
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

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⁽¹⁾.

(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,
- (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—

(1) 1990 c.43.

- (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⁽²⁾).

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) 1974 c.37.

(2) SEPA may, in respect of an activity that is a Schedule 1 activity for the purpose of the ETS Regulations⁽³⁾, 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⁽⁴⁾.

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
- (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⁽⁵⁾,

“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—

(3) “Schedule 1 activity” is defined in regulation 2(1) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005.

(4) 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

(5) 1997 c.8.

- (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⁽⁶⁾ for the purposes of section 74(3)(a) of that Act.

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.

⁽⁶⁾ 1990 c.43; see regulation 3 of S.S.I. 2011/228.