SCOTTISH STATUTORY INSTRUMENTS

2026 No. 55

ENVIRONMENTAL PROTECTION

FISH FARMING

WATER

The Environmental Authorisations (Scotland) Amendment Regulations 2026

Made - - - -	*3rd February 2026*
Laid before the Scottish Parliament	*5th February 2026*
Coming into force - -	*26th March 2026*

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

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

PART 1
General

Citation and commencement

1. These Regulations may be cited as the Environmental Authorisations (Scotland) Amendment Regulations 2026 and come into force on 26 March 2026.

(**a**) 2014 asp 3. Section 16 makes provision relevant to the exercise of these powers; section 16 and schedule 2 were amended by S.S.I. 2019/436. Section 18 includes the power to make different provision for different purposes and incidental, supplemental, consequential, transitional, transitory or savings provision by virtue of section 58(1).

PART 2

Amendment of the Environmental Authorisations (Scotland) Regulations 2018

Amendment of the Environmental Authorisations (Scotland) Regulations 2018

2. The Environmental Authorisations (Scotland) Regulations 2018(**a**) are amended in accordance with regulations 3 to 11.

Amendment of regulation 2 (interpretation)

3. In regulation 2(1) (interpretation)—

(a) after the definition of "enforcing officer"—

(i) omit the definitions of "fuel" and "fit and proper person",

(ii) insert—

""fish farm" has the meaning given by section 166 of the Marine (Scotland) Act 2010(**b**),

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

"fuel" means any solid, liquid, or gaseous combustible material,",

(b) before the definition of "harm to the water environment" insert—

""harm to the Scottish marine area" means—

(a) harm to the health of human beings or other living organisms,

(b) harm to the quality of the Scottish marine area, including—

(i) harm to the quality of the Scottish marine area taken as a whole,

(ii) other impairment of, or interference with, the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,

(c) offence to the senses of human beings,

(d) damage to property, or

(e) impairment of, or interference with, amenities or other legitimate uses of the Scottish marine area,",

(c) in the definition of "pollution"(**c**)—

(i) omit ", or cause offence to any human sense,",

(ii) after "quality of the environment," insert "cause offence to any human sense,",

(d) before the definition of "SEPA" insert—

""Scottish marine area" has the meaning given by section 1 of the Marine (Scotland) Act 2010,".

(**a**) S.S.I. 2018/219, amended by S.S.I. 2019/26, S.S.I. 2023/374 and S.S.I. 2025/165.
(**b**) 2010 asp 5.
(**c**) The definition of "pollution" was inserted by S.S.I. 2025/165.

Amendment of regulation 4 (interpretation: regulated activities)

4. In regulation 4 (interpretation: regulated activities) for the definition of "water activity" substitute—

""water activity" means—

(a) any activity liable to cause the direct or indirect introduction, as a result of human activity, of any substance or heat into the water environment which may give rise to harm to the water environment,

(b) any activity, carried on in the course of operation of a fish farm, liable to cause the direct or indirect introduction of any substance into the Scottish marine area outside of the water environment which may give rise to harm to any part of the water environment or the Scottish marine area,

(c) abstraction of water from the water environment,

(d) abstraction of water, carried on in the course of operation of a fish farm, from the Scottish marine area outside of the water environment,

(e) construction or alteration of impounding works in inland water (other than in groundwater) or wetland,

(f) operation of impounding works in surface water or wetland,

(g) carrying out building or engineering works, or works other than those referred to in sub-paragraphs (e) or (f)—

(i) in inland water (other than groundwater) or wetland, or

(ii) in the vicinity of inland water (other than groundwater) or wetland and having or likely to have a significant adverse impact on the water environment,

(h) artificial recharge or augmentation of groundwater,

(i) the direct or indirect discharge, and any activity likely to cause a direct or indirect discharge, into groundwater of—

(i) any groundwater hazardous substance, or

(ii) any other substance or heat liable to cause harm to the water environment,

(j) any other activity—

(i) which directly or indirectly has or is likely to have a significant adverse impact on the water environment,

(ii) carried on in the course of operation of a fish farm in the Scottish marine area outside of the water environment, which directly or indirectly has or is likely to have a significant adverse impact on any part of the water environment or the Scottish marine area.".

