

SCHEDULE 3

Regulation 2(5), 6(2) and 7(11)

PRESCRIBED DATES AND TRANSITIONAL ARRANGEMENTS

PART 1

PART A INSTALLATIONS AND MOBILE PLANT

1. The prescribed date for a new Part A installation or new Part A mobile plant—
  - (a) where an application for a permit to operate the installation or mobile plant is duly made before the transitional date, is the determination date for the installation or mobile plant;
  - (b) where no such application is made, is the transitional date.

2.—(1) Subject to paragraph 4, the prescribed date for an existing Part A installation or existing Part A mobile plant—

- (a) where an application for a permit to operate the installation or mobile plant is duly made within the relevant period (or before the beginning of the relevant period where allowed under paragraph 5), is the determination date for the installation or mobile plant;
- (b) where no such application is made, is the day after the date on which the relevant period expires.

(2) For the purpose of sub-paragraph (1), the relevant period for an existing Part A installation or existing Part A mobile plant is the period specified for that description of installation or mobile plant in the following table:—

<i>Any installation where an activity falling within the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Section 1.1	January 1st to March 31st 2006
Part A	
Section 1.2	
Part A	June 1st to August 31st 2001
Paragraph (c)	June 1st to August 31st 2006
Remaining paragraphs	
Section 2.1	
Part A	May 1st to July 31st 2002
Paragraph (c), (e), (f), (g) and (h)	June 1st to August 31st 2001
Remaining paragraphs	
Section 2.2	June 1st to August 31st 2002
Part A	

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<i>Any installation where an activity falling within the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Section 2.3	May 1st to July 31st 2004
Part A	
Section 3.1	June 1st to August 31st 2001
Part A	
Section 3.2	June 1st to August 31st 2006
Part A	
Section 3.3	May 1st to July 31st 2002
Part A	
Section 3.4	May 1st to July 31st 2002
Part A	
Section 3.6	January 1st to March 31st 2004
Part A	
Section 4.1	
Part A	January 1st to March 31st 2003
Paragraphs (a) (i), (v), (vi), (vii) and (xii), (e) and (f)	June 1st to August 31st 2003
	January 1st to March 31st 2006
Paragraphs (a) (ii), (iii), (iv)	June 1st to August 31st 2006
Paragraphs (a) (viii) and (ix), (b) (c) and (d)	
Paragraph (a) (x) to (xi)	
Section 4.2	
Part A	October 1st to December 31st 2004
Paragraph (a) (i),(ii),(iii) and (vi)	June 1st to August 31st 2005
Paragraph (a) (iv) and (v)	October 1st to December 31st 2004
Paragraphs (b) to (f)	
Section 4.3	June 1st to August 31st 2005
Part A	
Section 4.4	January 1st to March 31st 2006

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<i>Any installation where an activity falling within the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Part A	
Section 4.5	January 1st to March 31st 2006
Part A	
Section 4.6	January 1st to March 31st 2006
Part A	
Section 4.7	October 1st to December 31st 2004
Part A	
Section 5.1	June 1st to August 31st 2005
Part A	
Section 5.2	January 1st to March 31st 2007
Part A	
Section 5.3	
Part A	
	June 1st to August 31st 2005
Paragraph (a) and (b)	January 1st to March 31st 2004
Paragraph (c)(i)	June 1st to August 31st 2004
Paragraph (c)(ii)	
Section 5.4	January 1st to March 31st 2005
Part A	
Section 5.5	January 1st to March 31st 2004
Part A	
Section 6.1	April 1st to June 30th 2001
Part A	
Section 6.2	January 1st to March 31st 2004
Part A	
Section 6.3	
Part A	
	January 1st to March 31st 2004
Paragraph (i)	October 1st to December 31st 2001

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<i>Any installation where an activity falling within the following Sections of Part 1 of Schedule 1 is carried out or any mobile plant used to carry out such an activity</i>	<i>Relevant Period</i>
Paragraph (ii)	
Section 6.4	October 1st to December 31st 2002
Part A	
Section 6.5	October 1st to December 31st 2002
Part A	
Section 6.6	June 1st to August 31st 2006
Part A	
Section 6.8	
Part A	May 1st to July 31st 2002
Paragraph (a)	June 1st to March 31st 2004
Paragraphs (b) and (c)	June 1st to August 31st 2004
Paragraph (d) (i)	January 1st to March 31st 2005
Paragraphs (d) (ii), (e) and (f)	
Section 6.9	October 1st to December 31st 2006
Part A	

(3) For the purpose of sub-paragraph (2), where an activity falls within a description in Part A of more than one Section of Part 1 of Schedule 1, it shall be regarded as falling only within that description which fits it most aptly.

