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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2018 No.**

**The Environmental Authorisations (Scotland) Regulations 2018**

**PART 1**

**General**

**Citation and commencement**

1. These Regulations may be cited as the Environmental Authorisations (Scotland) Regulations 2018 and come into force on 1st September 2018.

**Interpretation**

2.—(1) In these Regulations—

“authorise”, in relation to regulated activities, means authorise the carrying on of the activities in accordance with a permit, subject to registration, subject to notification or subject to compliance with general binding rules; and related expressions are to be construed accordingly;

“authorised person” has the meaning given in regulation 5;

“authorised place” means the place at which a regulated activity is authorised, and may be a geographical area;

“charging scheme” means a charging scheme made in accordance with section 41 of the Environment Act 1995(1);

“consolidated authorisation” has the meaning given in regulation 64(2);

“electronic communication” has the same meaning as given in section 15(1) of the Electronic Communications Act 2000(2);

“enforcing officer” means a person authorised under section 108 of the Environment Act 1995(3) and includes a person designated under paragraph 2 of schedule 18 of that Act;

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- (1) **1995 c.25.** Section 41 is relevantly amended by (1) the Landfill (Scotland) Regulations 2003 (**S.S.I. 2003/235**) schedule 6, paragraph 1(2) the Transfrontier Shipment of Waste Regulations 2007 (**S.I. 2007/1711**) Part 9, regulation 46(1)(a)(3) the Flood and Water Management Act 2010 (**2010 c.29**) schedule 4, paragraph 39(4) the Persistent Organic Pollutants Regulations 2007 (**S.I. 2007/3106**) regulation 9(1)(a)(5) the Transfrontier Shipment of Waste Regulations 2007 (**S.I. 2007/1711**) Part 9, regulation 46(1)(b)(6) the Transfrontier Shipment of Waste (Amendment) Regulations 2014 (**S.I. 2014/861**) regulation 22(7) the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (**S.I. 2008/3087**) Part 3, regulation 17(1)(a)(8) the Persistent Organic Pollutants Regulations 2007 (**S.I. 2007/3106**) regulation 9(1)(b)(8) the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (**S.I. 2008/3087**) Part 3, regulation 17(1)(b)(9) the Climate Change (Scotland) Act 2009 (**2009 asp 12**) schedule 2, paragraph 2(10) the Waste Batteries and Accumulators Regulations 2009 (**S.I. 2009/890**) schedule 8, paragraph 1(2)(11) the Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (**S.I. 2011/2911**) schedule 1, paragraph 22(a)(12) the Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (**S.I. 2012/2788**) Part 2, regulation 4(a)(13) the Treaty of Lisbon (Changes in Terminology) Order 2011 (**S.I. 2011/1043**) Part 2, article 6(1)(a) and (14) the British Waterways Board (Transfer of Functions) Order 2012 (**S.I. 2012/1659**) schedule 3, Part 1, paragraph 13.
- (2) **2000 c.7.** Section 15(1) is amended by paragraph 158 of schedule 17 of the Communications Act 2003 (**c.21**).
- (3) **1995 c.25.** Section 108 is amended by regulation 81, and paragraph 3 of Part 1 of schedule 7 of these Regulations in accordance with powers conferred by section 58(1) and (2) of the Regulatory Reform (Scotland) Act 2014 (**2014 asp 3**).

“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);

“general binding rules” has the meaning given in regulation 10;

“inland water” has the same meaning given in section 3(6) of the Water Environment and Water Services (Scotland) Act 2003(4);

“non-consolidated authorisation” means, as appropriate, a permit or registration which is to be replaced or has been replaced with a consolidated permit or registration in accordance with regulation 64;

“off-site condition” means—

- (a) a condition to which a permit is subject; or
- (b) a step specified in a notice issued under these Regulations,

which requires a person to carry out works or do other things in relation to land outwith the ownership or control of that person;

“owner” means a 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 person to whom management of the land is entrusted;

“provision” means, in relation to a registration or permit, anything specified in a registration or permit, including as a requirement of regulations 17 and 22, which is not a condition or standard condition;

“publish” means publish on SEPA’s website, unless otherwise indicated;