Amendment of regulation 46 (regulatory notices)

5. In regulation 46(5) (regulatory notices), after sub-paragraph (c), insert—

"(d) any preliminary action SEPA considers necessary or appropriate in order to determine how the steps in paragraph (3)(g) can best be achieved.".

Amendment of regulation 57 (effect of notices etc. during consideration of appeal)

6. In regulation 57(2) (effect of notices etc. during consideration of appeal)—

(a) in sub-paragraph (a), for "regulation 25" substitute "paragraph 13 of schedule 1",

(b) in sub-paragraph (g), after "regulation 22(3)(b)" insert "(other than in relation to an accelerated application under regulation 63)".

Amendment of regulation 63 (accelerated applications)

7. In regulation 63(6) (accelerated applications), after "accelerated application" insert "(other than in relation to a variation)".

Amendment of schedule 1 (registrations and permits: procedures)

8. In schedule 1 (registrations and permits: procedures), in Part 1 (general provisions), in paragraph 10(3) (time limits for determining applications), in heads (a) to (c), in the closing words, after "application" insert "and any required fee".

Amendment of schedule 4 (provisions relating to appeals)

9. In schedule 4 (provisions relating to appeals), in Part 1 (appeals procedure), in paragraph 4(h)—

(a) in the opening words, after "notice" insert "or notification",

(b) in head (v), after "permit" insert "or registration",

(c) after head (x), insert—

"(xi) an appeal in relation to the conditions attached to an authorisation to take account of a partial surrender;

(xii) an appeal in relation to a SEPA-initiated consolidation under regulation 64(2).".

Amendment of schedule 10 (water activities)

10. In schedule 10 (water activities)—

(a) in Part 2, in paragraph 3—

(i) in sub-paragraph (1) after "the water environment" insert "or, where the authorisation relates to a water activity carried on in the course of the operation of a fish farm outside of the water environment, for the purposes of protection of the water environment or protection of the Scottish marine area",

(ii) in sub-paragraph (2) after "the water environment" insert "or "protection of the Scottish marine area"",

(b) in Part 3, in paragraph 5—

(i) in sub-paragraph (1)(a) after "the water environment" insert "or, where the functions relate to operation of a fish farm, any part of the water environment or the Scottish marine area",

(ii) in sub-paragraph (1)(b) after "the water environment" insert "or, where the functions relate to operation of a fish farm, other users of any part of the water environment or the Scottish marine area".

Amendment of schedule 11 (waste management activities)

11. In schedule 11 (waste management activities), in Part 2 (amendments to common framework provisions), after paragraph 6 insert—

"Authorisation conditions: metal contamination

7. SEPA must ensure that permits for the activity described in paragraph 25(2)(d) of Chapter 5 of Part 4 of schedule 20 include such conditions as it considers appropriate to ensure that—

(a) the authorised person establishes systems to detect the presence of radioactive contamination in all received waste,

(b) the authorised person informs SEPA promptly of the known or suspected presence of radioactive contamination in waste (whether present in waste received, as a result of melting of, or other metallurgical operation on an orphan source or otherwise), and

(c) waste contaminated or suspected to be contaminated with radioactivity is not disposed of without approval by SEPA.".

PART 3

Amendment of the Environmental Authorisations (Scotland) Amendment Regulations 2025

Amendment of the Environmental Authorisations (Scotland) Amendment Regulations 2025

12. In the Environmental Authorisations (Scotland) Amendment 2025 Regulations(**a**), in schedule 23 (transitional and savings provisions)—

(a) in Part 5 (continuity of existing proceedings), in paragraph 26(1) (existing applications), in the closing words, for "sub-paragraphs (2)-(4)" substitute "sub-paragraphs (2)-(5)",

(b) in Part 6 (specific activities), after paragraph 34 (medium combustion plants: deemed condition), insert—

"Chapter 4

Water Activities

Transitional Provision: Activity 18 in the table in Chapter 2 of Part 1 of schedule 9 of the 2018 Regulations

35.—(1) In relation to activity 18 (storage and application of fertiliser) in column 1 of the table in Chapter 2 of Part 1 of schedule 9 of the 2018 Regulations, slurry does not need to be applied using precision equipment until 1 January 2027, unless the slurry is—

(a) applied by contractors,

(b) applied on farms with more than 100 milking cows or 200 beef cattle livestock units, or

(c) applied on pig units with more than 800 fattening pigs or 800 sows.

