODUCTION AND PROCESSING OF METALS

SECTION 2.1: *Ferrous metals*

PART A

(a) Roasting or sintering metal ore, including sulphide ore, or any mixture of iron ore with or without other materials,

(b) Producing, melting or refining iron or steel or any ferrous alloy, including continuous casting, except where the only furnaces involved are—

(i) electric arc furnaces of less than 7 tonnes designed holding capacity, or

(ii) cupola, crucible, reverbatory, rotary, induction, vacuum, electro-slag or resistance furnaces,

(c) Processing ferrous metals and their alloys by using hot-rolling mills with a production capacity of more than 20 tonnes of crude steel per hour,

(d) Loading, unloading or otherwise handling or storing more than 500,000 tonnes in total in any period of 12 months of iron ore, except in the course of mining operations, or burnt pyrites,

(e) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of more than 2.5 tonnes per hour unless falling within paragraph (b) of Part A of this Section,

(f) Operating hammers in a forge, the energy of which is more than 50 kilojoules per hammer, where the calorific power used is more than 20 megawatts,

(g) Applying protective fused metal coatings with an input of more than 2 tonnes of crude steel per hour,

(h) Casting ferrous metal at a foundry with a production capacity of more than 20 tonnes per day.

PART B

(a) Producing pig iron or steel, including continuous casting, in a plant with a production capacity of 2.5 tonnes or less per hour, unless falling within paragraph (b) of Part A of this Section,

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(**a**) O.J. No. L 365, 31.12.94, p.24.
(**b**) OJ L285, 31.10.2009, p.36.

(b) Producing, melting or refining iron or steel or any ferrous alloy (other than producing pig iron or steel, and including continuous casting) using—

(i) one or more electric arc furnaces, none of which has a designed holding capacity of 7 tonnes or more, or

(ii) a cupola, crucible furnace, reverberatory furnace, rotary furnace, induction furnace, vacuum furnace, electro-slag furnace or resistance furnace,

unless falling within paragraph (e) or (h) of Part A of this Section,

(c) Desulphurising iron, steel or any ferrous alloy,

(d) Heating iron, steel or any ferrous alloy (whether in a furnace or other appliance) to remove grease, oil or any other non-metallic contaminant (including such operations as the removal by heat of plastic or rubber covering scrap cable) unless—

(i) it is carried out in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts,

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant, and

(iii) it is not related to any other activity falling within this Part of this Section,

(e) Casting iron, steel or any ferrous alloy from deliveries of 50 tonnes or more of molten metal falling within Part A of this Section.

Interpretation of Section 2.1

In this Section, "ferrous alloy" means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2 below.

SECTION 2.2: *Non-ferrous metals*

PART A

(a) Producing non-ferrous metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic activities and in this paragraph "secondary raw materials" include scrap and other waste,

(b) Melting, including making alloys, of non-ferrous metals, including recovered products, and the operation of non-ferrous metal foundries in an installation with a melting capacity exceeding—

(i) 4 tonnes per day for lead or cadmium, or

(ii) 20 tonnes per day for all other metals in aggregate.

(c) Producing, melting or recovering (whether by chemical means or by electrolysis or by the use of heat) cadmium or mercury or any alloy containing more than 0.05 per cent by weight of either of those metals or of both of those metals in aggregate,

(d) Unless described elsewhere in this Section, melting (including making alloys, of non-ferrous metals, including recovered products), refining and foundry casting in a furnace, bath or other holding vessel which has a design holding capacity of 5 tonnes or more.

PART B

(a) The melting, including making alloys, of non ferrous metals, including recovered products, refining, foundry casting, etc. in an installation which has a design holding capacity of less than 5 tonnes, other than in respect of an activity—

(i) described in Part A, or

(ii) carried out in respect of tin, or an alloy which in molten form contains 50 per cent or more by weight of tin,

(b) The separation of copper, aluminium, magnesium or zinc from mixed scrap by differential heating,

(c) The heating in a furnace or any other application of any non-ferrous metal or non-ferrous metal alloy for the purpose of removing grease, oil or any other non-metallic contaminant, including such operations as the removal by heat of plastic or rubber covering from scrap cable if not related to another activity described in this Part; but an activity does not fall within this paragraph if—

(i) it involves the use of one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a rated thermal input of less than 0.2 megawatts, and

(ii) it does not involve the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant;

(d) Melting zinc or a zinc alloy in conjunction with a galvanising activity at a rate not exceeding 20 tonnes per day,

(e) Melting zinc, aluminium or magnesium or an alloy of one or more of these metals in conjunction with a die-casting activity at a rate not exceeding 20 tonnes per day.

Interpretation of Part B

In this Part, "rated thermal input" has the same meaning as in Section 1.1.

Interpretation of Section 2.2

In this Section, "non-ferrous metal alloy" and cognate expressions mean an alloy which is not a ferrous alloy as defined in Section 2.1.

Nothing in paragraph (c) or (d) of Part A or in Part B of this Section prescribes the activities of hand soldering, flow soldering or wave soldering.

SECTION 2.3: *Surface treating metals and plastic materials*

PART A

(a) Surface treating metals and plastic materials using an electrolytic or chemical activity where the aggregated volume of the treatment vats exceeds $30m^3$,

(b) Surface treating materials using cadmium or any compound thereof where the activity may result in the release into the air or water of cadmium and its compounds, as listed in column 1 of the Table in paragraph 10 of Part 2 of this Schedule, in a quantity which, in any 12 month period, exceeds the background quantity for cadmium and its compounds by more than the amount specified in relation to it in column 2 of that Table.

PART B

Any process for the surface treatment of metal that is likely to result in the release into air of any acid-forming oxide of nitrogen and which does not fall within a description in Part A of this Section.

CHAPTER 3: MINERAL INDUSTRIES

SECTION 3.1: *Production of cement, lime and magnesium oxide*

PART A

(a) Producing cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day,

(b) Producing lime or magnesium oxide in kilns with a production capacity exceeding 50 tonnes per day.

PART B

(a) Any of the following activities:—

(i) storing, loading or unloading cement or cement clinker in bulk prior to further transportation in bulk,

(ii) blending cement in bulk or using cement in bulk other than at a construction site, including the bagging of cement and cement mixture, the batching of ready-mixed concrete and the manufacture of concrete blocks and other cement products,

(iii) grinding cement clinker.

(b) Slaking lime for the purpose of making calcium hydroxide or calcium magnesium hydroxide.

(c) Heating calcium carbonate or calcium magnesium carbonate for the purpose of making lime.

SECTION 3.2: *Activities involving asbestos*

PART A

(a) Producing asbestos or manufacturing products based on or containing asbestos.

(b) Stripping asbestos from railway vehicles except—

(i) in the course of the repair or maintenance of the vehicle,

(ii) in the course of recovery operations following an accident

(iii) where the asbestos is permanently bonded in any material, including in particular in cement, plastic, rubber or resin.

PART B

The industrial finishing, including shaping, drilling, or fitting manufactured asbestos products, of any of the following products where not carried out in conjunction with manufacture—

asbestos filters,

asbestos friction products,

asbestos jointing, packaging, and reinforcement material,

asbestos packing,

asbestos textiles.

Interpretation of Section 3.2

In this Section, "asbestos" includes any of the following fibrous silicates: actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

SECTION 3.3: *Glass and glass fibre manufacture*

PART A

Manufacturing glass or glass fibre in an installation with a melting capacity exceeding 20 tonnes per day.

PART B

Unless it is an activity described in Part A of this Section—

(a) Manufacture of glass at any location with the capacity to make 5,000 tonnes or more in any 12 month period, and any activity involving the use of glass which is carried out at any such location in conjunction with its manufacture.

(b) Manufacture of glass where the use of lead or any lead compound is involved.

(c) Making any glass product where lead or any lead compound has been used in the manufacture of the glass except—

(i) making products from lead glass blanks,

(ii) melting, or mixing with another substance, glass manufactured elsewhere to produce articles such as ornaments or road paint.

(d) Polishing or etching glass or glass products in the course of any manufacturing activity if—

(i) hydrofluoric acid is used, or

(ii) hydrogen fluoride may be released into the air,

(e) The manufacture of glass frit or enamel frit and its use in any activity where that activity is related to its manufacture.

SECTION 3.4: *Production of other mineral fibres*

PART A

Melting mineral substances, including the production of mineral fibres, in an installation with a melting capacity exceeding 20 tonnes per day.

PART B

NIL

SECTION 3.5: *Other mineral activities*

PART A

Manufacturing cellulose fibre reinforced calcium silicate board.

PART B

(a) Unless falling within any description in Part A of this Schedule, the crushing, grinding or other size reduction (other than the cutting of stone), or the grading, screening or heating of any designated mineral or mineral product, except where the operation of the activity is unlikely to result in the release into the air of particulate matter.

(b) Any of the following activities, unless carried on at an exempt location:—

(i) crushing, grinding or otherwise breaking up coal or coke or any other coal product,

(ii) screening, grading or mixing coal, or coke or any other coal product,

(iii) loading or unloading petroleum coke, coal, coke or any other coal product, except unloading on retail sale.

(c) The crushing, grinding or other size reduction, with machinery designed for that purpose, of bricks, tiles or concrete.

(d) Screening the product of any such activity as is described in paragraph (c).

(e) Coating road stone with tar or bitumen.

(f) Loading, unloading, or storing pulverised fuel ash in bulk prior to further transportation in bulk.

(g) The fusion of calcinated bauxite for the production of artificial corundum.

Interpretation of Part B

In this Part—

"coal" includes lignite,

"designated mineral or mineral product" means—

(a) clay, sand and any other naturally occurring mineral other than coal or lignite,

(b) metallurgical slag,

(c) boiler or furnace ash produced from the burning of coal, coke or any other coal product,

(d) gypsum which is a by-product of any activity,

"exempt location" means—

(a) any premises used for the sale of petroleum coke, coal, coke or any coal product where the throughput of such substances at those premises in any 12 month period is in aggregate likely to be less than 10,000 tonnes, or

(b) any premises to which petroleum coke, coal, coke or any coal product is supplied only for use there, and

"retail sale" means sale to the final customer.

Nothing in this Section applies to any activity carried on underground.

SECTION 3.6: *Ceramic production*

PART A

Manufacturing ceramic products (such as roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain) by firing—

(a) in kilns with a production capacity exceeding 75 tonnes per day, or

(b) where the kiln capacity exceeds $4m^3$, and the setting density of the kiln exceeds 300 kg/m^3.

PART B

(a) Firing heavy clay goods or refractory goods other than heavy clay goods in a kiln where the activity does not fall within a description in Part A of this Section.

(b) Vapour glazing earthenware or clay with salts.

Interpretation of Part B

In this Part—

"clay" includes a blend of clay with ash, sand or other materials;

"refractory" means refractory material (such as fireclay, silica, magnesite, chrome-magnesite, sillimanite, sintered alumina, beryllia and boron nitride) which is able to withstand high temperatures and to function as a furnace lining or in other similar high temperature applications.

CHAPTER 4: THE CHEMICAL INDUSTRY

Interpretation of Chapter 4

In this Chapter—

"Producing" as described in Part A of Sections 4.1 to 4.6 means the production by chemical or biological processing on an industrial scale of any listed substance or group of substances.

SECTION 4.1: *Organic chemicals*

PART A

Producing organic chemicals including—

(a) hydrocarbons, linear or cyclic, saturated or unsaturated, aliphatic or aromatic,

(b) organic compounds containing oxygen, including alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, phenols, epoxy resins,

(c) organic compounds containing sulphur, including sulphides, mercaptans, sulphonic acids, sulphonates, sulphates and sulphones and sulphur heterocyclics,

(d) organic compounds containing nitrogen including amines, amides, nitrous-, nitro- or azo-compounds, nitrate, nitriles, nitrogen heterocyclics, cyanates, isocyanates, di-isocyanates and di-isocyanate prepolymers,

(e) organic compounds containing phosphorus including substituted phosphines and phosphate esters,

(f) organic compounds containing halogens, such as halocarbons, halogenated aromatic compounds and acid halides,

(g) organometallic compounds, such as lead alkyls, Grignard reagents and lithium alkyls,

(h) plastic materials such as polymers, synthetic fibres and cellulose-based fibres;

(i) synthetic rubbers,

(j) dyes and pigments,

(k) surface-active agents,

(l) any other organic compounds not described in sub-paragraphs (a) to (k) above which have the potential to pollute the environment.

PART B

(a) Unless described in Part A of this Section, the carrying out of any activity involving the use in any 12 month period of—

  (i) 5 tonnes or more of diphenyl methane di-isocyanate or other di-isocyanate of lower volatility than toluene di-isocyanate, or

  (ii) partly polymerised di-isocyanates or prepolymers containing 5 tonnes or more of di-isocyanate monomers, where the activity may result in a release into the air of such monomers.

(b) The flame bonding or cutting with heated wires of polyurethane foams or polyurethane elastomers.

(c) Any activity, if not related to any other Part A activity, for the polymerisation or co-polymerisation of any pre-formulated resin or pre-formulated gel coat which contains any styrene, which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 100 tonnes or more of styrene,

(d) Any activity, if not related to any Part A activity, for polymerising or co-polymerising any unsaturated hydrocarbons or a product of an activity described in Part A of this Section (other than a pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbons), which is likely to involve, in any 12 month period, the polymerisation or co-polymerisation of 50 tonnes or more of any of those materials or, in aggregate, of any combination of those materials.

Interpretation of Part B

In this Part, "pre-formulated resin or pre-formulated gel coat" means any resin or gel coat which has been formulated before being introduced into polymerisation or co-polymerisation activity, whether or not the resin or gel coat contains a colour pigment, activator or catalyst.

SECTION 4.2: *Inorganic chemicals*

PART A

(a) Producing inorganic chemicals including—

(i) inorganic substances, including those in gaseous form, such as ammonia, hydrogen chloride, hydrogen fluoride, hydrogen cyanide and hydrogen sulphide, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, and phosgene,

(ii) acids, such as chromic acid, hydrofluoric acid, hydrochloric acid, hydrobromic acid, hydroiodic acid, phosphoric acid, nitric acid, sulphuric acid, oleum, sulphurous acids, and chlorosulphonic acid,

(iii) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide and calcium hydroxide,

(iv) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate, cupric acetate, ammonium phosphomolybdate,

(v) non-metals, metal oxides, metal carbonyls or other inorganic compounds such as calcium carbide, silicon, silicon carbide,

(vi) halogens or any compound comprising only—

(aa) two or more halogens, or

(bb) any one or more of those halogens and oxygen.

(b) Unless falling within a description in any other Section of any Chapter of this Schedule, any production activity which is likely to result in the release—

(i) into the air of any hydrogen halides (other than the coating, plating or surface treatment of metal), or

(ii) into the air or water of any halogens or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water by chlorine).

(c) Unless falling within a description in any other Section of any Chapter of this Schedule, any production activity which uses, or is likely to result in the release of, hydrogen cyanide or hydrogen sulphide.

(d) Unless falling within a description in any other Section of any Chapter of this Schedule, producing any compounds, or using or recovering any mixture (other than in the application of a glaze or vitreous enamel), containing any of the following substances or their compounds:—

(i) antimony,

(ii) arsenic,

(iii) beryllium,

(iv) gallium,

(v) indium,

(vi) lead,

(vii) palladium,

(viii) platinum,

(ix) selenium,

(x) tellurium,

(xi) thallium,

(xii) cadmium, or

(xiii) mercury,

where the activity may result in the release into the air of any of those elements or their compounds or the release into water of any substance listed in column 1 of the Table

referred to in paragraph 10 of Part 2 of this Schedule in a quantity which, in any 12 month period, exceeds the background quantity by more than the amount specified in relation to that substance in column 2 of that Table.

(e) Unless falling within a description in any other Section of any Chapter of this Schedule, recovering any compound of or engaging in any process of production which involves the use of cadmium or mercury or of any compound of either of those elements or which may result in the release to air of either of those elements or their compounds.

(f) Any other activity (except the combustion or incineration of carbonaceous material as defined in Section 1.2) which does not fall within a description in Sections 2.1, 2.2 or 2.3 and which may result in the release into the air of any acid forming oxide of nitrogen.

PART B

NIL

SECTION 4.3: *Chemical fertiliser production*

PART A

Producing phosphorous, nitrogen or potassium based fertilisers (simple or compound).

PART B

NIL

SECTION 4.4: *Biocide production*

PART A

Producing plant health products and biocides.

PART B

NIL

SECTION 4.5: *Pharmaceutical production*

PART A

Producing pharmaceutical products, including intermediates.

PART B

NIL

SECTION 4.6: *Explosives production*

PART A

Producing explosives, other than as part of an activity described in any other Section of this Chapter.

PART B

NIL

SECTION 4.7: *Manufacturing activities involving ammonia*

PART A

Any activity for the manufacture of a chemical which may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.

PART B

NIL

SECTION 4.8: *Storage of chemicals in bulk*

PART A

NIL

PART B

The storage, other than as part of a Part A activity or in a tank for the time being forming part of a powered vehicle, of any substance listed in column 1 of Table 1, except where the total capacity of tanks used for storage is less than the amount specified in column 2 of the Table.

Table 1

Substance	*Amount (in tonnes)*
Any one or more acrylates	20
Acrylonitrile	20
Anhydrous ammonia	100
Anhydrous hydrogen fluoride	1
Toluene di-isocyanate	20
Vinyl chloride monomer	20
Ethylene	8,000

Interpretation of Part B

In this Part, "acrylate" means—

(a) acrylic acid,

(b) substituted acrylic acids,

(c) esters of acrylic acids, and

(d) esters of substituted acrylic acids.

CHAPTER 5: WASTE MANAGEMENT

This chapter should be interpreted in accordance with Articles 3 and 7 of the Waste Framework Directive.

SECTION 5.1: *Incineration and co-incineration of waste*

PART A

Unless carried out as part of any other Part A activity, the—

(a) Incineration of hazardous waste in an incineration or co-incineration plant,

(b) Incineration of non-hazardous waste with the exception of waste which is biomass or animal carcasses in an incineration or co-incineration plant,

(c) Incineration of biomass waste in an incineration or co-incineration plant with a capacity of more than 3 tonnes per hour,

(d) Incineration of animal carcasses in an incineration or co-incineration plant, with a capacity of more than 10 tonnes per day,

(e) Incineration, other than incidentally in the course of burning solid or liquid waste, of any gaseous compound containing halogens arising from electrical equipment.

PART B

(a) Incineration of biomass waste in an incineration or co-incineration plant with a capacity of—

(i) more than 50 kilograms per hour, and

(ii) equal to or less than 3 tonnes per hour.

(b) Incineration of animal carcasses in an incineration or co-incineration plant with a capacity—

(i) of more than 50 kilograms per hour, and

(ii) equal to or less than 10 tonnes per day.

(c) Cremation of human remains.

