

## SCHEDULE 10

### Transitional and Savings Provisions

## PART 2

### Pollution Control

7. If on 31st March 2011 a relevant authorisation is in force in respect of an activity which is a controlled activity, the provisions of paragraphs 8 to 11 apply.

8. The relevant authorisation referred to in paragraph 7 will be treated as an authorisation granted under these Regulations.

9. SEPA must, insofar as it has not done so under paragraph 15 of Schedule 10 to the 2005 Regulations, review all relevant authorisations referred to in paragraph 7 in accordance with the relevant provisions of the authorising legislation and where that legislation makes provision for variation or transfer of such an authorisation, it may carry out that review at the same time as such a variation or transfer.

10. When carrying out a review in accordance with paragraph 9, SEPA must—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) where it considers that the authorised activity has or is likely to have a significant adverse impact on the water environment—
  - (i) assess the indirect effects of that impact on any other aspects of the environment likely to be significantly affected;
  - (ii) consider any likely adverse social and economic effects of that impact and of any indirect environmental effects identified in accordance with sub-paragraph (i); and
  - (iii) consider the likely environmental, social and economic benefits of the activity;
- (c) assess the impact of the authorised activity on the interests of other users of the water environment;
- (d) assess what steps may be taken to ensure efficient and sustainable water use;
- (e) apply the requirements of the legislation referred to in Part 1 of Schedule 4, including, in particular, the provisions of Article 4 of the Directive and Article 6 of the Groundwater Directive 2006; and
- (f) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4,

and take such steps under the authorising legislation as are necessary to ensure that the relevant authorisations comply with the requirements of these Regulations.

11. The review required under paragraph 9, and the steps required under paragraph 10 must be completed by 22nd December 2012.

12. Where an application for a relevant authorisation in respect of an activity that is a controlled activity has been made before 31st March 2011 but has not been determined by that date, the provisions of paragraphs 13 and 14 apply.

13. SEPA must, when considering an application referred to in paragraph 12—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) assess what steps may be taken to ensure efficient and sustainable water use;
- (c) apply the requirements of—

- (i) the legislation referred to in Part 1 of Schedule 4 to the 2005 Regulations; and
- (ii) regulation 24(5) of the 2005 Regulations; and
- (d) have regard to the provisions of the legislation referred to in part 2 of Schedule 4 to the 2005 Regulations,

and must, if they grant the application, ensure that the relevant authorisation complies with the requirements of the 2005 Regulations (notwithstanding their repeal by regulation 58 of these Regulations).

**14.** If an application is granted in accordance with paragraph 13, it will be treated, for the purposes of these Regulations, as an authorisation granted under these Regulations.

**15.** If, on or after 31st March 2011, an application for a relevant authorisation is made in respect of an activity which is a controlled activity, the provisions of paragraphs 16 and 17 apply.

**16.** SEPA must, when considering an application referred to in paragraph 15—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) where the application is in respect of an activity that it considers has or is likely to have a significant adverse impact on the water environment—
  - (i) assess the indirect effects of that impact on any other aspects of the environment likely to be significantly affected;
  - (ii) consider any likely adverse social and economic effects of that impact and of any indirect environmental effects identified in accordance with sub-paragraph (i); and
  - (iii) consider the likely environmental, social and economic benefits of the activity;
- (c) assess the impact of the controlled activity on the interests of other users of the water environment;
- (d) assess what steps may be taken to ensure efficient and sustainable water use;
- (e) apply the requirements of the legislation referred to in Part 1 of Schedule 4, including, in particular, the provisions of Article 4 of the Directive and Article 6 of the Groundwater Directive 2006; and
- (f) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4,

and must, if they grant the application, ensure that the relevant authorisation complies with the requirements of these Regulations.

**17.** If an application is granted in accordance with paragraph 16, it will be treated, for the purposes of these Regulations, as an authorisation granted under these Regulations.

**18.** In this Part—

- (a) “authorised activity” means an activity referred to in paragraph 7, 12 or 15, as the case may be;
- (b) “authorising legislation” means the legislation referred to in paragraph (c); and
- (c) “relevant authorisation” means—
  - (i) an authorisation under Part I of the Environmental Protection Act 1990<sup>(1)</sup>;
  - (ii) a registration or authorisation under the Radioactive Substances Act 1993<sup>(2)</sup> (but not an exemption from a requirement for such registration or authorisation);

(1) 1990 c.43; amended by the Environment Act 1995 (c.25), the Pollution Prevention and Control Act 1999 (c.24); the Anti-Social Behaviour (Scotland) Act 2004 (asp 8) and the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323).

(2) 1993 c.12, amended by the Clean Air Act 1993 (c.11), the Environment Act 1995 (c.25), the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), the Food Standards Act 1999 (c.28) and the Statute Law (Repeals Act 2004 (c.14).

- (iii) a permit under the Pollution Prevention and Control (Scotland) Regulations 2000<sup>(3)</sup>; and
- (iv) a waste management licence under the Waste Management Licensing (Scotland) Regulations 2011.

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(3) S.S.I. 2000/323; amended by paragraph 7 of Schedule 2 to the *Anti-Social Behaviour etc. (Scotland) Act 2004* (asp 8), S.S.I. 2002/493, 2003/146, 170, 221, 235 and 411, 2004/26, 110, 112, 512 and 2005/101.