(4) Subject to sub-paragraph (5), where more than one activity falling within Part A of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation or using an existing Part A mobile plant, the relevant period for that installation or mobile plant shall be the period beginning with the earliest date listed against one of those activities in the table in sub-paragraph (2).

(5) Where more than one activity falling within Part A of any Section in Part 1 of Schedule 1 is carried out in an existing Part A installation, the operator of the installation may apply to SEPA to determine that the relevant period for the installation shall not be the period determined by sub-paragraph (4) but the later period listed in the table in sub-paragraph (2) against the primary activity of the installation.

(6) An application under sub-paragraph (5) shall be in writing (or in electronic form acceptable to SEPA) and shall –

- (a) identify the installation concerned;
- (b) list the activities falling within Part A of any Section in Part 1 of Schedule 1 which are carried on in the installation; and
- (c) identify which of those activities the operator considers to be the primary activity,

and shall be submitted at least 3 months before the beginning of the period which would be the relevant period for the installation concerned under sub-paragraph (4).

(7) Where SEPA receives a duly made application under sub-paragraph (5) it shall, if it agrees with the operator that the activity identified pursuant to sub-paragraph (6)(b) is the primary activity, serve notice of its determination on the operator, and the later period listed against that activity in sub-paragraph (2) shall be the relevant period for the installation.

(8) Where SEPA does not agree with the operator as mentioned in sub-paragraph (7) it shall serve notice of its determination on the operator and the relevant period for the installation shall be the period determined by sub-paragraph (4).

(9) SEPA shall serve notice of its determination of any application made under sub-paragraph (5) within 2 months of receiving the application.

(10) Where there is more than one operator of an installation, an application under sub-paragraph (5) shall be made by the operators of the installation jointly and the references in sub-paragraphs (6) to (8) to the operator shall be construed as a reference to all of the operators.

(11) For the purpose of sub-paragraphs (5) to (9) the primary activity of an installation is the activity the carrying out of which constitutes the primary purpose for operating the installation.

**3.** For the purpose of paragraphs 1 and 2, where separate applications are made to operate different parts of a Part A installation—

- (a) the date by which applications have been made in relation to all parts of the installation shall be treated as the date on which an application for a permit to operate the installation is made;
- (b) an application for a permit to operate the installation shall only be treated as having been duly made if each of the separate applications are duly made;
- (c) the determination date for the installation shall be, in relation to each part of the installation which is covered by a separate application, the determination date for that part of the installation.

**4.—(1)** Where there is a substantial change in the operation of an existing Part A installation on or after 31st October 1999 and before the transitional date, the prescribed date for that part of the installation affected by the change shall be—

- (a) where an application for a permit authorising the operation of that part of the installation is duly made before the transitional date, the determination date for that part of the installation;
- (b) where no such application is made, the transitional date.

(2) Where there is a substantial change in the operation of an existing Part A installation on or after the transitional date, the prescribed date for that part of the installation affected by the change shall be the date on which the change is made if earlier than the date which would be the prescribed date for the installation under paragraph 2.

**5.—(1)** Subject to sub-paragraph (2), an application for a permit to operate an existing Part A installation or Part A mobile plant shall not be made before the beginning of the relevant period for that installation or mobile plant without the consent of SEPA.

(2) Where an operator of an existing Part A installation proposes to make a substantial change in the operation of the installation the operator may make an application before the beginning of the relevant period for a permit to operate that part of the installation that will be affected by the substantial change.

**6.** In this Part of this Schedule—

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“determination date” means—

- (a) for an installation, part of an installation or mobile plant in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application for the permit or, on an appeal, of a direction to grant it;
- (b) for an installation, part of an installation or mobile plant in relation to which a permit is refused and the applicant for the permit appeals against the refusal, the date of the affirmation of the refusal;
- (c) for an installation, part of an installation or mobile plant in relation to which a permit is refused and—
  - (i) no appeal is made to the Scottish Ministers against the refusal, the date immediately following the last day, determined in accordance with paragraph 2 of Schedule 8, on which notice of appeal might have been given;
  - (ii) following determination of an appeal to the Scottish Ministers, no appeal is then made to the sheriff, the twenty second day after that determination; or
  - (iii) where any further appeal is taken, the day after the expiry of the period allowed for appeal therefrom (or, if there is no such date, the date of final determination of such appeal);