Interpretation of Section 5.1

In this Section—

"biomass waste" means—

(a) vegetable waste from agriculture and forestry,

(b) vegetable waste from the food processing industry, but only if the heat generated during incineration of the waste is recovered,

(c) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, but only if the—

(i) waste is co-incinerated at the place of production of the waste, and

(ii) heat generated during incineration of the waste is recovered,

(d) cork waste, and

(e) wood waste, with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coating and which includes, in particular, such wood waste originating from construction and demolition waste,

"co-incineration" means—

(a) the use of waste as a regular or additional fuel in a co-incineration plant, or

(b) the thermal treatment of waste for the purposes of disposal in a co-incineration plant,

"co-incineration plant" means any stationary or mobile plant which uses waste as a regular or additional fuel—

(a) whose main purpose is the generation of energy or the production of material products, and

(b) in which waste is thermally treated for the purpose of disposal through—

(i) the incineration by oxidisation of waste, or

(ii) other thermal treatment processes (such as pyrolysis, gasification or a plasma process),

provided that the substances resulting from the treatment are subsequently incinerated,

"hazardous waste" does not include any—

(a) combustible liquid waste (including waste oils) provided that—

(i) the mass content of polychlorinated aromatic hydrocarbons (that is, polychlorinated biphenyls (PCB) or pentachlorophenol (PCP)) in the waste amounts to concentrations not higher than those set out in the relevant Union legislation(**a**),

(ii) the waste is not rendered hazardous by virtue of displaying properties set out in Annex III to the Waste Framework Directive, and

(iii) the net calorific value of the waste amounts to at least 30 megajoules per kilogramme; and

(b) other combustible liquid waste which cannot cause in the flue gas directly resulting from their combustion—

(i) emissions other than those from gas oil as defined in Article 2(2) of Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 2005/33/EC(**b**), or

(ii) a higher concentration of emissions than those resulting from the combustion of gas oil as so defined;

"incineration" means the thermal treatment of waste with or without recovery of the combustion heat generated,

"incineration plant" means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through—

(i) incineration by oxidisation of waste, or

(ii) other thermal treatment processes (such as pyrolysis, gasification or a plasma process),

provided that the substances resulting from the treatment are subsequently incinerated,

"waste" means any solid or liquid waste as defined in Article 3(1) of the Waste Framework Directive.

SECTION 5.2: *Landfill and disposal to land*

PART A

(a) Landfill of waste at a landfill (other than a landfill for inert waste)—

(i) receiving more than 10 tonnes of waste per day, or

(ii) with a total capacity exceeding 25,000 tonnes.

(b) The disposal of waste in any other landfill to which the Landfill Regulations apply.

PART B

NIL

Interpretation of Section 5.2

In this Section, "inert waste" means waste—

(a) that does not undergo any significant physical, chemical or biological transformation, or

(**a**) See in particular Council Directive 96/59/EC (OJ L 243, 24.09.96, p.31), as amended by Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14).

(**b**) OJ L 121, 11.5.1999, p.13, as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.11), Directive 2005/33/EC (OJ L 191, 22.7.2005, p.59), Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p.109), and Directive 2009/30/EC (OJ L 140, 5.6.2009, p.88).

(b) that will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health,

provided that the ability of any potentially polluting material contained in waste, and the ecotoxicology of the leachate is insignificant, and in particular does not endanger the quality either of surface water or groundwater.

SECTION 5.3: *Disposal or recovery of hazardous waste*

PART A

(a) Recovery by distillation of oil or organic solvents, other than as part of an activity described in any other Section of this Chapter.

(a) Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of—

(i) biological treatment,

(ii) physico-chemical treatment,

(iii) blending or mixing prior to submission to any of the other activities listed in this Section or in Section 5.1,

(iv) repackaging prior to submission to any of the other activities listed in this Section or in Section 5.1,

(v) solvent reclamation or regeneration,

(vi) recycling or reclamation of inorganic materials other than metals or metal compounds,

(vii) regeneration of acids or bases,

(viii) recovery of components used for pollution abatement,

(ix) recovery of components from catalysts,

(x) oil re-refining, recovery of oil by distillation, or other reuses of oil,

(xi) surface impoundment.

PART B

NIL

SECTION 5.4: *Disposal, recovery or a mix of disposal or recovery of non-hazardous waste*

PART A

(a) Disposal of non-hazardous waste at an installation with a capacity exceeding 50 tonnes per day by one or more of—

(i) biological treatment,

(ii) physico-chemical treatment,

(iii) pre-treatment waste for incineration or co-incineration,

(iv) treatment of slags and ashes,

(v) treatment in shredders of metal waste, including waste electrical and electronics equipment and end-of-life vehicles and their components.

(b) Recovery or a mix of recovery and disposal of non-hazardous waste at an installation with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) by one or more of—

(i) biological treatment,

(ii) pre-treatment of waste for incineration or co-incineration,

(iii) treatment of slags or ashes,

(iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

Interpretation of Section 5.4

Nothing in this Section applies to any activity covered by Council Directive 91/271/EEC of 21st May 1991 concerning urban waste-water treatment(**a**) ("Directive 91/271/EEC").

PART B

NIL

SECTION 5.5: *Production of fuel from waste*

PART A

Making solid fuel from waste using any process involving the use of heat, other than making charcoal.

PART B

NIL

SECTION 5.6: *Temporary or underground storage of hazardous waste*

PART A

(a) Temporary storage in an installation with a capacity of more than 50 tonnes of hazardous waste pending any of the activities described in any of Sections 5.1 to 5.3 and paragraph (b) of this Section, excluding temporary storage, pending collection, on the site where the waste is generated.

(b) Underground storage of hazardous waste in an installation with a total capacity exceeding 50 tonnes.

Interpretation of Part A

Nothing in paragraph (a) applies to waste at a storage site for the purposes of Section 5.2.

PART B

NIL

SECTION 5.7: *Treatment of waste water*

PART A

Independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by an installation carrying out any other Part A activity.

(**a**) OJ L 135, 30.5.1991, p.40; as amended by Directive 98/15/EC (OJ L 67, 7.3.1998, p.29), Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1), and Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1).

PART B

NIL

CHAPTER 6: OTHER ACTIVITIES

SECTION 6.1: *Paper, pulp and panel manufacturing*

PART A

Producing in an industrial installation—

(a) pulp from timber or other fibrous materials,

(b) paper or card board if the production capacity is more than 20 tonnes per day,

(c) if the production capacity is more than 600 m^3 per day, one or more of the following wood-based panels:—

(i) fibreboard,

(ii) orientated strand board, or

(iii) particleboard,

PART B

NIL

SECTION 6.2: *Carbon activities*

PART A

Producing carbon or hard-burnt coal or electro-graphite by means of incineration or graphitization.

PART B

NIL

SECTION 6.3: *Tar and bitumen processes*

PART A

Distilling tar or bitumen in connection with any process of manufacture where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of tar or of bitumen or, in aggregate, both.

Interpretation of Part A

Nothing in Part A applies where the process of manufacture is carried out in connection with any other Part A activity at the same location where that activity is carried out.

PART B

(a) Heating (but not distilling) tar or bitumen in connection with any process of manufacture, where the carrying on of those activities by the person concerned at the location in question is likely to involve a qualifying amount.

(b) Oxidising bitumen by blowing air through it, at installations where there are no other activities described in this Schedule where the carrying on of the activities by the person concerned at the location in question is likely to involve a qualifying amount,

Interpretation of Part B

1. Nothing in Part B applies to an activity described in Part A, or in any other Section of this Schedule.

2. In Part B—

"qualifying amount" means the use in any 12 month period of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.

Interpretation of Section 6.3

In Section 6.3, "tar" and "bitumen" include pitch.

SECTION 6.4: *Coating activities, printing and textile treatments*

PART A

(a) Pre-treating textile fibres or textiles by operations such as washing, bleaching, mercerisation or dyeing, where the treatment capacity is more than 10 tonnes per day.

(b) Surface treating substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kilogrammes per hour or more than 200 tonnes per year (whichever is the lesser).

PART B

(a) Any activity (including the repainting or respraying of aircraft or road or railway vehicles or parts of them) if the activity is not described in Part A, for applying to a substrate, or drying or curing after such application, printing ink or paint or any other coating material as, or in the course of, a manufacturing activity where—

(i) the activity may result in the release into the air of particulate matter or of any volatile organic compound, and

(ii) the carrying on of the activity by the person concerned at a location is likely to involve the use in any period 12 months at the location of—

(aa) 20 tonnes or more applied in solid form of any printing ink, paint or other coating material, unless it is an activity described in paragraph (g) of Part of Section 2.1,

(bb) 20 tonnes or more of any metal coatings which are sprayed on in molten form,

(cc) 25 tonnes or more of organic solvents in respect of any cold set web offset printing activity or any sheet fed offset litho printing activity or, in respect of any other activity, 5 tonnes or more of organic solvents.

(b) Repainting or respraying road vehicles or parts of them if the activity is not described in Part A and may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity by the person concerned at the location in question is likely to involve the use of 2 tonnes or more of organic solvents in any period of 12 months.

(c) Repainting or respraying aircraft or railway vehicles or parts of them if the activity may result in the release into the air of particulate matter or of any volatile organic compound and the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any period of 12 months of—

(i) 20 tonnes or more applied in solid form of any paint or other coating material,

(ii) 20 tonnes or more of any metal coatings which are sprayed on in molten form, or

(iii) 5 tonnes or more of organic solvents.

Interpretation of Part B

1. The amount of organic solvents used in an activity is calculated using the formula A-B, where—

A is the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes, and

B is the amount of organic solvents that are removed from the process for re-use or for recovery for re-use.

2. In Part B—

"aircraft" includes gliders and missiles,

"coating material" includes paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating, and

"organic solvent" has the same meaning as in Part 4 of Schedule 2.

SECTION 6.5: *The manufacture of dyestuffs, printing ink and coating materials*

PART A

Any manufacture of dyestuffs if the activity involves the use of hexachlorobenzene and is carried out at an installation not falling within any other description in Part A of this Schedule.

PART B

An activity, unless carried out at an installation described in any Part A of this Schedule, involving the—

(a) Manufacture or formulation of any coating material (such as printing ink) containing, or involving the use of, an organic solvent, where the carrying on of the activity by the person concerned at the location in question is likely to involve the use of 100 tonnes or more of organic solvents in any 12 months period,

(b) Manufacture of a powder for use as a coating material where the installation has capacity to produce 200 tonnes or more of such powder in any 12 month period.

Interpretation of Part B

The amount of organic solvent used in an activity is calculated using the formula A-B, where—

A is the total input of organic solvents into the process, including both solvents contained in coating materials and solvents used for cleaning or other purposes, and

B is the amount of organic solvents, not contained in coating materials, that are removed from the process for re-use or for recovery for re-use.

In this Part—

"coating material" has the same meaning as in Section 6.4, and

"organic solvent" has the same meaning as in Part 5 of Schedule 2.

SECTION 6.6: *Timber activities*

PART A

Preserving wood or wood products wood with chemicals, other than exclusively treating against sapstain, in an installation with a production capacity of more than 75 m^3 per day.

PART B

Manufacturing wood products at any works, unless in connection with an activity described in paragraph (c) of Part A of Section 6.1, if the manufacture involves a relevant activity and the throughput of the works in any 12 month period is likely to exceed—

(a) 10,000 m^3 in the case of works at which—

(i) wood is sawed but not otherwise subjected to a relevant activity, or

(ii) wood is subjected only to exempt activities, or

(b) 1,000 m^3 in any other case.

Interpretation of Section 6.6

In this Section, "wood" includes any product consisting wholly or mainly of wood.

In Part B—

"relevant activity" means the sawing, drilling, sanding, shaping, turning, planning, shredding, curing or chemical treatment of wood,

"exempt activities" means a relevant activity where, if no sawing were carried on at the works, any such activity would be unlikely to result in the release into the air of any substances listed in paragraph 9 of Part 2 of this Schedule in a quantity which is capable of causing significant harm,

"throughput" is calculated by reference to the amount of wood which is subjected to a relevant activity, provided that where wood is subject to two or more relevant activities at the same works no account is taken of the second or subsequent activity,

"works" means any premises, such as a sawmill, on which a relevant activity is carried out on wood.

SECTION 6.7: *Activities involving rubber*

PART A

Manufacturing new tyres, other than remoulds or retreads, involving the use in any 12 month period of 50,000 tonnes or more of one or more of natural rubber, or a synthetic organic elastomer, or any substance mixed with rubber or such an elastomer.

PART B

(a) The mixing, milling or blending of natural rubber, or a synthetic organic elastomer, in which carbon black is used.

(b) Any activity which converts the product of an activity described in paragraph (a) into a finished product, if related to a activity falling within that paragraph.

SECTION 6.8: *Treatment of animal and vegetable matter and food industries*

PART A

(a) Tanning hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.

(b) Disposing of or recycling animal carcasses and animal waste at installations with a capacity exceeding 10 tonnes per day and other than by incineration or co-incineration at installations falling within Section 5.1 of this Schedule.

(c) Slaughtering animals in slaughterhouses with a carcass production capacity of more than 50 tonnes per day.

(d) Treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed from—

(i) only animal raw materials (other than milk only) with a finished product production capacity of more than 75 tonnes per day,

(ii) only vegetable raw materials with a finished product production capacity of more than—

(aa) 300 tonnes per day, or

(bb) 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year;

(iii) animal and vegetable raw materials (other than milk only), both in combined and separate products, with a finished product production capacity in tonnes per day greater than—

(aa) 75 if A is equal to 10 or more, or

(bb) 300 – (22.5 x A) in any other case

where 'A' is the portion of animal material in percent of weight of the finished product production capacity.

(e) Treating and processing milk, the quantity of milk received being more than 200 tonnes per day (average value on an annual basis).

PART B

(a) Processing, storage or drying by heat of any part of a dead animal or of vegetable matter, unless it is an exempt activity, or an activity described in paragraph (d) of this Part, which may—

(i) result in the release into the air a substance referred to in paragraph 9 of Part 2 of this Schedule, or

(ii) give rise to an offensive smell noticeable outside the premises in which the activity is carried on.

(b) Breeding maggots in any case where 5 kilograms or more of animal or of vegetable matter or, in aggregate, of both are introduced into the process in any week.

(c) The ensiling or storage of dead fish or fish offal in plant capable of retaining volumes—

(i) of less than or equal to $10m^3$ of ensiled liquor,

(ii) of more than $10m^3$ and less than or equal to $50m^3$ of ensiled liquor, or

(iii) of more than $50m^3$ of ensiled liquor.

(d) Treating and processing of dry vegetable or dry vegetable and animal matter intended for the production of animal food products through drying by the application of heat and milling, unless it is an exempt activity, which may—

(i) result in the release into the air a substance referred to in paragraph 9 of Part 2 of this Schedule, or

(ii) give rise to an offensive smell noticeable outside the premises in which the activity is carried on.

Interpretation of Section 6.8

When calculating the weight of finished product for the purposes of paragraph (d) of Part A the weight of packaging must be ignored.

In this Section—

"animal" includes a bird or a fish,

"ensiling" means treatment by the application of acid or alkaline solutions for the purpose of rendering the material free from infectious disease and/or preventing the formation of offensive odours,

"exempt activity" means—

(a) any activity carried out on a farm or agricultural holding, other than the manufacture of goods for sale,

(b) the manufacture or preparation of food or drink for human consumption, but excluding—

(i) the extraction, distillation or purification of animal or vegetable oil or fat, otherwise than as an activity incidental to the cooking of food for human consumption,

(ii) any activity involving the use of green offal or the boiling of blood, except the cooking of food (other than tripe) for human consumption,

(iii) the cooking of tripe for human consumption elsewhere than on premises on which it is to be consumed,

(c) the fleshing, cleaning and drying of pelts of fur-bearing mammals,

(d) any activity carried out in connection with premises used in connection with the business of killing, flaying or cutting up animals, the flesh of which is not intended for human consumption, other than premises—

(i) which are hunt kennels or other premises where the flesh is fed to animals,

(ii) used for diagnostic, educational or research purposes, or

(iii) where animals are cut up solely for the purpose of incineration,

(e) any activity for the manufacture of soap not falling within a description in Part A of Section 4.1,

(f) the storage of vegetable matter otherwise than as part of any prescribed activity,

(g) the cleaning of shellfish shells,

(h) the manufacture of starch,

(i) the processing of animal or vegetable matter at premises for feeding a recognised pack of hounds authorised under Article 18(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation),

(j) the salting of hides or skins, unless related to any other prescribed activity,

(k) any activity for composting animal or vegetable matter, or a combination of both, except where that activity is carried on for the purposes of cultivating mushrooms,

(l) any activity for cleaning, and any related activity for drying or dressing, seeds, bulbs, corms or tubers,

(m) the drying of grain or pulses,

(n) any activity for the production of cotton yarn from raw cotton or for the conversation of cotton yarn into cloth,

"food" includes drink, articles and substances of no nutritional value which are used for human consumption, and articles and substances used as ingredients in the preparation of food, and

"green offal" means the stomach and intestines of any animal, other than poultry or fish, and their contents.

SECTION 6.9: *Intensive farming*

PART A

Rearing poultry or pigs intensively in an installation with more than—

(a) 40,000 places for poultry,

(b) 2,000 places for production pigs (over 30 kilograms), or

(c) 750 places for sows.

Interpretation of Part A

In this Part, "poultry" has the same meaning as in point 1 of Article 2 of Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and import from, third countries of poultry and hatching eggs(**a**).

PART B

NIL

SECTION 6.10: *Carbon capture and storage*

PART A

Capture of carbon dioxide streams from an installation for the purposes of geological storage pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23rd April 2009 on the geological storage of carbon dioxide(**b**).

PART B

NIL

PART 2

INTERPRETATION OF SCHEDULE

1. This Part applies for the interpretation of this Schedule.

2.—(1) An activity is not a Part B activity if—

(a) it cannot result in the release into the air of a substance listed in paragraph 9, or

(b) there is no likelihood that it will result in the release into the air of any such substance except in a quantity such that—

(i) it is incapable of causing harm, or

(ii) its capacity to cause harm is insignificant.

(2) Paragraph (1) does not apply to an activity which may give rise to an offensive smell noticeable outside the site where the activity is carried out.

3. An activity is not an activity described in Part 1 if it is—

(a) carried out in a working museum to demonstrate an industrial activity of historic interest,

(b) carried out for educational purposes in a school within the meaning of section 135(1) of the Education (Scotland) Act 1980(**c**),

(c) carried out as a domestic activity in connection with a private dwelling,

(d) subject to paragraph 4, carried out at an installation or mobile plant (or part of such an installation or plant) used solely for—

(i) research activities,

(ii) development activities, or

(**a**) O.J. L 343, 22.12.2009, p.74; as amended by Commission Decision 2011/214/EU (O.J. L 90, 6.4.2011, p.27) and Commission Implementing Decision 2011/879/EU (O.J. L 343, 23.12.2011, p.105).

(**b**) O.J. L 140, 5.6.2009, p.114.

(**c**) 1980 c.44. Section 135 was relevantly amended by section 2 of the Registered Establishments (Scotland) Act 1987 (c.4).

(iii) the testing of new products and processes,

(e) the running on or within a vehicle of an engine which propels any such vehicle, locomotive or vessel, or provides electricity for propulsion,

(f) the running of an engine—

(i) in order to test it before it is installed, or

(ii) for the purposes of developing the engine.

4. Paragraph 3(2)(d) only applies to a waste incineration installation—

(a) where the activity is carried out in order to improve the incineration process, and

(b) that treats less than 50 tonnes of waste per year.

5.—(1) The use of a fume cupboard is not an activity described in Part 1 if the fume cupboard is used in a laboratory for research or testing and it is not—

(a) a fume cupboard which is an industrial and continuous production activity enclosure, or

(b) a fume cupboard in which substances or materials are manufactured.