(2) Where paragraph 35(1) applies so that slurry does not need to be applied using precision equipment, slurry must not be applied by means of a raised splash plate or rain gun.

(3) In calculating the number of beef cattle livestock units on the farm for the purposes of sub-paragraph (1)(b)—

(a) an animal of 2 years and older is 1 unit, and

(**a**) S.S.I. 2025/165.

(b) an animal under 2 years old is 0.5 of a unit.".

PART 4

Consequential Amendments

Amendment of the Special Waste Regulations 1996

13. In the Special Waste Regulations 1996(**a**), in regulations 2ZA(4) (determination that a waste is hazardous waste) and 2ZD(3) (provisions common to regulations 2ZB and 2ZC), for "relevant waste management objectives referred to in paragraphs 4(2)" substitute "waste hierarchy aims referred to in paragraphs 3(2)".

Amendment of the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000

14. In the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000(**b**), in the definition of "disposal" in regulation 2 (interpretation and notices) and in the heading to schedule 1 (disposal operations D8, D9, D10, D12 and D15 as set out in Part II of schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011) for "Part II of schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011" substitute "Annex I of Directive 2008/98EC of the European Parliament and of the Council on waste"(**c**).

Amendment of the Packaging (Essential Requirements) Regulations 2015

15. In the Packaging (Essential Requirements) Regulations 2015(**d**), in schedule 1 ((Annex II of the Directive) essential requirements on the composition and the reusable and recoverable, including recyclable, nature of packaging), in paragraph 1(4)(b) (requirements specific to the manufacturing and composition of packaging), renumber the second head (a) as head (b).

GILLIAN MARTIN
A member of the Scottish Government

St Andrew's House,
Edinburgh
3rd February 2026

(**a**) S.I. 1996/972, relevantly amended by S.S.I. 2019/26 and S.S.I. 2025/165.
(**b**) S.S.I. 2000/95, relevantly amended by S.S.I. 2019/26.
(**c**) OJ L 312, 22.11.2008, p.3, as last amended by Directive (EU) 2018/851.
(**d**) S.I. 2015/1640, relevantly amended by S.I. 2020/904 and S.S.I. 2025/165.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Authorisations (Scotland) Regulation 2018 ("the 2018 Regulations") and the Environmental Authorisations (Scotland) Amendment Regulations 2025 ("the 2025 Regulations"), and additionally amend three other instruments as a consequence of provision made in the 2025 Regulations.

Part 2 of these regulations includes amendment to the 2018 Regulations to expand water activities regulated by SEPA under the 2018 Regulations to include certain water activities carried on in the course of operation of a fish farm in the Scottish marine area outside of the water environment.

Part 2 of these regulations also makes a number of technical amendments to the 2018 Regulations to correct minor errors and ensure the better functioning of the 2018 Regulations. The amendment made by regulation 11 ensures that the required authorisation conditions in paragraph 7 (metal contamination) of schedule 5 (transitional and savings provision) of the 2018 Regulations continue to have effect following the revocation of the Pollution Prevention and Control (Scotland) Regulations 2012 by the 2025 Regulations.

Part 3 makes amendments to the transitional arrangements in the 2025 Regulations. Regulation 12(a) corrects a minor error whilst regulation 12(b) ensures that the previous transitional provision in relation to the general binding rule for the storage and application of fertiliser provided for by the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 will have effect under the 2025 Regulations until 1 January 2027.

Part 4 provides for modifications consequential to the amendment of the 2018 Regulations by the 2025 Regulations so as to correct errors made by the 2025 Regulations in consequentially amending the Special Waste Regulations 1996 and the Packaging (Essential Requirements) Regulations 2015, and also to update the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances (Scotland) Regulations 2000 to remove references in that instrument to the Waste Management Licensing (Scotland) Regulations 2011 which were revoked by the 2025 Regulations.

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106557-0

£8.90

http://www.legislation.gov.uk/id/ssi/2026/55

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