“existing” means, in relation to a Part A installation or a Part A mobile plant—

- (a) an installation or mobile plant which is put into operation before 31st October 1999; or
- (b) an installation or mobile plant which is put into operation on or after that date but before 31st October 2000, provided that—
  - (i) the operation of the installation or mobile plant was authorised by the relevant authorisation before 31st October 1999; or
  - (ii) an application for such authorisation was duly made before that date;

“new” means, in relation to a Part A installation or a Part A mobile plant, an installation or plant which is put into operation on or after 31st October 1999 other than an existing Part A installation or Part A mobile plant;

“relevant authorisation” means, in relation to the operation of a Part A installation or Part A mobile plant—

- (a) where the operation of the installation or mobile plant immediately before 31st October 1999 requires an authorisation under Part I of the Environmental Protection Act 1990, an authorisation under that Part of that Act;
- (b) where the operation of the installation or mobile plant immediately before 31st October 1999 requires a waste management licence under Part II of the Environmental Protection Act 1990, a waste management licence under that Part of that Act;
- (c) in any other case, planning permission granted under the Town and Country Planning (Scotland) Act 1997;

“relevant period” shall be interpreted in accordance with paragraph 2(5);

“transitional date” means the date 6 months after the date on which these Regulations come into force.

## PART 2

### PART B INSTALLATIONS AND MOBILE PLANT

7. The prescribed date for a new Part B installation or new Part B mobile plant is the relevant date for that installation or mobile plant.

8. The prescribed date for an existing Part B installation or existing Part B mobile plant is the determination date for that installation or mobile plant.

9.—(1) Subject to the following provisions of this paragraph, no application for a permit to operate an existing Part B installation or existing Part B mobile plant shall be made to SEPA.

(2) Where an operator of a Part B installation or a Part B mobile plant proposes to put the installation or mobile plant into operation during the 4 month period ending on the relevant date for the installation or mobile plant, that person may make an application for a permit to operate that installation or mobile plant.

(3) The operator of an existing Part B installation or existing Part B mobile plant shall, unless that person has made an application to operate the installation or mobile plant under sub-paragraph (2), be deemed to have made an application for a permit to operate that installation or mobile plant six months before the first review date for the existing Part B authorisation (calculated in accordance with section 6(6) of the Environmental Protection Act 1990(1)) falling after the relevant date for that installation or mobile plant.

(4) Where sub-paragraph (3) applies in relation to an existing Part B installation and different parts of the installation are operated by different operators, each operator shall be deemed to have been made an application to operate that part of the installation which they operate.

(5) Schedule 4 shall not apply to a deemed application under sub-paragraph (3).

(6) SEPA shall give notice of its determination of a deemed application under sub-paragraph (3) to the applicant within the period of 12 months beginning with the date on which the application is deemed to have been made and if SEPA fails to give notice of its determination within that period the application shall, if the applicant notifies SEPA in writing (or in electronic form acceptable to it) that the applicant treats the failure as such, be deemed to have been refused at the end of that period.

(7) Where sub-paragraph (3) applies SEPA shall, within 2 months of the date on which the application is deemed to have been made, notify the operator of the installation or mobile plant of the deemed application and of the requirements of sub-paragraph (6).

(8) Where separate applications are deemed to have been made under sub-paragraph (4) to operate different parts of a Part B installation the prescribed date for the installation shall be, in relation to each part of the installation covered by a separate application, the determination date for that part of the installation.

10. For the purpose of this Part of this Schedule the relevant date for a Part B installation or a Part B mobile plant shall be 31st December 2002.

11. In this Part of this Schedule—

“determination date”, in relation to an installation or mobile plant to which this Part applies, has the same meaning as in Part 1 of this Schedule;

“existing” means, in relation to a Part B installation or Part B mobile plant, an installation or mobile plant which is put into operation before the relevant date for that installation or mobile plant;

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(1) Section 6(6) is amended and section 6(6A) is inserted by paragraph 3(2) of Schedule 10 to these Regulations.

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“new” means, in relation to a Part B installation or Part B mobile plant, an installation or mobile plant which is put into operation on or after the relevant date for that installation or mobile plant;

“relevant date” shall be interpreted in accordance with paragraph 10.