6. References in Part 1 to related activities are references to separate activities being carried out by the same person on the same site.

7.—(1) This paragraph applies for the purpose of determining whether an activity carried out in a stationary technical unit falls within a description in Part A or Part B which refers to capacity (other than design holding capacity).

(2) Where a person carries out more than one activity falling within the same description in Part A or Part B in different parts of the same stationary technical unit, or in different stationary technical units on the same site, the capacities of each part or unit are added together and the total capacity is attributed to each part or unit for the purpose of determining whether the activity carried out in the part or unit falls within a description in Part A or Part B.

(3) For the purpose of sub-paragraph (2), no account may be taken of capacity when determining whether activities fall within the same description.

(4) Where an activity falls within a description in Part A by virtue of this paragraph it is not to be treated as an activity falling within a description in Part B.

8. Unless the context otherwise requires, where an activity falls within a description in Part A and a description in Part B the activity is to be treated as falling only within the description in Part A.

9. A reference in this Part or in Part 1 to, or to the release into the air of, a substance listed in this paragraph is a reference to any of the following substances:—

(a) oxides of sulphur and other sulphur compounds,

(b) oxides of nitrogen and other nitrogen compounds,

(c) oxides of carbon,

(d) organic compounds and partial oxidation products,

(e) metals, metalloids and their compounds,

(f) asbestos (suspended particulate matter and fibres), glass fibres and mineral fibres,

(g) halogens and their compounds,

(h) phosphorus and its compounds, or

(i) particulate matter.

10.—(1) A reference in Part 1 to the table in this paragraph is a reference to table 1.

Table 1

Substance	*Amount in excess of background quantity (in grams) in any 12 month period*
Mercury and its compounds	200 (expressed as metal)
Cadmium and its compounds	1000 (expressed as metal)
All isomers of hexachlorocyclohexane	20
All isomers of DDT	5
Pentachlorophenol (PCP) and its compounds	350 (expressed as PCP)
Hexachlorobenzene	5
Hexachlorobutadiene	20
Aldrin	2
Dieldrin	2
Endrin	1
Polychlorinated biphenyls	1
Dichlorvos	0.2
1,2-dichloroethane	2000
All isomers of trichlorobenzene	75
Atrazine	350
Simazine	350
Tributyltin (TBT) compounds	4 (expressed as TBT)
Triphenyltin (TPT) compounds	4 (expressed as TPT)
Trifluralin	20
Fenitrothion	2
Azinphos-methyl	2
Malathion	2
Endosulfan	0.5

(2) In the Table, where both Atrazine and Simazine are released, the figure for both substances in aggregate is 350 grammes.

11. In Part 1 of this Schedule—

"background quantity" means, in relation to the release of a substance resulting from an activity, such quantity of that substance as is present in—

(a) water supplied to the site where the activity is carried out,

(b) water abstracted for use in the activity, and

(c) precipitation onto the site on which the activity is carried out,

"Part A activity" means an activity falling within Part A of any Section in Part 1 of this Schedule;

"Part B activity" means an activity falling within Part B of any Section in Part 1 of this Schedule.

12. In this Part—

"fume cupboard" has the meaning given by British Standard BS EN 14175 on Fume Cupboards(**a**),

"vehicle" means an aircraft, hovercraft, mechanically propelled road vehicle, railway locomotive, or ship or other vessel.

(**a**) British Standards Institution (2003), see Part 1, "Fume cupboards: vocabulary", ISBN 0 580 42947 4.

SCHEDULE 2 Regulations 2, 12, 33 and 67

SOLVENT EMISSIONS

PART 1

Solvent emission activities

1. An activity listed in column 1 of table 1 is a solvent emissions activity if it is operated above the solvent consumption threshold ("SCT") as described in column 2 of the table.

Table 1

Activity	*SCT (tonnes/year)*
1. Heatset web offset printing	15
2. Publication rotogravure	25
3. Other rotogravure, flexography, rotary screen printing, laminating or varnishing units	15
4. Rotary screen printing on textiles or cardboard	30
5. Surface cleaning using substances that are—	1
(a) volatile organic compounds assigned, or that need to carry, one or more of the hazard statements(**a**) H340, H350, H350i, H360D or H360F	
(b) halogenated volatile organic compounds are assigned, or that need to carry, either of the hazard statements H341 or H351	
6. Other surface cleaning	2
7. Vehicle coating and vehicle refinishing	0.5
8. Coil coating	25
9. Other coating activities, including metal, plastic, textiles (except rotary screen printing on textiles), fabric, film and paper coating	5
10. Winding wire coating	5
11. Coating activity applied to wooden surfaces	15
12. Dry cleaning	0
13. Wood impregnation	25
14. Coating activity applied to leather	10
15. Footwear manufacture	5
16. Wood and plastic lamination	5
17. Adhesive coating	5
18. Manufacture of coating mixtures, varnishes, inks and adhesives	100
19. Rubber conversion	15
20. Vegetable oil and animal fat extraction and vegetable oil refining activities	10
21. Manufacturing of pharmaceutical products	50

2. Paragraph 1 is interpreted in accordance with paragraphs 3 to 6.

3. An activity listed in table 1 is deemed to be operated above the solvent consumption threshold if it is likely to be operated above that threshold in any period of 12 months.

(**a**) See the Hazardous Substances Regulation, as defined in regulation 2(1), for the meaning of 'hazard statements' and 'risk phrases'.

4. An activity listed in table 1 includes the cleaning of equipment in respect of the activity but not, except for a surface cleaning activity, the cleaning of products.

5. Where an activity listed in table 1 is carried out in different parts of a stationary technical unit, or in different units on the same site, the capacities of each part or unit are added together and the total capacity attributed to each part or unit for the purpose of determining whether the activity is operated above the threshold.

6. In the period to 31 May 2015, the entry in column 1 of the fifth row of the Table in Part 1 is to be read as if—

(a) "or one or more of the risk phrases R45, R46, R49, R60 or R61" is inserted after "H360F", and

(b) "or either of the risk phrases R40 or R68" is inserted after "H351".

PART 2

SEPA functions

7. SEPA must exercise its functions under these Regulations so as to ensure that the operation of a solvents installation complies with the following provisions of the Industrial Emissions Directive:—

(a) Articles 5(1) and (3),

(b) Article 7,

(c) Article 8(2),

(d) Article 9,

(e) Article 59 (except the last paragraph of point (1) and point (4)),

(f) Article 60,

(g) Article 61,

(h) Article 62,

(i) Article 63,

(j) Article 65, and

(k) Article 82(7) to (9).

8. SEPA may permit emissions to exceed a fugitive emission limit required under sub-paragraph (a) of Article 59(1) of the Industrial Emissions Directive, provided that—

(a) it is not technically and economically feasible to comply with that sub-paragraph,

(b) SEPA ensures that the operator of the installation uses the best available techniques in respect of those emissions, and

(c) SEPA is satisfied that there are no significant risks to human health and the environment.

9. SEPA may permit emissions from the coating activities described in row 9 of the Table in Part 1 that cannot be carried out under contained conditions to exceed an emissions limit required under paragraph (1) of Article 59 of the Industrial Emissions Directive, provided that—

(a) it is not technically and economically feasible to comply with that paragraph, and

(b) SEPA ensures that the operator of the installation uses the best available techniques in respect of those emissions.

PART 3

Duties on operators

Data reporting

10.—(1) The operator of a solvents installation must on request provide SEPA with such information as it may reasonably request to verify compliance under Part 8 of Annex VII to the Industrial Emissions Directive with—

(a) emission limit values in waste gases, fugitive emission limit values and total emission limit values, or

(b) the requirements of any reduction scheme.

(2) Information may be provided in a solvent management plan prepared under Part 7 of Annex VII to the Industrial Emissions Directive.

Monitoring of emissions

11. The operator of a solvents installation must monitor emissions from the installation in accordance with Part 6 of Annex VII to the Industrial Emissions Directive.

PART 4

Interpretation

12. In this Schedule—

"adhesive" means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product,

"adhesive coating" means any activity in which an adhesive is applied to a surface excluding the application of adhesive and laminating associated with printing activities,

"affected part" means that part of an solvents installation which undergoes a substantial change in operation or in which abatement equipment is installed,

"coating" means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to provide a decorative, protective or other functional effect on a surface,

"coating activity" means any activity in which a single or a multiple application of a continuous film of a coating is applied (including a step in which the same article is printed using any technique) but does not include the coating of substrate with metals by electrophoretic and chemical spraying techniques,

"coil coating" means any activity where coiled steel, stainless steel, coated steel, copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process,

"consumption" means the total input of organic solvents into an installation per calendar year, or any other twelve month period, less any volatile organic compounds that are recovered for reuse, and for that purpose "input" means the quantity of organic solvents and their quantity in mixtures used when carrying out an activity (including the solvents recycled inside and outside the installation) and which are counted every time they are used to carry out the activity,

"contained conditions" means conditions under which an installation is operated so that the volatile organic compounds released from the activity are collected and discharged in a controlled way either via a stack or abatement equipment and are, therefore, not entirely fugitive,

"Directive 2007/46/EC" means Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles(**a**),

"dry cleaning" means any industrial or commercial activity using volatile organic compounds in an installation to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile and clothing industry,

"flexography" means a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas and using liquid inks which dry through evaporation,

"footwear manufacture" means any activity of producing complete footwear or parts of footwear,

"halogen" means bromine, chlorine, fluorine or iodine,

"halogenated organic solvent" means an organic solvent which contains at least one halogen atom per molecule,

"halogenated volatile organic compound" means a volatile organic compound containing a halogen,

"hazard statement substance" means—

(a) in relation to a solvent emissions activity (other than dry cleaning) a substance which, is classified as a carcinogen, mutagen or toxic to reproduction under Regulation (EC) No. 1272/2008, and in the case where the contents include a—

  (i) volatile organic compound, is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F or,

  (ii) halogenated volatile organic compounds, is assigned or needs to carry the hazard statements H341 and H351,

(b) in relation to dry cleaning, such a substance which because of the contents include a volatile organic compound is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F,

"heatset web offset printing" means a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where—

(a) the non-printing area is treated to attract water and reject ink,

(b) the printing area is treated to receive and transmit ink to the surface to be printed, and

(c) evaporation takes place in the oven where hot air is used to heat the printed material,

"ink" means a substance, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used in a printing activity to impress text or images on to a surface,

"laminating associated to a printing activity" means the adhering together of 2 or more flexible materials to produce laminates,

"manufacturing of coating mixtures, varnishes, inks and adhesives" means the manufacture of coating mixtures, varnishes, inks and adhesives as final products and where carried out at the same site the manufacture of intermediates, by the mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including—

(a) dispersion and pre-dispersion activities,

(b) viscosity and tint adjustments, and

(c) operations for filling the final product into its container,

"manufacturing of pharmaceutical products" means an activity that involves—

(a) the chemical synthesis,

(**a**) OJ L 263, 9.3.2007, p.1; as last amended by Commission Regulation (EU) No 65/2012 (OJ L 28, 31.1.2012, p.24).

(b) fermentation,

(c) extraction, or

(d) formulation and finishing,

of pharmaceutical products, and where carried out at the same site, the manufacture of intermediate products,

"mixture" means mixture as defined in Article 3(2) of Regulation (EC) No 1907/2006 of European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency(**a**),

"organic solvent" means any volatile organic compound which is used alone or in combination with other agents, and without undergoing a chemical change, to dissolve raw materials, products or waste materials, as a—

(a) cleaning agent to dissolve contaminants,

(b) dissolver,

(c) dispersion medium,

(d) viscosity adjuster,

(e) surface tension adjuster,

(f) plasticiser, or

(g) preservative,

"other coating activities" means a coating activity applied to—

(a) metallic and plastic surfaces, including surfaces of airplanes, ships or trains,

(b) textiles or fabric,

(c) film and paper surfaces,

"printing activity" means any activity (not being a step in a coating activity) for reproducing text and/or images in which, with the use of an image carrier, ink is transferred onto any type of surface, including the use of associated varnishing, coating and laminating techniques,

"publication rotogravure" means a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks,

"reuse" means the use of organic solvents recovered from an installation for any technical or commercial purpose, and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste,

"risk phrase substance" means—

(a) in relation to a solvent emissions activity other than dry cleaning a substance which, because of its content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC(**b**) is assigned or needs to carry the risk phrases R45, R46, R49, R60 and R61 or, in the case of halogenated volatile organic compounds, is assigned or needs to carry the risk phrases R40 and R68,

(b) in relation to dry-cleaning a substance which, because of its content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC is assigned or needs to carry the risk phrases R45, R46, R49, R60 and R61,

"rotary screen printing" means a web-fed printing activity in which liquid ink which dries only through evaporation is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off,

"rotogravure" means a printing activity using a cylindrical image carrier in which the printing area is below the non-printing area and liquid inks which dry through evaporation in which the

(**a**) OJ L 396, 30.12.2006, p.1, as last amended by Commission Regulation (EU) No 412/2012 (O.J. L 128, 16.5.2012, p.1).
(**b**) OJ L 196, 16.8.1967, p.1, as last amended by Commission Directive 98/98/EC (O.J. L 355, 30.12.1998, p.1).

recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from those recesses,

"rubber conversion" means—

(a) any activity of mixing, milling, blending, calendaring, extrusion and vulcanisation of natural or synthetic rubber, and

(b) any ancillary operations for converting natural or synthetic rubber into a finished product,

"surface cleaning" means any activity, other than dry cleaning or the cleaning of equipment, using organic solvents to remove contamination from the surface of material including degreasing, and a cleaning activity consisting of more than one step before or after any other activity shall be considered as one surface cleaning activity,

"varnish" means a transparent coating,

"varnishing" means an activity by which varnish or an adhesive coating for the purpose of sealing the packaging material is applied to a flexible material,

"vegetable oil and animal fat extraction and vegetable oil refining activities" means any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter or animal matter,

"vehicle coating" means a coating activity applied to the following vehicles—

(a) new cars, defined as vehicles of category M^1 in Directive 2007/46/EC and of category N^1 in so far as they are coated at the same installation as M^1 vehicles,

(b) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N^2 and N^3 in Directive 2007/46/EC,

(c) vans and trucks, defined as vehicles of categories M^2 and M^3 in Directive 2007/46/EC but not including truck cabins,

(d) buses, defined as vehicles of categories M^2 and M^3 in Directive 2007/46/EC,

(e) trailers, defined in categories O^1, O^2, O^3 and O^4 in Directive 2007/46/EC,

but not where the activity is carried out as part of the repair, conservation or decoration of those vehicles referred to in (a) to (e) above outside of manufacturing installations,

"vehicle refinishing" means any industrial or commercial coating activity and associated degreasing activities performing—

(a) the original coating of road vehicles as defined in Directive 2007/46/EC, or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line, or

(b) the coating of trailers (including semi-trailers) (category O),

"web-fed" means that the material to be printed is fed to the machine from a reel as distinct from separate sheets,

"winding wire coating" means any coating activity of metallic conductors used for winding the coils in transformers and motors etc.,

"wood and plastic lamination" means any activity to adhere together wood or plastic to produce laminated products, and

"wood impregnation" means any activity giving a loading of preservative in timber.

SCHEDULE 3

Regulations 4 and 25

BEST AVAILABLE TECHNIQUES

1. The specified matters for Part A installations are—

(a) the use of low-waste technology,

(b) the use of less hazardous substances,

(c) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate,

(d) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale,

(e) technological advances and changes in scientific knowledge and understanding,

(f) the nature, effects and volume of the emissions concerned,

(g) the commissioning dates for new or existing installations or mobile plant,

(h) the length of time needed to introduce the best available technique,

(i) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process,

(j) the need to prevent or reduce to a minimum the overall impact of the emissions on, and risks to, the environment,

(k) the need to prevent accidents and to minimise the consequences for the environment, and

(l) information published by public international organisations.

2. The specified matters for Part B installations and mobile plant are as set out in sub-paragraphs (d) to (h) of paragraph 1.

SCHEDULE 4

Regulation 2, 13 and 18

GRANT OF PERMITS

PART 1

APPLICATIONS FOR PERMITS

1.—(1) An application to SEPA for a permit under regulation 13 must be in writing and must provide—

(a) the name, address telephone number and email address of the applicant (and any correspondence address if different) including in the case of a body corporate—

(i) any registration number,

(ii) the address of its registered or principal office, and

(iii) if it is a subsidiary within the meaning of section 1159 of the Companies Act 2006, the name of the ultimate holding company and information specified in sub-paragraphs (i) and (ii) in respect of that company,

(b) in the case of a permit to operate an installation—

(i) the address of the site of the installation,

(ii) the national grid reference of the location of the installation on that site,

(iii) the name of any local authority in whose area the site is situated, and

(c) in the case of an installation other than a standard installation, a map or plan showing the site of the installation and the location of the installation on that site,

(d) in the case of a permit to operate mobile plant—

(i) the name of the local authority in whose area the applicant has his principal place of business, and the address of that place of business, or

(ii) where the operator of the mobile plant has his principal place of business outside of Scotland—

(aa) the name of the local authority in whose area the plant was first operated, or

(bb) where the plant has not been operated in Scotland, the local authority in whose area it is intended by the operator that the plant will first be operated,

(e) in the case of a permit to operate a Part A installation (as defined for the purposes of regulation 48)—

(i) a site report,

(ii) where the permit will authorise an activity that involves the use, production or release of a relevant hazardous substance, a baseline report,

(iii) where the applicant proposes that the permit will authorise an emission limit value set under regulation 25(7), the reasons for setting that value,

(f) a description of—

(i) the installation or mobile plant,

(ii) the activities listed in Part 1 of Schedule 1 to be carried out in the installation or by means of the mobile plant,

(iii) the activities listed in Part 1 of Schedule 2 to be carried out in the installation,

(iv) in the case of an installation, any other directly associated activities to be carried out on the same site as the installation,

(g) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in sub-paragraph (f),

(h) information on the nature, quantities and sources of foreseeable emissions from the installation or mobile plant into each environmental medium, and a description of any foreseeable significant effects of the emissions on the environment and on human health,

(i) a description of the proposed technology and other techniques for preventing or, where that is not practicable, reducing and rendering harmless emissions from the installation or mobile plant,

(j) if applicable, how the best available techniques are applied to the operation of the installation or mobile plant,

(k) the proposed measures to be taken to monitor the emissions,

(l) a description of the measures to be taken for the prevention, preparation for re-use, recycling and recovery of waste produced by the operation of the installation,

(m) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 21(2) and (3),

(n) in the case of a permit for a Part A installation or a solvents installation, any relevant information obtained or conclusion arrived at in relation to the installation for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive,

(o) in the case of a permit for a Part A installation any relevant information obtained or conclusion arrived at in relation to a safety report within the meaning of regulation 7 of the Control of Major Accident Hazards Regulations 1999(**a**),

(p) in the case of an application to operate a standard installation or standard mobile plant, a statement as to whether the applicant wishes any permit granted to be a standard rules permit,

(q) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation or by means of mobile plant, any information which the applicant wishes SEPA to take into account when considering whether the applicant is a fit and proper person to carry out that activity,

(r) in the case of an application for a permit for an installation which is the subject of a Climate Change Agreement within the meaning of paragraph 46 of Schedule 6 to the Finance Act 2000(**b**)—

(i) written confirmation that the installation is covered by the Agreement, and

(ii) the terms of that agreement in so far as they relate to the installation,

(s) any additional information which the applicant wishes SEPA to take into account in considering the application,

(t) in the case of an application for a permit to operate a Part A installation, an outline of the main alternatives studied by the applicant,

(u) a non-technical summary of the information referred to in this paragraph.

