
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

The Deposit and Return Scheme for Scotland Regulations 2020

PART 4

Scheme administrator

Scheme administrator

13.—(1) The Scottish Ministers may, in accordance with this Part, approve a scheme administrator.

(2) A scheme administrator is a legal person approved under this chapter which is responsible for—

- (a) submitting an application for producer registration on behalf of a producer under regulation 7(1)(b) where requested by a producer to do so, and
- (b) complying with regulations 10(1) and 11(1) on behalf of such a producer.

Application for approval of a scheme administrator

14.—(1) An application for approval as a scheme administrator must be made to the Scottish Ministers.

(2) An application must—

- (a) be made in writing,
- (b) contain the information set out in schedule 2, and
- (c) include any other information requested by the Scottish Ministers.

Approval of scheme administrator

15.—(1) Within 28 days of receipt of an application for approval the Scottish Ministers must—

- (a) where the application complies with regulation 14(2), grant it, or
- (b) otherwise, refuse it.

(2) Where an application is granted, the Scottish Ministers must, within 7 days of the date on which it is granted, give notice of that decision in writing to the scheme administrator.

(3) Where the application has been granted, the approval of the scheme administrator takes effect from the date of the decision to grant it until any date on which approval is withdrawn in accordance with regulation 17.

(4) The Scottish Ministers must publish and maintain a list of scheme administrators in such manner as they consider appropriate.

(5) Where the application is refused, the Scottish Ministers must, within 7 days of the date on which it is refused, give notice of that decision in writing to the applicant together with—

- (a) the reasons for it, and

- (b) a statement as to the right of review under Part 6.

Obligations of a scheme administrator

16.—(1) A scheme administrator must—

- (a) subject to paragraph (2), comply with the following regulations on behalf of any producer registered following the grant of an application made by that scheme administrator under regulation 7(1)(b)—
- (i) regulation 11(1)(a) and (b), and
 - (ii) regulations 10(1) and 11(1)(c) to (h).
- (b) provide any information requested by the Scottish Ministers or SEPA for the purposes of monitoring compliance with the requirements in regulations 10(1) and 11(1),
- (c) notify the Scottish Ministers and SEPA in writing of any material change in the information provided in accordance with regulation 14(2)(b) and (c), within 28 days of the date of that change,
- (d) notify the Scottish Ministers in writing where the scheme administrator intends to withdraw from acting as a scheme administrator.
- (2) In the case where more than one producer is registered through a scheme administrator—
- (a) the obligation in regulation 11(1)(h) applies as if, for “that producer” there were substituted “all producers registered through the scheme administrator”,
- (b) schedule 3 applies as if—
- (i) for “a producer must meet” there were substituted “must be met in relation to all of the producers registered through the scheme administrator”,
 - (ii) for “that producer” in each place where it appears, there were substituted “all of the producers registered through the scheme administrator”.

Withdrawal of approval of a scheme administrator

17.—(1) The Scottish Ministers may withdraw the approval of a scheme administrator where it appears to them that—

- (a) the scheme administrator is in breach of any of the obligations specified in regulation 16,
- (b) the scheme administrator knowingly or recklessly supplied false information in connection with the application for approval or compliance with any of the obligations specified in regulation 16,
- (c) the Scottish Ministers have received notification from the scheme administrator under regulation 16(1)(c) that there has been a material change of circumstances,
- (d) the scheme administrator has been convicted of an offence.
- (2) The Scottish Ministers must withdraw the approval of a scheme administrator where they are notified under regulation 16(1)(d) that the scheme administrator intends to withdraw from acting as a scheme administrator.
- (3) Before withdrawing approval under paragraphs (1) or (2), the Scottish Ministers must—
- (a) serve on the scheme administrator written notice of—
- (i) the decision to withdraw approval and the reasons for it,
 - (ii) the date when the withdrawal is intended to take effect,
 - (iii) the opportunity to make representations to the Scottish Ministers and the deadline for receipt of such representations, and

- (iv) in the case of withdrawal under paragraph (1), the right to apply for review of the decision under Part 6,
- (b) inform SEPA for the purpose of SEPA notifying all producers registered through that scheme administrator in accordance with paragraph (6).
- (4) In the case of a withdrawal under paragraph (1), the date in paragraph (3)(a)(ii) must not be earlier than the time limit for making an application for review of the decision provided for in Part 6.
- (5) The Scottish Ministers must consider any representations made by the scheme administrator before the notice under paragraph (3) takes effect and may withdraw the notice at any time before it takes effect.
- (6) SEPA must, within 14 days of the withdrawal of the approval of a former scheme administrator taking effect, give notice in writing to each producer registered through that former scheme administrator containing the following information—
 - (a) a statement that approval of the scheme administrator has been withdrawn and the date when the withdrawal took effect,
 - (b) the reasons for the withdrawal,
 - (c) the requirement of the producer to make an application for registration within the time limit specified in regulation 7(2)(c)(i), and
 - (d) the obligations with which a producer will be required to comply under regulations 10(1) and 11(1).