
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 323

**The Pollution Prevention and
Control (Scotland) Regulations 2000**

PART III

ENFORCEMENT

Duty of SEPA to ensure compliance with conditions

18. While a permit is in force it shall be the duty of SEPA to take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of the permit are complied with.

Enforcement notices

19.—(1) If SEPA is of the opinion that the operator of an installation has contravened, is contravening or is likely to contravene any condition of a permit, it may serve on that operator a notice (an “enforcement notice”).

(2) An enforcement notice served under this regulation shall—

- (a) state SEPA’s opinion, as mentioned in paragraph (1);
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) The steps that may be specified in an enforcement notice as steps that must be taken to remedy the contravention of any condition of a permit may include both steps that must be taken to make the operation of the installation or mobile plant comply with the conditions of the permit and steps that must be taken to remedy the effects of any pollution caused by the contravention.

(4) SEPA may withdraw an enforcement notice at any time.

Suspension notices

20.—(1) If SEPA is of the opinion, as respects an installation or mobile plant authorised under these Regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves a risk of serious pollution, it shall, unless it intends to arrange for steps to be taken under regulation 21(1) in relation to the risk, serve a notice under this regulation (“a suspension notice”) on the operator of the installation or mobile plant.

(2) Paragraph (1) applies whether or not the particular manner of operating the installation or mobile plant in question is regulated by or contravenes a condition of the permit.

(3) If SEPA is of the opinion, as respects the carrying out of specified waste management activities under a permit, that the operator carrying out the activities has ceased to be a fit and proper person in relation to those activities by reason of their management having ceased to be in the hands of a technically competent person, it may serve a suspension notice under this regulation on that operator.

(4) A suspension notice served under this regulation shall—

- (a) state SEPA's opinion, as mentioned in paragraph (1) or (3), as the case may be;
- (b) in the case of a notice served under paragraph (1), specify—
 - (i) the imminent risk involved in the operation of the installation or mobile plant;
 - (ii) the steps that must be taken to remove it and the period within which they must be taken;
- (c) state that the permit shall, until the notice is withdrawn, cease to have effect to authorise the operation of the installation or mobile plant or the carrying out of specified activities in the installation or by means of the mobile plant; and
- (d) where the permit is to continue to have effect to authorise the carrying out of activities, state any steps, in addition to those already required to be taken by the conditions of the permit, that are to be taken in carrying out those activities.

(5) Where a suspension notice is served under this regulation, the permit shall, on the service of the notice, cease to have effect as stated in the notice.

(6) SEPA may withdraw a suspension notice at any time and shall withdraw a notice when it is satisfied that—

- (a) in the case of a notice served under paragraph (1), the steps required by the notice to remove the imminent risk of pollution have been taken;
- (b) in the case of a notice served under paragraph (3), the management of the specified waste management activities is in the hands of a technically competent person.

Power of SEPA to prevent or remedy pollution

21.—(1) If SEPA is of the opinion, as respects the operation of an installation or mobile plant authorised under these Regulations, that the operation of the installation or mobile plant, or the operation of it in a particular manner, involves an imminent risk of serious pollution, it may arrange for steps to be taken to remove that risk.

(2) Where the commission of an offence under regulation 30(1)(a), (b) or (d) causes any pollution, SEPA may arrange for steps to be taken towards remedying the effects of pollution.

(3) Where SEPA intends to arrange for steps to be taken under paragraph (2), it shall, at least seven days before the steps are taken, notify the operator of the steps that are to be taken.

(4) Subject to paragraph (5), where SEPA arranges for steps to be taken under this regulation, it may recover the cost of taking those steps from the operator of the installation concerned.

(5) No costs shall be recoverable under paragraph (4) where SEPA arranges for steps to be taken under paragraph (1) if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by SEPA.