(2) A site report must describe the condition of the site of the installation, and in particular it must—

(a) describe any soil and groundwater contamination at the site,

(b) identify any pollutants in or on the land other than as described in paragraph (a),

(c) provide information on the present use of the site, and

(d) provide any available information on past uses of the site,

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(**a**) S.I. 1999/743, as amended by S.I. 2005/1088.
(**b**) 2000 c.17 (as amended).

(3) A baseline report must provide soil and groundwater measurements for the site—

(a) based on previously existing information if using that information provides an accurate description of the state of the site at the time of the report, or

(b) based on new information,

having regard for that purpose to the possibility of soil and groundwater contamination by any hazardous substance to be used, produced or released by the installation concerned.

(4) SEPA may on request by the applicant waive the requirement in sub-paragraph (1)(e)(ii) to provide a baseline report, having regard for that purpose to the possibility of soil and groundwater contamination.

2. An application for a permit for an installation where an activity described in Part A of Section 5.2 in Part 1 of Schedule 1 is carried out must also provide—

(a) the description of the types and total quantity of waste to be deposited,

(b) the proposed capacity of the disposal site,

(c) a description of the site, including its hydrogeological and geological characteristics,

(d) the proposed operation, monitoring and control plan,

(e) the proposed plan for the closure and after-care procedures; and

(f) for those sites to which regulation 6 of the Landfill Regulations does not apply the financial provision required under regulation 18(4)(b).

3. An application for a permit to operate a waste incineration installation must also provide a description of the measures which are envisaged to guarantee that—

(a) the installation is designed and equipped, and will be operated, in such a manner that the requirements of the Industrial Emissions Directive are met, taking into account for that purpose the categories of waste to be incinerated,

(b) heat generated during the incineration and co-incineration process is recovered with a high level of energy efficiency, for example, through combined heat and power, the generating of process steam or district heating,

(c) the residues after burning will be—

(i) minimised in their amount and harmfulness, and

(ii) recycled where appropriate,

(d) the disposal of such residues will be carried out in conformity with national and Union legislation(**a**),

(e) the proposed measurement techniques for emissions into the air and water comply with Parts 6 and 7 of Annex VI of the Industrial Emissions Directive,

(f) the plant will be equipped and operated in such a manner that no separately collected waste capable of being recycled is incinerated or co-incinerated (as the case may be), and

(g) the plant is equipped and operated in such a manner as is practicable to ensure that no waste that includes non-ferrous metals or hard plastics is incinerated or co-incinerated (as the case may be).

4. An application for a permit to operate a solvents installation must also include a description of the measures which are expected to ensure that the installation is designed and equipped, and will be operated, in such a manner that the requirements Chapter V and Annex VII of the Industrial Emissions Directive are met including—

(a) details of any reduction scheme the operator intends to use,

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(**a**) For example, see the Waste Framework Directive as defined in regulation 3, and the Waste Management Licensing (Scotland) Regulations 2011 (S.S.I. 2011/228).

(b) in the period ending on 31st May 2015—

(i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F, or the risk phrases R45, R46, R49, R60 and R61(a), to be used in the installation with less harmful compounds, or

(ii) for the volatile organic compounds referred in sub-paragraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 or the risk phrases R40 and R68, to be used in the installation how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with,

(c) in the period beginning on 1st June 2015—

(i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F to be used in the installation with less harmful compounds,

(ii) for the volatile organic compounds referred in sub-paragraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 to be used in the installation, how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with.

5. In paragraph 1(1)—

(a) sub-paragraphs (g), (l), (r), and (u) do not apply to an application for a permit to operate a Part B installation or mobile plant, and for such an application the reference to emissions into each environmental medium in paragraph 1(1)(h) is to be read as a reference to emissions into the air, and

(b) sub-paragraphs (l), (m), (r) and (u) do not apply to an application for a permit to operate a solvents installation.

6. Paragraph 1(1) applies to an application for a permit to operate an installation in which dry cleaning (as defined in Part 5 of Schedule 2) is carried out as if for subparagraphs (f) to (i) there is substituted—

"(f) the date of installation of the dry cleaning machine, and the manufacturer, description, name and model number, serial number (if any) and rated capacity of the machine,

(g) details of any spot cleaning to be undertaken, and details of checking and maintenance procedures to be followed and of the supervision, training and qualifications of operating staff,

(h) details of the solvents to be used, including a description of any risk phrase or hazard statement substance or mixture,

(i) details of the arrangements for storing solvents prior to use, and used solvents and solvent-contaminated materials, including a description of the location where the materials are stored,".

7.—(1) SEPA may by notice require the applicant to provide such further information for the purpose of determining an application as is specified in the notice within the period so specified.

(2) SEPA may by further notice to the applicant treat the application as having been withdrawn at the end of that period if the applicant fails to furnish the information within that period.

(**a**) See the Hazardous Substances Regulation as defined in regulation 2(1) in respect of hazard statements and risk phrases.

8. Subject to paragraph 31, the applicant must advertise the application within the 28 day period beginning with the 14th day after the day the application is made—

(a) in one or more newspapers circulating in the locality where the installation will be operated, and

(b) in the case of a permit to operate a Part A installation (other than for an activity described in paragraph (b) of Part A of Section 5.2 of Part 1 of Schedule 1), in the Edinburgh Gazette.

9. An advertisement required by paragraph 8 must—

(a) state the name of the applicant,

(b) state the address of the site of the installation,

(c) briefly describe the activities to be carried out in the installation,

(d) state that the application describes any foreseeable significant effects of emissions on the environment,

(e) state where (and in the case of a permit for a Part A installation how and at what times) the register may be inspected, and that the register may be inspected free of charge,

(f) explain that any person may make written representations to SEPA within the period of 28 days beginning with the date of the advertisement, and give the SEPA address (including e-mail address) for that purpose,

(g) explain that any such representation will be entered in the register unless the person making the representation requests in writing that it should not be entered, and that on such a request the register will state only that a representation has been made that is the subject of a request, and

(h) in the case of a permit for a new Part A installation—

(i) explain that the particulars in the register include a description of the matters listed in paragraph 1(1), and

(ii) if applicable, state that the determination of the application is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 26 of the Industrial Emissions Directive.

10. An advertisement in respect of application for a permit to operate more than one installation or mobile plant the application must contain the information required by paragraphs 1 and 9 respectively in relation to each such installation or plant.

11. Paragraph 8 does not apply to an application for a permit to operate an installation involving only—

(a) the authorisation of a Part B standard installation which is not a hybrid installation,

(b) the carrying out of an activity described in paragraphs (b)(ii), (c), (d) or (e) of Part B of Section 1.2 of Part 1 of Schedule 1, or

(c) dry cleaning.

12. This Part is subject to Part 3.

PART 2

DETERMINATION OF APPLICATIONS

13. Subject to paragraph 35, SEPA must within 14 days of receiving an application for a permit give notice of the application (enclosing a copy) to—

(a) in the case of a permit for an installation, the local authority and Health Boards in whose areas the installation will be operated,

(b) in the case of a permit for an installation where operation may involve an emission which may affect a site of special scientific interest or a European site (within the meaning of regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994(**a**))—

(i) Scottish Natural Heritage where the emission may affect a site in Scotland,

(ii) the appropriate nature conservation body (within the meaning of regulation 4 of those Regulations) where the emission may affect such a site in another part of Great Britain,

(c) in the case of a permit for a Part A installation—

(i) the Food Standards Agency(**b**), and

(ii) where operation may involve the release of any substance into a sewer vested in Scottish Water(**c**), that body,

(iii) where operation may involve the release of any substance into a harbour managed by a harbour authority (within the meaning of section 57(1) of the Harbours Act 1964(**d**)), that harbour authority,

(d) in the case of a permit for an installation on a site in respect of which—

(i) a nuclear site licence is required under section 1 of the Nuclear Installations Act 1965(**e**),

(ii) a major accident prevention policy document is required under regulation 5 of the Control of Major Accident Hazards Regulations 1999(**f**), or

(iii) a safety report is required under regulation 7 of those Regulations,

the Health and Safety Executive(**g**),

(e) such other persons as the Scottish Ministers may direct.

14. Paragraph 13 does not apply to a permit to operate an installation involving only dry cleaning.

15. Paragraph 13(a) does not apply to an application for a permit to operate a Part B standard installation which is not a hybrid installation.

16.—(1) SEPA must before granting a permit subject to an off-site condition give notice under sub-paragraph (2) to every person appearing to SEPA to be a person specified in sub-paragraph (3).

(2) The notice must—

(a) describe the proposed off-site condition,

(b) describe the nature of the works or things which the holder of the permit might require to carry out or do to comply with the condition, and

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

(3) A person is specified if—

(a) that person is the owner, tenant or occupier of the land, and

(b) rights will have to be granted by that person under regulation 24(2) to the holder of the permit if the proposed off-site condition is included in the permit,

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(**a**) S.I. 1994/2716. Relevant amendments are made by paragraph 15 of schedule 2 to the Land Reform (Scotland) Act 2003 (asp 2), by S.I. 1997/3055, 2007/1843 and 2010/490, and by S.S.I. 2004/475, 2007/80, 2011/155 and 2012/228.
(**b**) See section 1 of the Food Standards Act 1999 (c.28).
(**c**) Scottish Water is a body corporate established by section 20 of, and Schedule 3 to, the Water Industry (Scotland) Act 2002 (asp 3).
(**d**) 1964 c.40, to which there are no relevant amendments.
(**e**) 1965 c.57; section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.
(**f**) S.I. 1999/743; as amended by S.I. 1999/2597, 2002/2469, 2005/676 and 1008, 2008/736, 960, 1087 and 2337, and 2009/1595.
(**g**) See section 10 of the Health and Safety at Work etc. Act 1974 (c.37).

(4) In this paragraph "owner" means the 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 persons to whom management of the land is entrusted.

17.—(1) The period allowed for making representations to SEPA (the "representation period") is—

(a) in the case of a notice under paragraphs 13 or 16, the period of 28 days beginning with the date on which notice is given,

(b) in the case of any other notice, the period of 28 days beginning with the date on which the application is advertised under paragraph 8, and

(c) in the case of a draft determination, the period of 28 days beginning with the date on which the draft is advertised under paragraph 23.

(2) SEPA must consider any representation made within the representation period.

18. In the case of an application for a permit for—

(a) a Part A installation, SEPA must consider in determining the application any relevant information obtained or conclusion arrived for the purposes of—

(i) Articles 5, 6, 7 and 9 of the EIA Directive,

(ii) a safety report within the meaning of regulation 7 of the Control of Major Accident Hazards Regulations 1999. or

(b) a solvents installation, any such information or conclusion for the purposes of those Articles of the EIA Directive.

19.—(1) The Scottish Ministers may direct SEPA that any application, or any class of applications for a permit, is referred to them for determination (a "called-in case").

(2) SEPA must on receiving such a direction—

(a) inform the applicant that the application is a called-in case, and

(b) provide the Scottish Ministers with any representation made within the representation period.

(3) The Scottish Ministers must on a request by the applicant or SEPA in a called-in case provide an opportunity of appearing before and being heard by a person appointed by the Ministers, and may do so where no request is made.

(4) A request for such a hearing must be in writing and be made within the period of 21 days beginning with the day on which the applicant is informed that the application is a called-in case.

(5) Paragraphs 4(2) to (10) of Schedule 8 apply to such a hearing as they apply to a hearing held under paragraph 4(1) of that Schedule—

(a) with the substitution in paragraph 4(3) for the reference to the appellant of a reference to the applicant,

(b) with the substitution in paragraph 4(4)—

(i) for the reference to the appeal of a reference to the application, and

(ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 of a reference to every person who was required to be given notice under paragraph 13 of this Schedule, and

(iii) for the references to every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations to the Scottish Ministers of a reference to any person who made representations to SEPA with respect to the application,

(c) with the substitution in paragraph 4(7)—

(i) for the reference in paragraph 4(7)(a) to the appellant of a reference to the applicant,

(ii) for the reference in paragraph 4(7)(c) to any person required under paragraph 3(1)(a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 13 of this Schedule to be notified of the application.

(6) In relation to SEPA and the applicant, regulation 56(5) and (6) applies to any determination by the Scottish Ministers of any application referred to them under sub-paragraph (1) as it applies to decisions made by the Scottish Ministers on appeal under regulation 58(1) or (2).

(7) The Scottish Ministers must on determining a called-in case, and the sheriff may on determining an appeal, give SEPA—

(a) such a direction as they consider fit as to whether to grant the application, and

(b) if SEPA are directed to grant the application, as to the conditions that are to be attached to the permit.

20.—(1) SEPA must, subject to paragraph 27, give notice to the applicant of—

(a) the determination of an application for a permit (other than a called-in case); or

(b) in the case a permit for a new Part A installation, the draft determination,

within the period of 4 months beginning with the day on which it received a duly made application, or within such longer period as may be agreed with the applicant.

(2) SEPA must take no account for the purposes of calculating that period—

(a) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information,

(b) of any period allowed for making representations in relation to a notice under paragraph 16 in so far as that period does not overlap with any representation period,

(c) if a matter falls to be determined under regulations 65 or 66, of any period beginning with the date on which the 28 period of 28 referred to in paragraph 8 ends, and ending on the date on which the application is advertised under paragraph 35(a),

(d) if separate applications are made to operate different parts of one installation, of any period beginning with the date on which notice is served on one of the applicants under paragraph 7 and ending on the date on which the applicant furnishes the specified information.

21. SEPA must where separate applications are made to operate different parts of an installation send a copy of any notice served on an applicant under paragraph 7 to the other applicants.

22.—(1) SEPA must—

(a) advertise notice of a draft determination under paragraph 20(1)(b) on the SEPA web site , or if it considers it appropriate, by any other means, within the 3 day period beginning with the date on which that notice is given, and

(b) take all steps specified in the advertisement as falling to be carried out by SEPA within the periods set out in the advertisement.

(2) If notice of a draft determination has been provided for onward transmission to another Member State under paragraph 26, SEPA must give a copy of the advertisement and of that draft to the Scottish Ministers at the same time as the notice is advertised.

23.—(1) An advertisement under paragraph 22 must—

(a) explain where, how and at what times the register which contains—

(i) any additional information relevant to the determination of the application which has become available after the application is advertised under paragraph 8,

(ii) information about any BAT reference document relevant to the installation or activity concerned,

(iii) information about how emission limit values have been set in relation to best available techniques and emission limit values associated with the techniques

(iv) a copy of the draft determination, and

(v) information on the arrangements for public participation,

(vi) the reasons and considerations on which the draft determination is based,

may be inspected, and that it may be inspected free of charge,

(b) explain where any other information and guidance relevant to the application may be obtained, and that it may be obtained free of charge,

(c) explain that any person may make written representations to SEPA in a 28 day period beginning with the date of the advertisement, and give the address for receiving such representations,

(d) explain that where—

(i) no representations are made to SEPA within that period, or where applicable under paragraph 28, SEPA must—

(aa) give notice of the determination,

(bb) include a copy of the determination in the register, together with—

(cc) a statement confirming that no representations were made,

(dd) information on the reasons and considerations on which the determination is based, and

(ee) information about the public participation process, and

(ff) advertise the notice on its web site, or if it considers it appropriate advertise the notice by any other means,

within the period of 7 days beginning on the day on which the later of the period specified in paragraph (c) or, where applicable, paragraph 28 ends, or

(ii) representations are made to SEPA within the period specified in paragraph (c) or, where applicable, paragraph 28, SEPA must subject to paragraph 24—

(aa) give notice of its determination,

(bb) include in the register a copy of the final determination, together with information on the reasons and considerations on which the determination is based, including information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 21 days beginning on the day on which the later of the periods specified in subparagraph (c) (or where applicable paragraph 28) ends, or within such longer period as may be agreed with the applicant.

(2) If notice of a draft determination has been provided for onward transmission to another Member State under paragraph 26, the Scottish Ministers must give the Secretary of State—

(a) a copy of the determination, and

(b) the information specified in sub-paragraph (1)(d)(i)(bb) or (ii)(bb) (as the case may be),

by the date by which SEPA is required to give notice under sub-paragraph (1)(d)(i) or (ii).

24. SEPA must take no account for the purposes of calculating the period specified in paragraph 23(1)(d)(ii) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information.

25. If SEPA fails to give notice of a determination under paragraph 20, or a draft determination under paragraph 23, within the period specified for such a purpose, then the application is deemed to have been refused if the applicant gives notice to that effect to SEPA after the end of the period.

26.—(1) This paragraph applies where—

(a) the Scottish Ministers are aware that the operation in Scotland of an installation carrying out an activity described in Annex I to the Industrial Emissions Directive is likely to have significant negative effects on the environment of another Member State, or

(b) another Member State whose environment is likely to be so affected requests information about the operation of the installation.

(2) The Scottish Ministers must give the Secretary of State for onward transmission to the other Member State for the purposes of Article 26 of the Industrial Emissions Directive—

(a) a copy of the application to operate the installation,

(b) a copy of the advertisement under paragraph 8, and

(c) if applicable, copies of the draft determination in respect of that application and of the advertisement under paragraph 22, at the same time as the application or draft determination is advertised under paragraphs 8 or 22, and

(d) any additional information which has become available after the application or draft determination was advertised, and which may be relevant to the determination of the application having regard for that purpose to Article 26.

(3) The Scottish Minsters must comply with sub-paragraph (2)—

(a) at the same time as the application, proposed variation or draft determination are advertised under paragraphs 8 or 22, or

(b) if this paragraph applies after the date of such advertisement, and the application or proposed variation has not been determined, as soon as possible thereafter.

27. The Scottish Ministers must, where paragraph 26 applies, give notice of that fact to SEPA and the applicant, and if the application is not a called-in case—

(a) SEPA may not determine the application, or provide a draft determination, until the Scottish Ministers have given SEPA—

(i) notice that bilateral consultation under Article 26 of the Industrial Emissions Directive has been carried out, and

(ii) a copy of any representations duly received by the Scottish Ministers in respect of the application from a person in the other Member State (a "Member State representation"), and

(b) the 4 month period within which to give notice of determination or to provide a draft determination of the application set out in paragraph 20 begins on the date SEPA receives notification from the Scottish Ministers that the bilateral consultations have been completed.

28.—(1) The Scottish Ministers must give SEPA any Member State representations received in the 35 day period after the date of notification of the draft determination to the Secretary of State under paragraph 26 within the 10 day period of beginning on the day after the end of that 35 day period.

(2) SEPA, or the Scottish Ministers in a called-in case, must—

(a) consider any Member State representation when determining a case to which paragraph 26 applies, and

(b) on determining the case provide any other Member State with which bilateral consultation has been carried out with information on the—

(i) contents of the decision (including a copy of the permit),

(ii) reasons for making the determination, and

(iii) results of consultation before making the determination, and on how the results were taken into account by SEPA or the Scottish Ministers.

