

**2005 No. 101**

**ENVIRONMENTAL PROTECTION**

**The Pollution Prevention and Control (Scotland) Amendment  
Regulations 2005**

<i>Made</i> - - - -	<i>1st March 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>2nd March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Scottish Ministers in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999(a), having, in accordance with section 2(4) of that Act, consulted the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively, and such other bodies and persons as they consider appropriate, hereby make the following Regulations:

**Citation and commencement**

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (Scotland) Amendment Regulations 2005 and shall come into force on 1st April 2005.

(2) These Regulations extend to Scotland only.

**Amendment of the Pollution Prevention and Control (Scotland) Regulations 2000**

2. The Pollution Prevention and Control (Scotland) Regulations 2000(b) shall be amended as follows.

3. In regulation 6(2), (requirement for permit to operate installation and mobile plant)—

(a) between sub-paragraphs (c) and (d) delete “and”; and

(b) after sub-paragraph (d) insert—

“;and

(e) referred to in Part 5 of Schedule 3, the date set out or determined in accordance with that Part.”.

4. In Schedule 1, Part 1, Chapter 4, section 4.2 (inorganic chemicals), in paragraph (d)—

(a) delete sub-paragraphs (xii), (xiii), (xiv) and (xv); and

(b) for the words from “where the activity may” to the end of that paragraph, substitute—

“where the activity may result in the release into the air of any of those elements or their compounds or the release into water of any substance listed in column 1 of the Table in

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(a) 1999 c.24; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) as read with section 5(3) of the said Act of 1999.

(b) S.S.I. 2000/323, as amended by S.S.I. 2002/493; S.S.I. 2003/146, 170 and 235, S.S.I. 2004/26, 110 and 112.

paragraph 13(1) of Part 2 of this Schedule in a quantity which, in any 12 month period, exceeds the background quantity by more than the amount specified in relation to that substance in column 2 of that Table.”.

**5. In Schedule 1, Part 1, Chapter 5, section 5.1 (incineration and co-incineration of waste)–**

- (a) at the end of Part A, insert–
  - “(h) Unless carried out as part of any other Part A activity, the incineration of animal carcasses in an excluded plant with a capacity of more than 10 tonnes per day.”;
  - and
- (b) for Part B, substitute–
  - “The following activities if operated at installations not falling under Part A of this section:–
  - (a) The incineration of non-hazardous waste, other than animal carcasses, in an excluded plant with a capacity of 50 kilogrammes or more per hour but less than 1 tonne per hour.
  - (b) The incineration of animal carcasses in an excluded plant with a capacity of 50 kilogrammes or more per hour but equal to or less than 10 tonnes per day
  - (c) The cremation of human remains.”.

**6. In Schedule 1, Part 1, Chapter 6, section 6.8 (the treatment of animal and vegetable matter and food industries) in Part B–**

- (a) in paragraph (a) after the word “Schedule” where it first appears insert “, or mentioned in paragraph (d) of this Part”; and
- (b) after paragraph (c) insert–
  - “(d) Treating and processing through drying by the application of heat and milling of dry vegetable or dry vegetable and animal matter intended for the production of animal food products, unless an exempt activity, or excluded from control by the provisions of paragraph 2 of Part 2 of this Schedule, and which may release into air a substance referred to in paragraph 12 of Part 2 of this Schedule or give rise to an offensive smell noticeable outside the premises in which the activity is carried on.”.

**7. In Schedule 3, Part 1, paragraph 2–**

- (a) in sub-paragraph (1) for “Subject to paragraph 4”, substitute “Subject to paragraph 4 and Part 5 of this Schedule”; and
- (b) in sub-paragraph (2), in Table 1, for the entry relating to section 5.1 substitute–

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Section 5.1 Part A Paragraphs (a), (b), (c), (d) and (e) Paragraphs (f), (g) and (h)	January 1st to March 31st 2005 June 1st to August 31st 2005
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8. In Schedule 3, after Part 4(a), insert a new Part 5, as set out in the Schedule to these Regulations.

*LEWIS MACDONALD*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
1st March 2005

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(a) Parts 3 and 4 of Schedule 3 were inserted by S.S.I. 2004/26, Regulation 19(c) and Schedule 2.

**NEW PART 5 OF SCHEDULE 3 TO THE POLLUTION  
PREVENTION AND CONTROL (SCOTLAND) REGULATIONS 2000  
(PRESCRIBED DATES AND TRANSITIONAL ARRANGEMENTS:  
PART A INSTALLATIONS AND MOBILE PLANT)**

**“PART 5**

**Existing Waste Incineration Installations**

**20.** An operator who operates an existing waste incineration installation in respect of which no application has been made by 31st March 2005 for:–

- (a) a variation of the conditions of an authorisation under section 11 of the 1990 Act;
- (b) a permit under regulation 7 of these Regulations; or
- (c) a variation of the conditions of a permit under regulation 13 of these Regulations,

shall be presumed to have made notification to SEPA of the intention to cease incinerating waste in that installation before 28th December 2005.