“radioactive substances activity” has the meaning given in regulation 4 and schedule 8;

“register” means the register maintained by SEPA under regulation 38;

“regulated activity” has the meaning given in regulation 3;

“regulatory notice” has the meaning given in regulation 46;

“relevant function” means a function of SEPA under these Regulations;

“revocation notice” has the meaning given in regulation 31;

“SEPA” means the Scottish Environment Protection Agency(5);

“standard conditions” means conditions determined by SEPA under Part 7 of these Regulations and to which a permit or registration may be subject in accordance with regulation 17 or 22;

“surrender notice” means a notice issued under paragraph 14(2) of schedule 1;

“technical schedule” has the meaning given in regulation 6;

“waste” means any substance or object which the holder discards or intends or is required to discard.

(2) In these Regulations a reference to anything done in writing includes reference to an electronic communication as long as it is capable of being reproduced in written form.

### **Interpretation: regulated activity**

3.—(1) In these Regulations, “regulated activity” means a radioactive substances activity.

(2) A person does not carry on a regulated activity where the activity is a domestic activity carried on in connection with—

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(4) 2003 asp 3.

(5) SEPA is established by section 20 of the Environment Act 1995 (c.25).

- (a) the person's private dwelling; or
  - (b) a place where the person is resident (whether temporarily or otherwise).
- (3) In these Regulations—
- (a) a reference to a regulated activity includes part of a regulated activity;
  - (b) a reference to an “activity” is a reference to a regulated activity, or any class or description of such an activity.

**Interpretation: radioactive substances activity**

4. In these Regulations, “radioactive substances activity” means an activity involving either or both—

- (a) radioactive material;
- (b) radioactive waste.

**Interpretation: authorised person**

5.—(1) In these Regulations, “authorised person” means—

- (a) any person to whom—
    - (i) a permit has been granted or transferred in accordance with regulation 23 or 27; or
    - (ii) a registration has been granted or transferred in accordance with regulation 18 or 27;
  - (b) any person in control of the carrying on of a regulated activity—
    - (i) which is subject to general binding rules; or
    - (ii) which has been notified in accordance with regulation 12.
- (2) The definition of authorised person in paragraph (1) includes—
- (a) where an authorised person has been adjudged bankrupt or the estate of the authorised person is sequestrated, the trustee in bankruptcy;
  - (b) where an executor has been appointed to an authorised person's estate, the executor;
  - (c) where the authorised person is a body corporate, and—
    - (i) a receiver has been appointed, the receiver;
    - (ii) an administrator has been appointed, the administrator;
    - (iii) a liquidator has been appointed, the liquidator;
  - (d) where an authorised person is a partnership which is dissolved, any person who was a partner immediately before dissolution.
- (3) Where a person becomes an authorised person—
- (a) as a result of the operation of paragraph (2); and
  - (b) in respect of an activity which is carried on in accordance with a permit or a registration or which has been notified,

that person must notify SEPA that the person is an authorised person as soon as is practicable.

**Interpretation: technical schedule**

6.—(1) The technical schedule is schedule 8 (Radioactive substances activities).

(2) If a provision of the technical schedule is inconsistent with any other provision of these Regulations, the provision in the technical schedule prevails to the extent of that inconsistency.

(3) Schedule 8 has effect.

### **Prohibition**

7. A person must not carry on a regulated activity except in so far as it is—
- (a) authorised under these Regulations; and
  - (b) carried on in accordance with, and to the extent authorised by, that authorisation.

### **Responsibility of authorised person**

8. Where a regulated activity is authorised under these Regulations, an authorised person must ensure that the activity is carried on in accordance with, and to the extent authorised by, the authorisation.

### **General aims**

- 9.—(1) SEPA must take the general aims into account when carrying out a relevant function.
- (2) The general aims are that all appropriate measures are taken—
- (a) to prevent or, where that is not practicable, to minimise environmental harm;
  - (b) to prevent and to limit the consequences of accidents which could have an impact on the environment; and
  - (c) to use resources in a sustainable way,
- in the carrying on, and decommissioning, of regulated activities and following cessation of the carrying on of the regulated activity.