29. In Parts 1 and 2 of this Schedule—

(a) "called-in case" has the same meaning as in paragraph 17(1)

(b) "representation period" has the same meaning as in paragraph 19(1), and

(c) "Member State" includes Iceland, Liechtenstein and Norway(**a**).

30. This Part is subject to Part 3.

PART 3

NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

31. Paragraphs 8 or 22 do not apply in so far as they would require the advertisement of any information mentioned in paragraphs 9 or 22 which is not included in the register by virtue of regulations 65 or 66.

32. Paragraph 13, other than paragraph 13(f), does not apply in so far as it would require a person mentioned in that paragraph to be given information which is not included in the register by virtue of regulation 65.

33. Subject to paragraph 34, paragraph 13(b) and (c)(i) and (iii) do not apply in so far as they would require a person mentioned in that paragraph to be given information which is not included in the register by virtue of regulation 66.

34. Paragraph 33 does not apply to information excluded from the register by virtue of regulation 66 in so far as—

(a) in the case of an authority mentioned in paragraph 13(b), the information is about the release of any substance which may affect a site of special scientific interest or a European site,

(b) in the case of Scottish Water, the information is about the release of any substance into a sewer vested in Scottish Water,

(c) in the case of an authority mentioned in paragraph 13(c)(iii), the information is about the release of any substance into a harbour managed by that authority.

35. Where a matter falls to be determined for the purposes of regulations 65 or 66—

(a) the period within which an advertisement is to be published under paragraph 8 is a 28 day period beginning 14 days after the day on which the matters are so determined,

(b) the period for notification under paragraph 13 is a 14 day period beginning 14 days after the day on which the matters are so determined,

(c) the period within which an advertisement is to be published under paragraph 22 is a 3 day period beginning 14 days after the day on which the matters are so determined.

36. For the purposes of paragraph 35, and paragraphs 18, 20 and 21 of Schedule 7, the matters to be determined under regulation 66 are so determined—

(a) where SEPA determines under that regulation that information is commercially confidential, on the date of the determination by SEPA, or

(b) where SEPA determines under that regulation that the information is not commercially confidential—

(i) on the date on which any period for bringing an appeal expires without an appeal being brought, or

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(**a**) See Article 73 of, and Annex XX to, the Agreement on the European Economic Area which entered into force on 1st January 2004.

(ii) if an appeal is brought, on the date of the final determination or withdrawal of the appeal (as the case may be).

SCHEDULE 5

Regulation 25

LIST OF POLLUTING SUBSTANCES

Air

1. Sulphur dioxide and other sulphur compounds.

2. Oxides of nitrogen and other nitrogen compounds.

3. Carbon monoxide.

4. Volatile organic compounds.

5. Metals and their compounds.

6. Dust including fine particulate matter.

7. Asbestos (suspended particulates, fibres).

8. Chlorine and its compounds.

9. Fluorine and its compounds.

10. Arsenic and its compounds.

11. Cyanides.

12. Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air.

13. Polychlorinated dibenzodioxins and polychlorinated dibenzofurans.

Water

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.

2. Organophosphorus compounds.

3. Organotin compounds.

4. Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment.

5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.

6. Cyanides.

7. Metals and their compounds.

8. Arsenic and its compounds.

9. Biocides and plant health products.

10. Materials in suspension.

11. substances which contribute to eutrophication (in particular, nitrates and phosphates).

12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

13. Substances listed in Annex X to Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(**a**).

(**a**) OJ L 327, 22.12.2000, p.1, as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p.1), Directive 2008/32/EC (OJ L 81, 20.3.2008, p.60), Directive 2008/105/EC (OJ L 348, 24.12.2008, p.84) and Directive 2009/31/EC (OJ L 140, 5.6.2009, p.114).

SCHEDULE 6

Regulation 24

COMPENSATION FOR OFF-SITE CONDITIONS

1. This Schedule applies in any case where—

(a) an operator is required by an off-site condition to carry out works, or do any other thing, in relation to land not forming part of the site of the installation,

(b) a person whose consent is required has granted to the operator a right in relation to the land under regulation 24(2) (an "off-site right"), and

(c) the off-site right, or that right together with any other right, is such as will enable the operator to comply with the off-site condition.

2. Any person who has granted an off-site right is entitled to be paid compensation by the operator.

3. Subject to paragraph 6(3) and (5)(b), compensation is payable for loss and damage for—

(a) depreciation in the value of any relevant interest which results from the grant of the off-site 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) 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,

(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,

(ii) and in the preparation of the application for, and the negotiation of the amount of, compensation (up to the point of referral to the Lands Tribunal for Scotland under paragraph 8(2)).

4.—(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.

5.—(1) An application for compensation under this Schedule must be made by the person granting an off-site right—

(a) within six months from the date on which the right is first exercised, or

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

(b) within 12 months from the date on which the entitlement to compensation arises in the case of that grantor.

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

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

(a) a copy of the grant of an 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 compensation is applied for,

(c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each sub-paragraph of paragraph 3, 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 4(2), a copy of the notice of the final determination of the appeal.

6.—(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 3(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.

7.—(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 3(a) or (b), the date of depreciation,

(b) in the case of compensation payable by virtue of paragraph 3(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 3(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 for 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.

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

(a) where the operator and the grantor or creditor in a standard security agree that a single payment is to be made on a specified date, on that date,

(b) where the operator and the grantor or such a creditor agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment,

(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 shall 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 operator.

9. In this Schedule—

"1963 Act" means the Land Compensation (Scotland) Act 1963(**a**),

"granted" includes joining in granting,

"grantor" means a person mentioned in sub-paragraph (1)(b),

"relevant interest" means an interest in land in respect of which rights have been granted by the grantor under regulation 24(2), 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. Section 9 was amended by the Local Government, Planning and Land Act 1980 (c. 65), Schedule 33, paragraph 7(2). Section 12 was repealed in part by the Planning and Compensation Act 1991 (c. 34), Schedules 17 and 19.

(**b**) 1970 c.35. Section 9 was amended by the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (2000 asp 5), section 31, Schedule 10, paragraph 32(6) and Schedule 11.

SCHEDULE 7

Regulations 46 and 58

VARIATION OF PERMITS

PART 1

APPLICATIONS FOR VARIATION

1. An application under regulation 46 for the variation of the conditions of a permit must be in writing and must provide—

(a) the name of the applicant, that person's telephone number, address (including post code) and e-mail address (if any) and, if different, the address or e-mail address to which correspondence relating to the application should be sent,

(b) in the case of a permit to operate an installation, the address of the site of the installation to which the permit applies,

(c) if appropriate, a description of the proposed change in the operation of the installation or mobile plant requiring the variation and a statement of any changes as respects the matters dealt with in paragraph 1(1)(g) to (m) of Schedule 4 which would result if the proposed change were made,

(d) in the case of a variation required by a proposed substantial change in the operation of a Part A installation or a solvents installation, any relevant information obtained or conclusion arrived at in relation to the proposed change for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive,

(e) an indication of the variations to the conditions of the permit which the operator wishes SEPA to make,

(f) any information which the operator wishes SEPA to take into account when considering whether the operator is a fit and proper person to carry out any specified waste management activity which would be authorised by those variations,

(g) any additional information which the operator wishes SEPA to take into account in considering the application,

(h) in the case of an application for the variation of the conditions of a permit in respect of a waste incineration installation—

  (i) the information specified in paragraph 3 of Schedule 4, or

  (ii) where such information has previously been included in an application under these Regulations, a statement of any changes as respects those matters which would result if the proposed change in the operation of the installation requiring the variation were made,

(i) in the case of an application for a variation of the conditions of a permit in respect of a solvents installation the information specified in paragraph 4 of Schedule 4

(j) in the case of an application where the applicant proposes that the permit as varied will authorise an emission limit value set under regulation 25(7), the reasons for setting that value.

2.—(1) This paragraph applies where an application relates to a change in operation of a Part A installation that will if approved—

(a) result in additional land being included in the site,

(b) result in the use of a substance on the site, or

(c) result in the use, production or release of a relevant hazardous substance on the site (including any such additional land).

(2) A site report is not required under paragraph (1) for additional land where the change relates to a solvents emissions activity, provided that no activity at the installation is described in Part 1 of Schedule 1.

(3) An application to which sub-paragraph (1)(a) or (b) applies must include a site report.

(4) An application to which sub-paragraph (1)(c) applies must include a baseline report.—

(5) An existing site report or baseline report may be amended to take account of any substance or relevant hazardous substance for the purposes of paragraph (1).

(6) SEPA may on request by the applicant waive the requirement in sub-paragraph (1)(c) for a baseline report, having regard for that purpose to the possibility of soil and groundwater contamination.

(7) In this paragraph—

(a) a reference to an activity includes a directly associated activity, and

(b) "Part A installation" has the same meaning as in regulation 48.

3.—(1) SEPA may by notice require the applicant to provide such further information for the purpose of determining an application for variation as is specified in the notice within the period so specified.

(2) SEPA may by further notice to the applicant treat the application as having been withdrawn at the end of that period if the applicant fails to furnish the information within that period.

PART 2

DETERMINATION OF VARIATIONS

4.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies where—

(a) an application for variation is made under regulation 46, and

(b) no such application is made, and SEPA—

(i) proposes to serve a variation notice for a variation that will authorise—

(aa) a substantial change in operation of an installation or mobile plant, or

(bb) a variation of a permit for a Part A installation as a result of a review under regulation 44(1)(a), or

(ii) makes a determination that this paragraph applies to a proposed variation.

(2) This paragraph does not apply where SEPA proposes to serve a variation notice—

(a) which has been modified to take account of representations made in accordance with this paragraph, or

(b) in order to comply with a direction given by the Scottish Ministers.

(3) This paragraph does not apply in relation to a variation relating only to dry cleaning (as defined in Part 5 of Schedule 2).

(4) Where this paragraph applies, SEPA must—

(a) notify the operator that the paragraph applies, and of any prescribed fee,

(b) in the case of a proposed variation notice, serve a copy of the proposed notice on the operator,

(c) give notice of the application or proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 13 of Schedule 4 in the case of an application for a permit to operate the installation or mobile plant, and

(d) in the case of a proposed variation notice affecting the operation of a Part A installation, provide—

(i) information on the reasons and considerations on which that proposed variation notice is based,

(ii) information on any guidance relevant to the determination of the proposed variation.

(5) SEPA must, subject to paragraph 19(a), comply with sub-paragraph (4) within the 14 day period after receipt of an application for variation.

(6) For the purposes of calculating the period in sub-paragraph (5), no account may be taken of any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator provides the information specified in the notice.

(7) An application for variation is deemed to have been withdrawn if the applicant does not pay any prescribed fee to SEPA within 28 days after the date of notification under sub-paragraph (4)(a).

(8) Subject to sub-paragraph (10) and to paragraph 19(b), an operator notified under sub-paragraph (4)(a) must, within the 28 day period beginning on the day on which the notification is made, advertise the application or proposed variation notice (as the case may be)—

(a) in the case of an installation in one or more newspapers circulating in the locality in which the installation is operated, and

(b) in the case of a Part A installation other than a landfall described in paragraph (b) of Part A of Section 5.2 of Part 1 of Schedule 1, in the Edinburgh Gazette.

(9) An advertisement under sub-paragraph (8) must—

(a) state the name of the operator,

(b) state the address of the site of the installation,

(c) describe briefly the activities carried out in the installation and the change in the operation of the installation that will be authorised by the variation,

(d) state where and, in the case of a variation affecting the operation of a Part A installation, how and at what times, the register which contains—

(i) particulars of the application or proposed variation,

(ii) in the case of a proposed variation affecting the operation of a Part A installation, a copy of the proposed variation notice and the information provided by SEPA under sub-paragraph (4)(d)(i) on the reasons and considerations on which that proposed variation notice is based,

may be inspected, and that it may be inspected free of charge,

(e) explain that any person may make representations to SEPA in writing within the period of 28 days beginning with the date of the advertisement and give the address of SEPA for receiving the representations,

(f) explain that any such representations made by any person will be entered in the register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request,

(g) in the case of a variation affecting the operation of a Part A installation—

(i) explain that the particulars of the application contained in the register specified in paragraph (d) include a description of the elements listed in paragraph 1,

(ii) in the case of a proposed variation notice, describe the contents of that notice,

(iii) where applicable, state that the determination of the application or the serving of the variation notice is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 13,

(iv) where applicable, explain that any guidance relevant to the determination of the proposed variation which has been provided to the operator under sub-paragraph (4)(d)(ii) has been included in the register or otherwise made available.

(10) Sub-paragraph (8) does not apply to a variation relating to an installation involving only an activity falling within paragraphs (b)(ii), (c), (d) or (e) of Part B of Section 1.2 of Part 1 of Schedule 1.

(11) Any representations made by any person within the period allowed must be considered by SEPA in determining the application or before serving the variation notice.

(12) For the purpose of sub-paragraph (11), the period allowed for making representations is—

(a) in the case of persons notified pursuant to sub-paragraph (4)(c), the period of 28 days beginning with the date on which notice of the application or proposed variation notice was given under that sub-paragraph,

(b) in the case of any other person, the period of 28 days beginning with the date on which the application or proposed variation notice was advertised pursuant to sub-paragraph (8),

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

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

5.—(1) If SEPA proposes to serve a variation notice which will result in the inclusion of an off-site condition in the permit concerned, it must before serving the variation notice give a notice which complies with sub-paragraph (3) to every person appearing to it to be a person falling within sub-paragraph (2).

(2) A person falls within this sub-paragraph if—

(a) that person is the owner, tenant or occupier of the land, and

(b) that land is land in relation to which it is likely that, as a consequence of the off-site condition in question, rights will have to be granted under regulation 24(2) to the holder of the permit.

(3) A notice served under sub-paragraph (1) must—

(a) set out the off-site condition in question,

(b) indicate the nature of the works or things which that condition might require the holder of the permit to carry out or do, and

(c) specify a period, not being less than 28 days beginning on the date on which the notice is served, in which representations may be made to SEPA relating to the condition or its possible effects and the manner in which any such representations are to be made.

(4) In sub-paragraph (2), "owner" has the same meaning as in paragraph 11(4) of Schedule 4.

(5) Any representations made by a person notified under sub-paragraph (1) within the period of 28 days beginning with the date on which notice was given under that sub-paragraph must be considered by SEPA before serving the variation notice.

6.—(1) The Scottish Ministers may give directions to SEPA requiring that any particular application under regulation 46(3) or any class of such applications must be referred to them for determination pending a further direction under sub-paragraph (7).

(2) SEPA must inform the applicant of the fact that the application is being transmitted to the Scottish Ministers, and must forward to the Scottish Ministers any representations which have been made to it within the period allowed.

(3) Where an application for the variation of the conditions of a permit is referred to them under sub-paragraph (1), the Scottish Ministers may afford the applicant and SEPA an opportunity of appearing before and being heard by a person appointed by them and they must do so in any case where a request is duly made by the applicant or SEPA to be so heard.

(4) A request under sub-paragraph (3) must be in writing and must be made within the period of 21 days beginning with the day on which the applicant is informed that the application is being transmitted to the Scottish Ministers.

(5) Paragraphs 4(2) to (10) of Schedule 8 apply to a hearing held under sub-paragraph (3) as they apply to a hearing held under paragraph 4(1) of that Schedule, with the—

(a) substitution in sub-paragraph (3) for the reference to the appellant of a reference to the applicant,

(b) substitution in sub-paragraph (4)—

(i) for the reference to the appeal of a reference to the application, and

(ii) for the reference to every person mentioned in paragraph 3(1)(a) of Schedule 8 and every person mentioned in paragraph 3(1)(b) and (c) of that Schedule who has made representations to the Scottish Ministers in writing of a reference to every person who was required to be notified under paragraph 3(4)(b) and to any person who made representations to SEPA with respect to the subject matter of the application,

(c) substitution in sub-paragraph (7)—

(i) for the reference in sub-paragraph (7)(a) to the appellant of a reference to the applicant,

(ii) for the reference in sub-paragraph (7)(c) to any person required under paragraph 3(1)(a) of Schedule 8 to be notified of the appeal of a reference to any person required under paragraph 3(4)(b) to be notified of the application.

(6) In relation to SEPA and the applicant, regulation 58(5) and (6) applies to any determination by the Scottish Ministers of any application referred to them under sub-paragraph (1) as it applies to decisions made by the Scottish Ministers under regulation 58(1) or (2).

(7) On determining any application transferred under this paragraph, the Scottish Ministers must (or, on determining an appeal the sheriff may) give SEPA such directions as they consider fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the permit by means of the variation notice.

7.—(1) In the case of a proposed variation notice affecting the operation of a Part A installation to which the consultation and advertising procedure set out in paragraph 4 applies—

(a) where no representations are made to SEPA within the period allowed by paragraph 4(12) or, where applicable and if later, paragraph 5 or by the day on which SEPA receives notification by the Scottish Ministers that the bilateral consultations have been completed pursuant to paragraph 14(b), SEPA must—

(i) serve the variation notice,

(ii) include in the register a copy of the variation notice, together with the statement confirming that no representations have been received by SEPA on the proposed variation and information on the reasons and considerations on which the variation notice is based, and

(iii) where paragraph 13 applies, forward a copy of the variation notice and the information specified in sub-paragraph (ii) to the Scottish Ministers,

within the period of 7 days beginning on the day on which the period allowed by paragraph 4(12) or, where applicable and if later, paragraph 5 ends or the day on which SEPA receives notification by the Scottish Ministers that the bilateral consultations have been completed pursuant to paragraph 14(b), or

(b) where representations are made to SEPA within the period allowed by paragraph 4(12) or, where applicable and if later, paragraph 5 or by the day on which SEPA receives notification by the Scottish Ministers that the bilateral consultations have been completed pursuant to paragraph 14(b), SEPA must—

(i) serve the variation notice,

(ii) include in the register a copy of the variation notice, together with information on the reasons and considerations on which the variation notice is based, including information about the public participation process,

(iii) advertise the notice on its web site or, if it considers it appropriate, by any other means, and

(iv) where paragraph 13 applies, forward a copy of the variation notice and the information specified in sub-paragraph (ii) to the Scottish Ministers,

within the period of 21 days beginning on the day on which the period allowed by paragraph 4(12) or, where applicable and if later, paragraph 5 ends or the day on which SEPA receives notification by the Scottish Ministers that the bilateral consultations have been completed pursuant to paragraph 14(b) or within such longer period as may be agreed with the applicant.

(2) Where the proposed variation has been forwarded to another Member State pursuant to paragraph 13, the Scottish Ministers must forward to the Secretary of State a copy of the variation notice and the information specified in sub-paragraph (1)(a)(ii) or (b)(iv) as the case may be, as soon as practicable.

(3) Where sub-paragraph (1) applies, and SEPA fails to serve the variation notice within the periods specified in that sub-paragraph, the proposed variation is deemed to have been withdrawn at the end of that period if the operator notifies SEPA in writing of such failure.

8.—(1) Except in a case where an application has been referred to the Scottish Ministers under paragraph 6 and, subject to paragraph 14, SEPA must give notice of—

(a) its determination of an application for variation under regulation 46, or

(b) in the case of such an application where which paragraph 4(1)(b) applies, and which affects the operation of a Part A installation, its draft determination,

within the period specified in sub-paragraph (2).

