
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.

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,

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

- (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(7), 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(8).

(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.

(7) 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).

(8) OJ L 285, 31.10.2009, p.36.

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.