**21.** Whether or not a notification has been presumed to have been made under paragraph 20 in respect of an activity mentioned in paragraphs (a) to (e) of Part A of section 5.1 of Part 1 of Schedule 1 to these Regulations, the prescribed date for an existing waste incineration installation shall be 27th December 2005.

**22.** Such a notification shall have effect as if:–

- (a) in the case of an installation authorised, licensed or permitted to operate wholly as a waste incineration installation under–
  - (i) section 6 or 36 of the 1990 Act; or
  - (ii) regulation 6 of these Regulations,

a request for a revocation or surrender of the authorisation, licence or permit has been made under section 12 or 39 of that Act or, as the case may be, regulation 17 of these Regulations;

- (b) in the case of an installation so authorised, licensed or permitted to operate partly as a waste incineration installation and partly for other purposes, an application for a variation of the authorisation, licence or permit has been made under section 11 or 37 of that Act or, as the case may be, regulation 13 of these Regulations, to remove conditions to the extent that they authorise, licence or permit the use of any part of the installation as an existing waste incineration installation on or after 28th December 2005.

**23.** SEPA may issue a variation or revocation notice in consequence of a request or application as mentioned in paragraph 22.

**24.** Any failure by the operator of an existing waste incineration installation to submit an application as mentioned in paragraph 20 by 31st March 2005 shall not constitute an offence under regulation 30(1)(b) or (d) of these Regulations.

**25.** In this Part–

“existing waste incineration installation” shall have the same meaning as it has in regulation 2(1) of the Waste Incineration (Scotland) Regulations 2003<sup>(a)</sup>; and  
“the 1990 Act” means the Environmental Protection Act 1990<sup>(b)</sup>.”

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<sup>(a)</sup> S.S.I. 2003/170.  
<sup>(b)</sup> 1990 (c.34).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Pollution Prevention and Control (Scotland) Regulations 2000 (the “PPC Regulations”).

Regulation 3 amends the definition of “prescribed date” in regulation 6(2) (requirement for permit to operate installation and mobile plant) of the PPC Regulations so as to take account of the new Part 5 of Schedule 3 to those Regulations which is inserted by regulation 8 below.

Regulation 4 amends section 4.2(d) (inorganic chemicals) of Part 1 of Schedule 1 to the PPC Regulations so as to omit references to chromium, manganese, nickel and zinc in that provision and to qualify the application of that section to certain releases into the air.

Regulation 5 amends section 5.1 (incineration and co-incineration of waste) of Part 1 of Schedule 1 to the PPC Regulations to provide for the incineration of animal waste with certain treatment capacities to be classified as Part A and B activities respectively.

Regulation 6 amends section 6.8 (treatment of animal and vegetable matter and food industries) of Part 1 of Schedule 1 to the PPC Regulations to specifically certain animal feed compounding activities as described in paragraph (d) which is inserted in that section.

Regulation 7 amends paragraph 2 of Part 1 of Schedule 3 to the PPC Regulations to provide for the relevant period for submission of an application or a permit for the activity in paragraph (h) of section 5.1 (incineration and co-incineration of waste) of Part 1 of Schedule 1 to the PPC Regulations which is inserted by regulation 5(a).

Regulation 8 inserts a new Part 5 (existing waste incineration installations) in Schedule 3 to the PPC Regulations to make provision for existing waste incineration installations. In particular—

- (i) Paragraph 20 of the new Part 5 provides that operators of existing waste incineration installations shall, subject to certain conditions, be presumed to have made notification to SEPA of the intention to cease incinerating waste in that installation before 28th December 2005 (the date by which such installations need to comply with Directive 2000/76/EC on the incineration of waste (O.J. No. L 332, 28.12.00, p.91);
- (ii) Paragraph 21 provides that in respect of certain activities in section 5.1 of Part A of Part 1 of Schedule 1 to the PPC Regulations, the prescribed date for the installation shall be 27th December 2005;
- (iii) Paragraph 22 provides that a notification under paragraph 20 shall have effect as if in certain cases a request for a revocation, surrender of an authorisation, licence or permit had been made or an application for a variation of an authorisation, licence or permit has been made to remove conditions to the extent that they authorise, licence or permit the use of any part of the installation as an existing waste incineration installation on or after 28th December 2005;
- (iv) Paragraph 23 provides powers for SEPA to issue a variation or revocation notice in consequence of a request or application as mentioned in paragraph 22;
- (v) Paragraph 24 provides that the offences in regulation 30(1)(b) and (d) of the PPC Regulations shall not apply in respect of any failure by the operator of an existing waste incineration installation to submit an application as mentioned in paragraph 20.

A full regulatory impact assessment has not been produced for this instrument, which has no significant impact on the costs of business.



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