(2) The specified period is—

(a) where the consultation and advertising procedure set out in paragraph 4 applies, the period of 4 months beginning with the day on which SEPA received the application,

(b) where that procedure does not apply, the period of 3 months beginning with the day on which SEPA received the application,

or such longer period as may be agreed with the operator.

(3) For the purpose of calculating the periods mentioned in sub-paragraph (2) no account is taken of—

(a) any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator furnishes the information specified in the notice,

(b) any period allowed for making representations in relation to a notice given pursuant to paragraph 5 in so far as that period does not overlap with any other period allowed for making representations in accordance with paragraph 4(12),

(c) where a matter falls to be determined for the purposes of regulation 65 or under regulation 66, any period beginning with the date on which the period of 28 days referred to in paragraph 4(8) ends and ending on the date on which the application is advertised in accordance with paragraph 19(b).

9.—(1) SEPA must—

(a) within a period of 3 days beginning with the date on which notice of a draft determination is given pursuant to paragraph 8, advertise the notice on its web site or, if it considers it appropriate, by any other means, and

(b) take all relevant steps specified in the advertisement as falling to be carried out by SEPA, within the time-periods set out in that advertisement.

(2) In the case of a notice of a draft determination in respect of an application which has been forwarded by the Scottish Ministers to the Secretary of State for onward transmission to another Member State under paragraph 13, SEPA must forward copies of the draft determination and of the advertisement made pursuant to this paragraph to the Scottish Ministers at the same time as the draft determination is advertised.

10.—(1) An advertisement required by paragraph 9 must—

(a) explain where, how and at what times the register which contains—

(i) any additional information which is relevant to the determination of the application which has become available after the application is advertised pursuant to paragraph 4(8),

(ii) information about any BAT reference document relevant to the installation or activity concerned,

(iii) information about how emission limit values have been set in relation to best available techniques and emission limit values associated with the techniques,

(iv) a copy of the draft determination, and

(v) information on the arrangements for public participation and the reasons and considerations on which the draft determination is based,

may be inspected, and that it may be inspected free of charge,

(b) explain where any other information and guidance relevant to the application may be obtained free of charge,

(c) explain that any person may make representations to SEPA in writing within the period of 28 days beginning with the date of the advertisement and give the SEPA address for receiving representations,

(d) explain that where—

(i) no representations are made to SEPA within the period specified in paragraph (c) or where applicable, paragraph 16, SEPA must—

(aa) give notice of its determination, and

(bb) include in the register a copy of the final determination, together with a statement confirming that no representations have been made on the draft determination and information on the reasons and considerations on which the determination is based and information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 7 days beginning on the day on which the period referred to in sub-paragraph (c) or, where applicable, paragraph 16 ends; or

(ii) representations are made to SEPA within the period specified in paragraph (c) or paragraph 16 SEPA must subject to paragraph 11—

(aa) serve the variation notice, and

(bb) include in the register a copy of the final variation, together with information on the reasons and considerations on which the variation is based, including information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 21 days beginning on the day on which the later of the period specified in sub-paragraph (c) or, where applicable, paragraph 16 ends, or within such longer period as may be agreed with the applicant.

(2) Where the draft determination has been forwarded to the Secretary of State pursuant to paragraph 13 the Scottish Ministers must forward to the Secretary of State a copy of the final determination and the information specified in sub-paragraph (1)(d)(i)(bb) or (ii)(bb) as the case

may be, by the date by which SEPA is required to give notice of its determination under sub-paragraph (1)(d)(i) or (ii), for the purpose of its onward transmission as soon as practicable to the Member State to which the draft determination has been forwarded under paragraph 13.

11. For the purpose of calculating the period specified in paragraph 10(1)(d)(ii), no account is taken of any period beginning with the date on which notice is served on the applicant under paragraph 3 and ending on the date on which the applicant provides the information specified in the notice.

12. If SEPA fails to give notice of its determination or draft determination of an application for a variation within the applicable periods allowed by or under paragraph 8 or 10, the application is, if the applicant notifies SEPA in writing that the applicant treats the failure as such, deemed to have been refused at the end of that period.

13.—(1) This paragraph applies where—

(a) the Scottish Ministers are aware that an application or a proposed variation notice relates to a substantial change in the operation of an installation carrying out activities listed in Annex I to the Industrial Emissions Directive which are likely to have significant negative effects on the environment of another Member State, or

(b) such a Member State requests information relating to such an application or notice.

(2) Where this paragraph applies the Scottish Ministers must give to the Secretary of State for onward transmission to the other Member State for the purposes of Article 26 of the Industrial Emissions Directive—

(a) a copy of the application or proposed variation notice,

(b) a copy of the advertisement made under paragraph 4(8),

(c) where applicable, a copy of the draft determination in respect of such an application together with a copy of the advertisement under paragraph 9, and

(d) any additional information which they consider relevant to the determination of the application or proposed variation notice, having regard for that purpose to Article 26.

(3) The Scottish Minsters must comply with sub-paragraph (2)—

(a) at the same time as the application, proposed variation or draft determination are advertised under paragraphs 4(8) and 9, or

(b) if this paragraph applies after the date of such advertisement, and the application or proposed variation has not been determined, as soon as possible thereafter.

14. The Scottish Ministers must where paragraph 13 applies given notice of that fact to SEPA and the operator, and—

(a) SEPA must not determine the application, or provide its draft determination, or serve a variation notice until the Scottish Ministers have given SEPA—

(i) notice in writing that the bilateral consultation under Article 26 of the Industrial Emissions Directive has been carried out,

(ii) a copy of any representations duly received by the Scottish Ministers in respect of the application or the proposed variation from a person in the other Member State (a "Member State representation"), and

(b) in the case of an application to be determined by SEPA, the time period within which to determine the application or to provide a draft determination set out in paragraph 8 begins on the day on which it receives that notification by the Scottish Ministers that the bilateral consultations have been completed.

15.—(1) The Scottish Ministers must give SEPA any Member State representations received in the 35 day period after the date of notification of the draft determination to the Secretary of State under paragraph 13 within the 10 day period of beginning on the day after the end of that 35 day period.

(2) SEPA must—

(a) consider any Member State representation when determining a case to which paragraph 13 applies, and

(b) on determining the case provide any other Member State with which bilateral consultation has been carried out with information on the—

(i) contents of the decision (including a copy of the permit),

(ii) reasons for making the determination, and

(iii) results of consultation before making the determination, and on how the results were taken into account by SEPA or the Scottish Ministers.

16. In paragraphs 13 to 15, "Member State" includes Iceland, Liechtenstein and Norway(**a**).

PART 3

NATIONAL SECURITY AND CONFIDENTIAL INFORMATION

17. The requirements of paragraph 4(8) or paragraph 9 of this Schedule do not apply in so far as they would require the advertisement of information mentioned in paragraph 4(9) or, as the case may be, paragraph 10 which is not to be included in the register under regulations 65 or 66.

18. Paragraphs 32 to 34 of Schedule 4 apply in relation to the requirement to give notice under paragraph 4(4)(c) of this Schedule as they apply to the requirement to give notice under paragraph 13 of that Schedule.

19. Where a matter falls to be determined for the purposes of regulation 65 or under regulation 66—

(a) the period for notification under paragraph 4(4)(b) of this Schedule is the period of 14 days beginning 14 days after the day on which the matters to be determined for the purposes of regulation 65 or under regulation 66 are finally disposed of,

(b) the period within which an advertisement is to be published under paragraph 4(8) shall be 28 days beginning 14 days after the day on which the matters to be determined for the purposes of regulation 65 or under regulation 66 are finally disposed of.

20. Where a matter falls to be determined for the purposes of regulation 65 or under regulation 66, the period within which an advertisement is to be made under paragraph 9 is the 3 day period beginning 14 days after the day on which the matters to be determined for the purposes of regulation 65 or under regulation 66 are finally disposed of.

(**a**) See Article 73 of, and Annex XX to, the Agreement on the European Economic Area which entered into force on 1st January 2004.

SCHEDULE 8

Regulation 58

APPEALS TO THE SCOTTISH MINISTERS

1.—(1) A person who wishes to appeal to the Scottish Ministers under regulation 58 (an "appellant") must at the same time—

(a) give notice of the appeal to the Scottish Ministers notice of the appeal, together with the documents specified in sub-paragraph (2), and

(b) give SEPA a copy of that notice, together with copies of the documents specified in sub-paragraph (2)(a) and (f).

(2) The specified documents—

(a) a statement of the grounds of appeal,

(b) a copy of any relevant application,

(c) a copy of any relevant permit,

(d) a copy of any relevant correspondence between the appellant and SEPA,

(e) a copy of any decision or notice which is the subject matter of the appeal,

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the Scottish Ministers in writing and must send a copy of that notification to SEPA.

2.—(1) Subject to sub-paragraph (2), notice of appeal in accordance with paragraph 1 is to be given—

(a) in the case of an appeal under regulation 58(1), before the expiry of the period of six months beginning with the date of the decision or deemed decision which is the subject matter of the appeal,

(b) in the case of an appeal under regulation 58(2) against a revocation notice, before the date on which the revocation takes effect,

(c) in the case of an appeal under regulation 58(2) against a variation notice served in connection with a partial transfer under regulation 47, before the expiry of the period of six months beginning with the date of the notice,

(d) in the case of an appeal under regulation 58(2) against a variation notice (other than a notice described in paragraph (c)), an enforcement notice or a suspension notice, or a closure notice under regulation 18(1) of the Landfill Regulations, before the expiry of the period of two months beginning with the date of the notice which is the subject of the appeal.

(2) The Scottish Ministers may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in sub-paragraph (1)(a), (c) or (d).

3.—(1) SEPA must, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of the appeal to—

(a) any person who was required to be given notice in respect of the application or permit to which the appeal relates under paragraph 13 of Schedule 4 or paragraph 4(4)(c) of Schedule 7,

(b) any person who made representations to SEPA with respect to the subject matter of the appeal, and

(c) any person who appears to SEPA to have a particular interest in the subject matter of the appeal.

(2) A notice under sub-paragraph (1) must—

(a) state that notice of appeal has been given,

(b) state the name of the appellant and, where the appeal concerns an installation, the address of the site of the installation,

(c) describe the application or permit to which the appeal relates,

(d) state that representations with respect to the appeal may be made to the Scottish Ministers in writing by any recipient of the notice within a period of 21 days beginning with the date of the notice, and that copies of any representations so made will be furnished to the appellant and to SEPA,

(e) explain that any such representations will be entered in the register unless that person making the representation requests in writing that they should not be entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request,

(f) state that if a hearing is to be held wholly or partly in public, a person mentioned in sub-paragraph (1)(b) or (c) who makes representations with respect to the appeal and any person mentioned in sub-paragraph (1)(a) will be notified of the date of the hearing.

(3) SEPA must, within 14 days of sending a notice under sub-paragraph (1), notify the Scottish Ministers of the persons to whom and the date on which the notice was sent.

(4) In the event of an appeal being withdrawn, SEPA must give notice of the withdrawal to every person to whom notice was given under sub-paragraph (1).

4.—(1) Before determining an appeal under regulation 58, 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") and they must do so in any case where a request is duly made by the appellant or SEPA to be so heard.

(2) A hearing may, if the appointed person so decides, be held wholly or partly in private.

(3) Where the Scottish Ministers cause a hearing to be held, they must give the appellant and SEPA at least 28 days notice (or such shorter period of notice as they may agree) of the date, time and place fixed for the holding of the hearing.

(4) 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) where the appeal relates to the operation of an installation, publish a copy of the notice mentioned in sub-paragraph (3) in a newspaper circulating in the locality in which the installation is operated,

(b) serve a copy of that notice on every person mentioned in paragraph 3(1)(a) and on every person mentioned in paragraphs 3(1)(b) and (c) who has made representations to the Scottish Ministers.

(5) The Scottish Ministers may vary the date fixed for the holding of any hearing, and sub-paragraphs (3) and (4) shall apply to the variation of a date as they applied to the date originally fixed.

(6) The Scottish Ministers may also vary the time or place for the holding of a hearing and must give such notice of any such variation as appears to them to be reasonable.

(7) The persons entitled to be heard at a hearing are—

(a) the appellant,

(b) SEPA, and

(c) any person required under paragraph 3(1)(a) to be notified of the appeal.

(8) Nothing in sub-paragraph (7) prevents the appointed person from permitting any other persons to be heard at the hearing and such permission must not be unreasonably withheld.

(9) 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.

(10) Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973(**a**) (which relates to the costs of and holding of local inquiries) apply to hearings held under this paragraph by an appointed person as they apply to inquiries held under that section, but with the substitution—

(a) in subsection (3) (notice of inquiry) for the reference to the person appointed to hold the inquiry of a reference to the appointed person,

(b) in subsection (4) (evidence) for the reference to the person appointed to hold the inquiry and, in paragraph (b), the reference to the person holding the inquiry of references to the appointed person,

(c) in subsection (6) (expenses of witnesses etc.) for the references to the Minister causing the inquiry to be held of a reference to the appointed person or the Scottish Ministers,

(d) in subsection (7) (expenses) for the references to the Minister of references to the appointed person or the Scottish Ministers,

(e) in subsection (7A) (recovery of entire administrative expense)—

(i) for the first reference to the Minister of a reference to the appointed person or the Scottish Ministers,

(ii) in paragraph (a), for the reference to the Minister of a reference to the Scottish Ministers, and

(iii) in paragraph (b), for the reference to the Minister holding the inquiry of a reference to the Scottish Ministers,

(f) in subsection (7B) (power to prescribe), in paragraphs (a) and (b) for the references to the person appointed to hold the inquiry of references to the appointed person, and

(g) in subsection (8) (certification of expenses) for the reference to the Minister, the reference to him and the reference to the Crown of references to the appointed person or the Scottish Ministers.

5.—(1) Where the appeal is to be disposed of on the basis of written representations, SEPA must submit any written representations to the Scottish Ministers not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a) and (f).

(2) The appellant must make any further representations by way of reply to any representations from SEPA no later than 17 days after the date of submission of those representations by it.

(3) Any representations made by the appellant or SEPA must bear the date on which they are submitted to the Scottish Ministers.

(4) When SEPA or the appellant submits any representations to the Scottish Ministers they must at the same time send a copy of them to the other party.

(5) The Scottish Ministers must send to the appellant and SEPA a copy of any representations made to them by the persons mentioned in paragraph 3(1) and must allow the appellant and SEPA a period of not less than 14 days in which to make representations on them.

(6) The Scottish Ministers may in a particular case—

(a) set later time limits than those mentioned in this paragraph,

(b) require exchanges of representations between the parties in addition to those mentioned in paragraphs (1) and (2).

6.—(1) The Scottish Ministers must—

(a) give notice to the appellant of their determination of the appeal,

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(**a**) 1973 c.65; section 210 was amended by the Housing and Planning Act 1986 (c.63), Schedule 11, paragraph 39.

(b) provide the appellant with a copy of any report mentioned in paragraph 4(9), and

(c) advise the appellant of the right of appeal under regulation 58(5).

(2) The Scottish Ministers must at the same time send—

(a) a copy of the documents mentioned in sub-paragraph (1) to SEPA and to any persons required under paragraph 3(1)(a) to be notified of the appeal, and

(b) a copy of their determination of the appeal to any person mentioned in paragraph 3(1)(b) and (c) who made representations to the Scottish Ministers and, if a hearing was held, to any other person who made representations in relation to the appeal at the hearing.

7. Where a determination of the Scottish Ministers is quashed on appeal, the Scottish Ministers—

(a) must send to the persons notified of their determination under paragraph 6, a statement of the matters with respect to which further representations are invited for the purposes of further consideration of the appeal,

(b) must afford to those persons the opportunity of making, within 28 days of the date of the statement, written representations in respect of those matters, and

(c) may, as they think fit, cause a hearing to be held or reopened and, if they do so, paragraphs 4(2) to (10) apply to the hearing or the reopened hearing as they apply to a hearing held under paragraph 4(1),

and paragraph 6 applies to the redetermination of the appeal as it applies to the determination of an appeal.

SCHEDULE 9

Regulation 64

REGISTER

1. Subject to regulations 65 or 66, the register contains—

(a) all particulars of any application made to SEPA for a permit,

(b) all particulars of any notice to the applicant by SEPA under paragraph 7 of Schedule 4 or paragraph 3 of Schedule 7 and of any information furnished in response to such a notice,

(c) all particulars of any advertisement published pursuant to paragraph 8 of Schedule 4 or paragraph 4(8) of Schedule 7 and of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register,

(d) all particulars of any advertisement under paragraph 22 of Schedule 4 or paragraph 9 of Schedule 7, the information specified in paragraph 23 of Schedule 4 or paragraphs 7 or 10 of Schedule 7 and all particulars of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register,

(e) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by SEPA that representations have been made which have been the subject of such a request (but such statement must not identify the person who made the representations in question),

(f) all particulars of any representations made by any person required to be given notice under paragraph 13 of Schedule 4 or paragraph 4(4)(c) of Schedule 7, and how they were taken into account in the decision

(g) all particulars of any permit granted by SEPA, and the reasons on which the decision is based,

(h) all particulars of any notification of SEPA given under regulation 45(1),

(i) all particulars of any application made to SEPA for the variation, transfer or surrender of a permit,

(j) all particulars of any variation, transfer or surrender of any permit granted by SEPA,

(k) all particulars of measures taken by the operator on surrender of a permit where the Part A activity involves the use, production or release of hazardous substances,

(l) all particulars of any revocation of a permit granted by SEPA,

(m) all particulars of a site visit report under regulation 54.

(n) all particulars of any enforcement notice or suspension notice or closure notice under the Landfill Regulations issued by SEPA,

(o) all particulars of any notice issued by SEPA withdrawing an enforcement notice or a suspension notice,

(p) all particulars of—

  (i) any notice of appeal in respect of an appeal under regulation 58 against a decision by SEPA, or against a notice served by SEPA, and

  (ii) the documents relating to the appeal mentioned in paragraph 1(2)(a), (d) and (e) of Schedule 8,

(q) all particulars of any representations made by any person in response to a notice given under paragraph 3(1) of Schedule 8, other than representations which the person who made them requested should not be placed in the register,

(r) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by SEPA that representations have been made which

have been the subject of such a request (but such statement must not identify the person who made the representations in question),

(s) all particulars of any written notification of the determination by the Scottish Ministers (or, as the case may be, the sheriff) of an appeal and any report accompanying any written notification,

(t) details of any conviction of any person for any offence under regulation 67(1) above or regulation 19(1) of the Landfill Regulations which relates to the operation of an installation or mobile plant under a permit granted by SEPA, or without such a permit in circumstances where one is required by regulation 11, including the name of the person, the date of conviction and, in the case of a conviction, the penalty imposed and the name of the Court,

(u) all particulars of any monitoring information relating to the operation of an installation or mobile plant under a permit granted by SEPA which has been obtained by it as a result of its own monitoring or furnished to it in writing by virtue of a condition of the permit or under regulation 63(2),

(v) in a case where any such monitoring information is omitted from the register by virtue of regulation 66, a statement by SEPA, based on the monitoring information from time to time obtained by or furnished to it, indicating whether or not there has been compliance with any relevant condition of the permit,

(w) all particulars of any other information furnished in compliance with a condition of the permit, a variation notice, enforcement notice or suspension notice, or regulation 63(2) or a closure notice under the Landfill Regulations,

(x) where a permit granted by SEPA authorises the carrying out a specified waste management activity, all particulars of any waste management licence (within the meaning of regulation 48(12)) which ceased to have effect on the granting of the permit in so far as they may be relevant for the purpose of determining under regulation 48 whether any pollution risk results from the carrying out of such an activity on the site covered by the permit,

(y) all particulars of any report published by SEPA relating to an assessment of the environmental consequences of the operation of an installation in the locality of premises where the installation is operated under a permit granted by it, and

(z) all particulars of any direction (other than a direction given for the purposes of section 20 of the 1990 Act and applied in respect of the register by virtue of regulation 64) given to SEPA under any provision of these Regulations,

(aa) a list which identifies all waste incineration installations which have a capacity of less than two tonnes per hour and which are the subject of a permit or an authorisation granted under section 6 of the 1990 Act containing conditions which give effect to the Chapter IV of the Industrial Emissions Directive,

(bb) all particulars of any conditioning plan or notification as referred to in paragraph 1(3)(b) or 5(3)(a) of Schedule 5 to the Landfill Regulations,

(cc) all particulars of any notice requiring a landfill to close (in whole or in part) issued under paragraph 1(3) of Schedule 5 to the Landfill Regulations,

(dd) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the Landfill Regulations.

2. Where an application is withdrawn by the applicant at any time before it is determined, all particulars relating to that application which are already in the register must be removed from the register not less than two months and not more than three months after the date of withdrawal of the application, and no further particulars relating to that application may be entered in the register.

3. Where, following an amendment of Schedule 1 or 2, these Regulations cease to apply to an installation or mobile plant, all particulars relating to units of that description must be removed

from the register not less than two months and not more than three months after the date on which the amendment comes into force.

4. Nothing in paragraph 1 requires SEPA to keep in the register—

(a) monitoring information relating to a particular installation or mobile plant four years after that information was entered in the register, or

(b) information relating to a particular installation or mobile plant which has been superseded by later information relating to that installation or mobile plant four years after that later information was entered in the register,

but this paragraph does not apply to any aggregated monitoring data relating to overall emissions of any substance or class of substance from installations or mobile plant generally, or from any class of installation or mobile plant.

SCHEDULE 10

Regulation 72

SAVINGS AND TRANSITIONAL PROVISIONS

PART 1

General

Interpretation

1.—(1) In this Schedule—

"enactment" includes an Act of the Scottish Parliament and an instrument made under such an Act,

"existing permit" means—

(a) a permit granted under the 2000 Regulations on or before 6th January 2013 (other than a permit revoked by paragraph 2), and

(b) a permit where—

(i) a duly made application for the permit is received by SEPA on or before 6th January 2013, and

(ii) the permit is granted in the period beginning on 7th January 2013 and ending on 6th January 2014.

(2) In the event of any inconsistency between a condition specified in any paragraph of Part 3 of this Schedule and any other condition of a permit the specified condition shall prevail to the extent of that inconsistency.

Permits in respect of odorising natural gas or liquefied petroleum gas

2. A permit for an activity falling within paragraph (a) of Part B of Section 1.2 of Part 1 of Schedule 1 to the 2000 Regulations is revoked on the date of coming into force of these Regulations.

Permits granted, or applied for, on or before 6th January 2013

3.—(1) This paragraph applies to an existing permit for—

(a) a Part A installation,

(b) a Part B installation, or

(c) any Part B mobile plant.

(2) The 2000 Regulations continue to have effect notwithstanding their revocation in relation to an existing permit—

(a) in the period beginning on 7th January 2013 and ending on 6th January 2014, and

(b) in respect of any application, notice, investigation or legal proceedings made or begun in that period and not determined or concluded by 7th January 2014 (including for that purpose any penalty, punishment or other sanction that may be imposed in respect of a failure to comply with a requirement of the 2000 Regulations in that period).

(3) An existing permit for a Part A installation is to be treated as suspended under these Regulations from 7th January 2014 if the installation has not been put into operation on or before 6th January 2014.

(4) Any enactment or direction modified, repealed or revoked by these Regulations is to be read as if not so modified, repealed or revoked to the extent necessary to give effect to this paragraph.

(5) An existing permit is treated as a permit granted under the 2000 Regulations for the purposes of this paragraph notwithstanding that it may be deemed by virtue of any other enactment to be a permit granted under these Regulations for any other purpose.

(6) In this paragraph, "suspended" means that a permit ceases to have effect to authorise the operation of an installation, or the carrying out of an activity in an installation, until—

(a) the permit is varied under regulation 46, or

(b) SEPA gives notice to the operator that the permit is no longer suspended.

Activities not requiring a permit, or requiring an environmental licence

4.—(1) This paragraph applies to an existing permit where the permit relates to activity that is not described in any Part A of Part 1 of Schedule 1 or in Schedule 2 to these Regulations (a "legacy permit").

(2) An operator holding a legacy permit is deemed to have applied on 7th January 2013 for any environmental licence that would otherwise be required for the activity described in the permit.

(3) No fee or charge is payable by the operator to SEPA under any enactment or scheme in respect of such a deemed application.

(4) A legacy permit is, so far as not revoked, to be treated as being revoked on 7th January 2014.

(5) In this paragraph, "environmental licence" means a permit, licence or authorisation under any of—

(a) these Regulations,

(b) the 1990 Act,

(c) the Water Environment (Controlled Activities) (Scotland) Regulations 2011(**a**), or

(d) the Waste Management Licensing (Scotland) Regulations 2011(**b**).

2015 installations

5.—(1) Regulation 11 applies to a 2015 installation—

(a) from 7th July 2015, or

(b) where an application for the purposes of paragraph (2) is not determined on or before that date, from the date the application is determined.

(2) An application for a permit to operate a 2015 installation must be received by SEPA in the period specified in sub-paragraph (3).

(3) The specified period for an activity described in Table 1 is—

(a) for row 12, the period beginning on 7th January 2014 and ending on 7th April 2014,

(b) for rows 3 to 8, the period beginning on 7th March 2014 and ending on 7th June 2014,

(c) for row 11, the period beginning on 7th May 2014 and ending on 7th August 2014, and

(d) for rows 1, 2, 9 and 10, the period beginning on 7th July 2014 and ending on 7th October 2014.

(4) An application received by SEPA for a permit for a 2015 installation before the applicable specified period—

(a) is deemed to have been received in that period, and

(b) no other period of time provided for in respect of any such application under these Regulations begins to elapse until the start of that period.

(5) In this paragraph, a reference to an application for a permit includes an application for a variation of a permit for an installation in respect of any other activity.

(**a**) S.S.I. 2011/209.
(**b**) S.S.I. 2011/228, as amended by S.S.I. 2012/148.

(6) In this paragraph, "2015 installation" means an installation at which an activity described in column 1 of Table 1 is carried out on or before 6th January 2013, but does not include an installation at which such an activity is carried out if—

(a) the activity is a Part A activity for the purposes of the 2000 Regulations, and

(b) a permit has been granted under those Regulations in respect of the activity.

(7) Where an activity falls within a description in more than one row of Table 1 it is to be regarded as falling only within the description that is most apt to describe the activity.

Table 1

Activity as described in Part 1 of Schedule 1
1. Section 1.2, Part A, paragraph (c)(ii)
2. Sections 4.1 to 4.6
3. Section 5.1
4. Section 5.3, Part A
5. Section 5.4, Part A, paragraph (a)(iii) to (v)
6. Section 5.4, Part A, paragraph (b)
7. Section 5.6, Part A, paragraph (a)
8. Section 5.6, Part A, paragraph (b)
9. Section 5.7, Part A
10. Section 6.1, Part A, paragraph (c)
11. Section 6.6, Part A
12. Section 6.8, Part A, paragraph (d)(iii)

Directions by the Scottish Ministers

6. A direction made by the Scottish Ministers under regulations 9(2) and 23 of the 2000 Regulations having effect on 6th January 2013 ceases to have effect on 7th January 2013.

PART 2

Specific installations and activities

Landfill

7.—(1) Where a landfill falls within paragraph (a) of Part A of Section 5.2 of Part 1 of Schedule 1, and a waste management licence was granted for its operation in the period beginning on 16th July 2011 and ending on 10 April 2003, the licence has effect from 11th April 2003 as if it were a landfill permit.

(2) In this paragraph, "landfill permit" means a permit required under these Regulations for the carrying out of the disposal of waste in a landfill.

Solvent emission activities: risk phrases and hazard statements

8.—(1) This paragraph applies where, on 1st June 2015, a permit refers to a substance that is a volatile organic compound or a halogenated volatile organic compound that is assigned or needs to carry a risk phrase(**a**).

(2) A reference in a permit to a risk phase described in column 1 of Table 2 is to be read as a reference to the hazard statement in the corresponding entry in column 2 of the Table.

(**a**) See Regulation (EC) No 1272/2008 as defined in regulation 2(1) for the meaning of 'hazard statements' and 'risk phrases'.

Table 2

Risk phrase	*Hazard statement*
R40	H341
R45	H340
R46	H350
R49	H350i
R60	H360D
R61	H360F
R68	H351

(3) In this paragraph, "permit" includes an authorisation under section 6 of the 1990 Act.

Solvent installations: first use of risk phrase or hazard statement substances

9.—(1) The operator of a solvents installation who proposes to begin using—

(a) in the period to 31st May 2015, a risk phrase or hazard statement substance or mixture, or

(b) in the period from 1st June 2015, to a hazard statement substance or mixture,

must make an application for variation under regulation 46, and may not begin using the substance or mixture until after the determination date.

(2) The operator of a solvents installation must make an application for variation under regulation 46 within the period of four months beginning—

(a) in the period to 31st May 2015, on the date on which a risk phrase or hazard statement, or

(b) in the period from 1st June 2015, on the date a hazard statement,

is assigned to a substance or mixture used in the installation.

(3) Where an operator fails to comply with a requirement under this paragraph SEPA must serve a notice on the operator requiring compliance, and specifying the period for doing so.

(4) A notice under sub-paragraph (3) is deemed to be an enforcement notice under regulation 55.

(5) In this paragraph, "determination date" means the date on which the permit is varied.

Refuelling activities

10.—(1) Regulation 11 applies, in respect of an installation at which an activity described in paragraph (c) of Part B of Section 1.2 of Part 1 of Schedule 1 is carried out, as specified in sub-paragraphs (2) and (3).

(2) It applies from the date of coming into force of these Regulations in respect of an existing service station with a throughput in any 12 month period of more than 3500 m^3.

(3) It applies in the period beginning on 31st December 2018 in respect of an existing service station with a throughput in any such period of more than 3000 m^3.

(4) In this paragraph, "existing service station" has the same meaning as in Section 1.2 of Part 1 of Schedule 1.

PART 3

Permit conditions

Permit condition: incidents, accidents, and breach of conditions

11.—(1) A permit for a Part A installation includes the condition specified in sub-paragraph (2).

(2) The specified condition is that the operator of an installation or any mobile plant must in the event—

(a) that operation gives rise to an incident or accident that significantly affects the environment, immediately take such measures as are needed to—

(i) limit the environmental consequences of the incident, and

(ii) prevent further possible incidents and accidents of the same type or from the same cause,

(b) of a breach of a permit condition, immediately take such measures as are needed to ensure compliance with the permit within the shortest possible time,

(c) of a breach of a permit condition that poses an immediate danger to human health, or threatens to cause an immediate significant adverse effect on the environment, immediately suspend operation until such time as the installation or mobile plant can be operated in compliance with the permit.

(3) This paragraph applies in the period from 7th January 2014 until the date that SEPA next varies a condition of the permit so as to give effect to Article 7 of the Industrial Emissions Directive.

Permit condition: monitoring of Part A installations

12.—(1) A permit for a Part A installation includes the condition specified in sub-paragraph (2).

(2) The specified condition is that the operator of a Part A installation must—

(a) supply SEPA regularly, and at least annually, with such results of emissions monitoring or monitoring of equivalent parameters as are needed to enable SEPA to verify compliance with the permit conditions,

(b) give SEPA the first report required under sub-paragraph (a) no later than 31st January 2014.

(3) This paragraph applies in the period from 7th January 2014 until the date that SEPA next varies a condition of the permit so as to give effect to Article 14(1)(d)(i) of the Industrial Emissions Directive.

Permit condition: large combustion plants

13.—(1) This paragraph applies to an installation at which an activity described in Chapter III of the Industrial Emissions Directive is carried out, whether before or after that Chapter has effect.

(2) An existing permit for such an installation includes the conditions specified in sub-paragraphs (2) and (3).

(3) The first specified condition is that in the event of malfunction or breakdown of abatement equipment the operator—

(a) must, if a return to normal operation is not achieved within 24 hours, reduce or close down operations or use low-polluting fuels, or take such other steps as SEPA requires, and

(b) must ensure that the cumulative duration of unabated operation in any 12 month period does not, unless agreed in advance by SEPA, exceed 120 hours.

(4) The second specified condition is that the values of the 95% confidence intervals of single measured results must not exceed the following percentages of the emission limit values—

(a) 10% for carbon monoxide,

(b) 20 % for sulphur dioxide,

(c) 20% for nitrogen oxides, and

(d) 30% for dust,

where the validated hourly and daily average values are determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified above, and providing that any day in which three or more hourly average values are invalid due to malfunction or maintenance of the continuous measurement system shall be invalidated.

(5) This paragraph applies in the period from 7th January 2013 until the date that SEPA next varies a condition of the permit so as to give effect—

(a) in the case of sub-paragraph (3), to Article 37 of the Industrial Emissions Directive, and

(b) in the case of sub-paragraph (4), to paragraph 9 of Part 3 of Annex V to that Directive.

PART 4

Fees and charges

14.—(1) A reference in these Regulations to payment of a prescribed fee is, in so far as a fee is prescribed for an equivalent matter in the 2012 Scheme, to be read as a reference to payment of the fee prescribed in the 2012 Scheme.

(2) Sub-paragraph (1) does not apply after the 2012 Scheme is revoked.

(3) Where sub-paragraph (1) does not apply (whether by virtue of sub-paragraph (2) or otherwise), and the 2012 Scheme—

(a) provides for the payment of a fee for an equivalent matter, a reference in the 2012 Scheme to the 2000 Regulations (or any part) is to be read as a reference to these Regulations (or any part), or

(b) does not provide for payment of such a fee, the fee to be charged by SEPA for any matter in or under these Regulations is the fee applicable to a Part A installation.

(4) For the purposes of sub-paragraph (3)(b), SEPA must apply—

(a) an application charge unit of 1, and

(b) a subsistence charge unit of 3.

(5) In this paragraph—

"2012 Scheme" means the Pollution Prevention and Control (Parts A and B) Fees and Charges (Scotland) Scheme 2012(**a**),

"application charge unit" has the same meaning as in the 2012 Scheme,

"equivalent matter" means, as the case may be, a matter in the 2000 Regulations equivalent to a matter provided for in or under these Regulations, or a matter in these regulations equivalent to a matter provided for in or under the 2000 Regulations,

"fee" includes charge,

"Part A installation" means a Part A installation as referred to in the 2012 Scheme.

"subsistence charge unit" has the same meaning as in the 2012 Scheme.

(**a**) Made by SEPA on 31 March 2012 in exercise of the powers conferred on them by section 41 of the Environment Act 1995 (c.25). A copy of the charging scheme is published on the SEPA web site at: http://www.sepa.org.uk/about_us/charging_schemes/current_charging_schemes.aspx.

SCHEDULE 11

Regulation 73

CONSEQUENTIAL MODIFICATIONS

PART 1

PUBLIC GENERAL ACTS

The Environmental Protection Act 1990

1.—(1) The 1990 Act is amended in accordance with sub-paragraphs (2) to (5).

(2) In section 6 (authorisations: general provisions), for subsections (6A) and (6B) substitute—

"(6A) Subsection (6) does not require a review of the conditions of an authorisation to be carried out if the prescribed process covered by the authorisation is—

(a) a Part A activity,

(b) a Part B activity,

(c) a solvent emission activity, or

(d) carried out using mobile plant.

(6B) In subsection (6A), "Part A activity", "Part B activity", "solvent emission activity" and "mobile plant" have the meanings given in the Pollution Prevention and Control (Scotland) Regulations 2012.".

(3) In section 34(1) (duty of care etc. as respects waste), for paragraph (aa) substitute—

"(aa) to prevent a contravention by any other person of regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012, or of a condition of a permit granted under those Regulations;".

(4) In section 35(11A)(waste management licences: general), for "license" substitute "licence".

(5) In section 78YB (2C) (interaction of this Part with other enactments), for the definition of "enforcement action" substitute—

""enforcement action" means action under regulation 55 (SEPA: enforcement notices) or regulation 57(2) (SEPA: power to prevent or remedy pollution) of the Pollution Prevention and Control (Scotland) Regulations 2012.".

The Environment Act 1995

2.—(1) The 1995 Act is amended in accordance with sub-paragraph (2).

(2) In Schedule 20 (delegation of appellate functions of the Secretary of State), for paragraph 4(3)(d) substitute—

"(d) regulation 66 of the Pollution Prevention and Control (Scotland) Regulations 2012, or".

The Antisocial Behaviour etc. (Scotland) Act 2004

3.—(1) The Antisocial Behaviour etc. (Scotland) Act 2004(**a**) is amended in accordance with sub-paragraph (2).

(2) In Schedule 2, omit paragraph 7 (the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000323)).

(**a**) 2004 asp 8.

PART 2

SUBORDINATE LEGISLATION

The Environmental Protection (Prescribed Processes and Substances) Regulations 1991

4.—(1) The Environmental Protection (Prescribed Processes and Substances) Regulations 1991(**a**) are amended in accordance with sub-paragraph (2).

(2) For regulation 3A (exclusion of prescribed processes under control of the Pollution Prevention and Control (Scotland) Regulations 2000) substitute—

> "**3A. Exclusion of prescribed processes under control of the Pollution Prevention and Control (Scotland) Regulations 2012**
>
> (1) Where a process which is being carried on under an authorisation requires a permit under the Pollution Prevention and Control (Scotland) Regulations 2012, that process will no longer be taken to fall within a description in Schedule 1 from the date the permit is granted.
>
> (2) Where a process which is not being carried on under an authorisation requires a permit under those Regulations, that process will not be taken to fall within a description in Schedule 1 from the date on which the permit is required.".

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

5.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991**(b)** are amended in accordance with paragraph (2).

(2) In Schedule 1 (prescribed offences: relevant enactments), for "The Pollution Prevention and Control (Scotland) Regulations 2000" substitute "The Pollution Prevention and Control (Scotland) Regulations 2012".

The Environmental Protection (Duty of Care) Regulations 1991

6.—(1) The Environmental Protection (Duty of Care) Regulations 1991**(c)** are amended in accordance with sub-paragraph (2).

(2) In the Table in regulation 2 (transfer notes), in the third entry in column 1, for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Conservation (Natural Habitats, &c.) Regulations 1994

7.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994**(d)** are amended in accordance with sub-paragraph (2).

(2) In the cross heading to regulation 84A (permits under the Pollution Prevention and Control (Scotland Regulations 2000) and in paragraph (1) of that regulation, for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

(**a**) S..I 1991/472, as relevantly amended by S.I. 1993/1749 and 2405, 1995/2678 and 3247, and 1998/767, and by S.S.I. 2000/323, 2004/26 and 512, 2005/410 and 2011/418.
(**b**) S..I. 1991/1624, as relevantly amended by
(**c**) S..I. 1991/2839, as relevantly amended by
(**d**) S.I. 1994/2716, as relevantly amended by paragraph 15 of schedule 2 to the Land Reform (Scotland) Act 2003 (asp 2) ("the 2003 Act"), by S.I. 1997/3055, 2007/1843 and 2010/490, and by S.S.I. 2004/475, 2007/80, 2011/155 and 2012/228.

The Special Waste Regulations 1996

8.—(1) The Special Waste Regulations 1996(**a**) are amended in accordance with sub-paragraph (2).

(2) In regulations 15(6A) (registers) and 17(2) (restrictions on mixing special waste), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Landfill Tax Regulations 1996

9.—(1) The Landfill Tax Regulations 1996(**b**) are amended in accordance with sub-paragraph (2).

(2) In regulation 33 (bodies eligible for approval), for paragraph (4)(h) to (j), substitute—

"(h) an enforcement notice served under regulation 55 of the Pollution Prevention and Control (Scotland) Regulations 2012;

(i) a suspension notice given under regulation 56 of those Regulations;

(j) an order under regulation 70 of those Regulations.".

The Contaminated Land (Scotland) Regulations 2000

10.—(1) The Contaminated Land (Scotland) Regulations 2000(**c**) are amended in accordance with sub-paragraph (2).

(2) In regulation 2 (land required to be designated as a special site)—

(a) in paragraph (1)(da) omit "or by means of Part A mobile plant", and

(b) for paragraph (3A) substitute—

"(3A) In paragraph (1)(da) above, "Part A installation" and "permit" have the same meanings as in the Pollution Prevention and Control (Scotland) Regulations 2012.".

The Landfill (Scotland) Regulations 2003

11.—(1) The Landfill (Scotland) Regulations 2003(**d**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of "the 2000 Regulations" substitute ""the 2012 Regulations" means the Pollution Prevention and Control (Scotland) Regulations 2012;", and

(b) in the definitions of "landfill permit" and "operator", for "the 2000 Regulations" substitute "the 2012 Regulations".

(3) In regulation 10(2)(b) (conditions to be included in landfill permits) and in regulation 13(b) (costs of disposal of waste in landfill), for "regulation 4(3)(b) of the 2000 Regulations" substitute "regulation 18(4)(b) of the 2012 Regulations".

(4) In regulation 10(3)(b)(ii), for "the 2000 Regulations" substitute "the 2012 Regulations".

(5) In regulation 17(6) (closure and after care procedures for landfills), for "regulations 15 to 17 of the 2000 Regulations" substitute "regulations 48 and 50 of the 2012 Regulations".

(**a**) S.I. 1996/972, as relevantly amended by S.I. 1997/2019 and S.S.I. 2000/323, 2004/112, 2011/226 and 228.
(**b**) S.I. 1996/1527, as last amended by S.I. 2012/885.
(**c**) S.S.I. 2000/178, as amended by S.S.I. 2000/323, 2005/658 and 2007/178.
(**d**) S.S.I. 2003/235, as amended by paragraph 8 of schedule 2 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and by S.S.I. 2003/343, 2009/247, 2010/60, 2011/226 and 2012/148.

The Greenhouse Gas Emissions Trading Scheme Regulations 2005

12.—(1) The Greenhouse Gas Emissions Trading Scheme Regulations 2005(**a**) are amended in accordance with sub-paragraph (2).

(2) In regulation 8(3)(b)(ii) (applications for greenhouse gas emissions permits), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Water Environment (Oil Storage) (Scotland) Regulations 2006

13.—(1) The Water Environment (Oil Storage) (Scotland) Regulations 2006(**b**) are amended in accordance with sub-paragraph (2).

(2) In regulation 6(1)(c)(ii) (storage of oil – general), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Waste Electrical and Electronic Equipment Regulations 2006

14.—(1) The Waste Electrical and Electronic Equipment Regulations 2006(**c**) are amended in accordance with sub-paragraph (2).

(2) In regulation 2(1) (interpretation), in the definition of "relevant authorisation", for "regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012".

The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007

15.—(1) The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007(**d**) are amended in accordance with sub-paragraph (2).

(2) In regulation 3(1)(b) (meaning of "participating plant") and in Schedule 1, Part 1, paragraph 1(b) (the register: interpretation), for "Part II of the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "Part III of the Pollution Prevention and Control (Scotland) Regulations 2012".

The Persistent Organic Pollutants Regulations 2007

16.—(1) The Persistent Organic Pollutants Regulations 2007(**e**) are amended in accordance with sub-paragraph (2).

(2) In regulation 4(1)(b) (duties on the Member State), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007

17.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**f**) are amended in accordance with sub-paragraph (2).

(2) In regulation 2(2) (interpretation and notices), in paragraph (a) of the definition of "relevant authorisation", for "regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "under the Pollution Prevention and Control (Scotland) Regulations 2012".

(**a**) S.I. 2005/925, as relevantly amended by S.I. 2005/2903, 2006/737, 2007/465, 3433 and 3538, 2010/675, 1513 and 1996 and 2011/1506 and 2911.
(**b**) S.S.I. 2006/133.
(**c**) S.I. 2006/3289, as last amended in respect of Scotland alone by S.S.I. 2011/226.
(**d**) S.I. 2007/2325.
(**e**) S.I. 2007/3106.
(**f**) S.I. 2007/871.

The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008

18.—(1) The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008(**a**) are amended in accordance with sub-paragraph (2).

(2) In Schedule 4, Part 2 (secondary legislation), for "The Pollution Prevention and Control (Scotland) Regulations 2000" substitute "The Pollution Prevention and Control (Scotland) Regulations 2012".

The Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008

19.—(1) The Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008(**b**) are amended in accordance with sub-paragraph (2).

(2) In Schedule 3, Part 2 (secondary legislation), for "The Pollution Prevention and Control (Scotland) Regulations 2000" substitute "The Pollution Prevention and Control (Scotland) Regulations 2012".

The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008)

20.—(1) The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(**c**) are amended in accordance with sub-paragraph (2).

(2) In regulation 8(d) (exclusions from storage capacity), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Waste Batteries and Accumulators Regulations 2009

21.—(1) The Waste Batteries and Accumulators Regulations 2009(**d**) are amended in accordance with sub-paragraph (2).

(2) In Schedule 4, paragraph 12(2)(c) (approval of battery treatment operators and exporters: general conditions of approval), for "regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012".

The Corporation Tax (Land Remediation Relief) Order 2009

22.—(1) The Corporation Tax (Land Remediation Relief) Order 2009(**e**) is amended in accordance with sub-paragraph (2).

(2) For article 4(2)(b)(ii) (relevant contaminated land remediation: specified activity) substitute—

"(ii) the Pollution Prevention and Control (Scotland) Regulations 2012,".

The Mercury Export and Data (Enforcement) Regulations 2010

23.—(1) The Mercury Export and Data (Enforcement) Regulations 2010(**f**) are amended in accordance with sub-paragraph (2).

(2) In regulation 5(4)(b)(ii) (offences in respect of the EU Regulation), for "regulation 30 of the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "regulation 67 of the Pollution Prevention and Control (Scotland) Regulations 2012".

(**a**) S.S.I. 2008/100.
(**b**) S.S.I. 2008/159.
(**c**) S.S.I. 2008/298, as relevantly amended by S.S.I. 2009/447 and 2011/228.
(**d**) S.I. 2009/890.
(**e**) S.I. 2009/2037.
(**f**) S.I. 2010/265.

24.—(1) The Waste Management Licensing (Scotland) Regulations 2011(**a**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation), omit the definition of "the 2000 Regulations" and insert after the definition of "the 2011 Regulations"—

> ""the 2012 Regulations" means the Pollution Prevention and Control (Scotland) Regulations 2012;".

(3) For regulation 3(h) (relevant offences) substitute—

> "(h) regulation 67(1) of the 2012 Regulations;".

(4) In regulation 16 (exclusion of activities under other control regimes from waste management licensing)—

(a) in paragraph (1)(c) to (e), for the "2000 Regulations" substitute "the 2012 Regulations", and

(b) for paragraph (3) substitute—

> "(3) In paragraph (1)(c), "Part A installation" has the meaning given by regulation 12 of the 2012 Regulations.".

(5) In regulation 21(3)(b) (register of exempt activities: registration of information), for "the 2000 Regulations" substitute "the 2012 Regulations".

(6) In regulation 30(2)(c) (registration of brokers and dealers), for "the 2000 Regulations" substitute "the 2012 Regulations".

(7) In Schedule 1 (activities exempt from waste management licensing)—

(a) for paragraph 5(1), substitute—

> "(1) Burning of biomass waste or animal carcasses to the extent that doing so is, or forms part of, an activity falling within paragraphs (a) or (b) of Part B of Section 5.1 of Part 1 of Schedule 1 to the 2012 Regulations.",

(b) in paragraph 9(2), for "regulation 7 of the 2000 Regulations" substitute "regulation 11 of the 2012 Regulations", and

(c) for paragraph 29(1) substitute—

> "(1) The disposal of waste as specified in sub-paragraph (1A) at the place where it is produced, by the person producing it, by burning it in an incinerator.
>
> (1A) The specified disposal is the burning of biomass waste or animal carcasses to the extent that doing so is, or forms part of, an activity falling within paragraphs (a) or (b) of Part B of Section 5.1 of Part 1 of Schedule 1 to the 2012 Regulations.
>
> (1B) A disposal under sub-paragraph (1) must, where the activity is authorised under the 1991 Regulations, be in an exempt incinerator for the purposes of Section 5.1 (incineration) of Schedule 1 to those Regulations.".

(8) In Schedule 1, paragraphs 1(1), 2(1), 3(a) and (d), 24(1), 44(3) and (4) and 45(2)(a) (activities exempt from waste management licensing), for "the 2000 Regulations" substitute "the 2012 Regulations".

(9) In Schedule 4 (Waste Framework Directive)—

(a) in paragraph (1), in paragraph (d) of the definition of "permit" for "the 2000 Regulations" substitute "the 2012 Regulations",

(b) in paragraph 5(1), in the eighth entry in right hand column (specified functions) of Table 23 for "the 2000 Regulations" substitute "the 2012 Regulations",

(c) in paragraph 7(3)(a), for "the 2000 Regulations" substitute "the 2012 Regulations", and

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(**a**) S.S.I. 2011/228, as amended by S.S.I. 2012/148.

(d) for paragraph 7(4) substitute—

"(4) In sub-paragraph (3), "Part B installation" has the meaning given by regulation 12 (permits: interpretation) of the 2012 Regulations".

The Water Environment (Controlled Activities) (Scotland) Regulations 2011

25.—(1) The Water Environment (Controlled Activities) (Scotland) Regulations 2011(**a**) are amended in accordance with paragraph (2).

(2) In Schedule 10, Part 2, paragraph 18(c)(iii), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Renewable Heat Incentive Scheme Regulations 2011

26.—(1) The Renewable Heat Incentive Scheme Regulations 2011(**b**) are amended in accordance with sub-paragraph (2).

(2) In Schedule 1, paragraph 1(2)(m) (information required for accreditation and registration), for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012

27.—(1) The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012(**c**) are amended in accordance with paragraphs (2) and (3).

(2) For regulation 3(4)(b) (scope) substitute—

"(b) Part 1 of Schedule 2 (solvent emission activities) to the Pollution Prevention and Control (Scotland) Regulations 2012 if it is operated above the solvent consumption threshold specified for that activity as set out in that Part; and".

(3) In regulation 6(1)(b)(ii) (enforcement) for "the Pollution Prevention and Control (Scotland) Regulations 2000" substitute "the Pollution Prevention and Control (Scotland) Regulations 2012".

(**a**) S.S.I. 2011/209.
(**b**) S.I. 2011/2860.
(**c**) S.I. 2012/1715.

SCHEDULE 12

Regulation 74

REVOCATIONS

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 Pollution Prevention and Control (Scotland) Regulations 2000	S.S.I. 2000/323(**a**)	The whole instrument
2. The Large Combustion Plants (Scotland) Regulations 2002	S.S.I. 2002/493	The whole instrument
3. The Pollution Prevention and Control (Scotland) Amendment Regulations 2003	S.S.I. 2003/146	The whole instrument
4. The Waste Incineration (Scotland) Regulations 2003	S.S.I. 2003/170(**b**)	The whole instrument
5. The Pollution Prevention and Control (Scotland) Amendment (No. 2) Regulations 2003	S.S.I. 2003/221	The whole instrument
6. The Landfill (Scotland) Regulations 2003	S.S.I. 2003/235(**c**)	Regulation 8, Schedule 5, paragraphs 1, 2(1) and (3), 3(1) and (2) and 4 Schedule 6, paragraph 3
7. The Solvent Emissions (Scotland) Regulations 2004	S.S.I. 2004/26(**d**)	The whole instrument
8. The Pollution Prevention and Control (Scotland) Amendment Regulations 2004	S.S.I. 2004/110	The whole instrument
9. The Special Waste Amendment (Scotland) Regulations 2004	S.S.I. 2004/112	Regulation 3
10. The Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2004	S.S.I. 2004/512	Regulation 4
11. The Pollution Prevention and Control (Scotland) Amendment Regulations 2005	S.S.I. 2005/101	The whole instrument
12. The Pollution Prevention and Control (Scotland) Amendment (No. 2) Regulations 2005	S.S.I. 2005/340	The whole instrument

(**a**) S.S.I. 2000/323, as amended by paragraph 7 of Part 2 of schedule 1 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), by S.I. 2007/2325, and by S.S.I. 2002/493, 2003/146, 170, 221 and 235, 2004/26, 110, 112 and 512, 2005/101, 340 and 510, 2006/127, 2008/410, 2009/247 and 336, 2010/236 and 2011/171, 226, 285 and 418, and 2012/148.

(**b**) S.S.I. 2003/170, as amended by S.S.I. 2011/228.

(**c**) S.S.I. 2003/235, as amended by paragraph 8 of schedule 2 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and by S.S.I. 2003/343, 2009/247, 2010/60, 2011/226 and 2012/148.

(**d**) S.S.I. 2004/26, as amended by S.S.I 2010/236.

Legislation	*Reference*	*Extent of revocation*
13. The Pollution Prevention and Control (Public Participation etc.) (Scotland) Regulations 2005	S.S.I. 2005/510	The whole instrument
14. The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007	S.I. 2007/2325(**a**)	Schedule 2, paragraph 2
15. The Pollution Prevention and Control (Scotland) Amendment Regulations 2008	S.S.I. 2008/410	The whole instrument
16. The Waste Batteries (Scotland) Regulations 2009	S.S.I. 2009/247(**b**)	Regulation 6
17. The Pollution Prevention and Control (Scotland) Amendment Regulations 2009	S.S.I. 2009/336	The whole instrument
18. The Solvent Emissions (Scotland) Regulations 2010	S.S.I. 2010/236	The whole instrument
19. The Animal By-products (Enforcement) (Scotland) Regulations 2011	S.S.I. 2011/171	Schedule 2, paragraphs 13 and 14
20. The Waste (Scotland) Regulations 2011	S.S.I. 2011/226	Regulation 7, and Schedule paragraphs 5 to 9
21. The Pollution Prevention and Control (Scotland) Amendment Regulations 2011	S.S.I. 2011/285	The whole instrument
22. The Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2011	S.S.I. 2011/418	Regulation 4
23. The Waste (Scotland) Regulations 2012	S.S.I. 2012/148	Regulation 3

(**a**) S.I. 2007/2325, as amended by S.I. 2007/3476 and 3538 and 2010/675.
(**b**) S.S.I. 2009/247, as amended by S.I. 2011/226.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (c.24), and under section 2 of the European Communities Act 1972 (c.68) so far as providing for the designation of a competent authority.

These Regulations provide an integrated pollution control regime for Scotland for the purposes of implementing Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast) (OJ No L 334, 17.12.2010, p.17) (the "Industrial Emissions Directive"), and of regulating other environmentally polluting activities not covered by the Industrial Emissions Directive.

These Regulations revoke and remake, with modifications, the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) (the "2000 Regulations"). The 2000 Regulations when made transposed what is now Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control (Codified version) (OJ No L 24, 29.1.2008, p.8) (the "IPPC Directive")

The Industrial Emission Directive is a recast, with modifications, of the seven directives repealed by Article 81 of that Directive. The recast directives include the IPPC Directive, and these Regulations make new provision so far as required for the other recast directives.

These Regulations come into force on 7th January 2013, and have effect subject to the savings and transitional arrangements in Schedule 10. A permit under these Regulations will be required for most existing installations or mobile plant from 7th January 2014. An activity already being operated before 7th January 2013, that does not need a permit under the 2000 Regulations, will require a permit needed under these Regulations from 7th July 2015.

Part 1 of these Regulations provides for the meaning of terms used in these Regulations, for general duties on the Scottish Environment Protection Agency and the Scottish Ministers, and for electronic communications.

Part II of these Regulations designates the SEPA as the competent authority for the purposes of the Industrial Emissions Directive, as required by Article 71 of that Directive.

Part III of these Regulations makes it a requirement for any person operating an installation or mobile plant, at which an activity described in Schedules 1 or 2 is carried out, to have a permit granted by SEPA under these Regulations.

In Part III, regulations 11 to 19 of, and Schedule 4 to, these Regulations provide for applications for permits, and make general provision as to granting of permits including the conditions that SEPA may include in a permit.

In Part III, regulations 20 to 32 make further provision for permits for activities described in Schedule 1 carried out in a Part A installation, a Part B installation, or mobile plant, Regulations 24 and 25 transpose, in particular, Articles 14 and 15 of the Industrial Emissions Directive in respect of the new provision in that Directive for BAT conclusions (see regulations 4 and 12 for relevant definitions). The provision made includes a power to attach conditions affecting land other than the site of an installation. Schedules 3 and 5 to these Regulations make further provision in relation to such activities, and in relation to the best available techniques for emission limit values and other conditions designed to prevent or reduce the environmental impact of activities. Schedule 6 makes further provision for compensation for off-site conditions.

In Part III, regulations 32 to 34 make further provision for activities described in Schedule 2 that are carried out in solvents installation (see regulation 12 for the relevant definition).

Part IV of these Regulations provides for the Scottish Ministers or SEPA to be able to make standard rules for installations or mobile plant, and for SEPA to be able to attach standard rules conditions in any permit.

Part V of these Regulations provides for the review of permit conditions, for changes in operation, and generally for the variation, transfer, surrender or revocation of permits. Schedule 7 makes further provision for the variation of permits.

Part VI of these Regulations provides for compliance with permits, and permit conditions. It makes particular provision for the new requirements of Articles 8 (in regulation 52), and 23 (in regulations 53 and 54) of the Industrial Emissions Directive.

Parts VII to XI of these Regulations make provision for appeals to the Scottish Ministers and the sheriff, for directions and guidance to SEPA by the Scottish Ministers, for information and publicity including a public register holding information relevant to these Regulations, for offences and the powers of the courts, and for Crown application. Schedules 8 and 9 make further provision for appeals and the public register respectively. Schedules 11 and 12 provide for consequential modifications and revocations.

A business and regulatory impact assessment has been prepared and copies can be obtained from the Environmental Quality Division, Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ. A copy has been placed in the library of the Scottish Parliament.

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