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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 348**

**ENVIRONMENTAL PROTECTION  
WATER**

**The Water Environment (Controlled  
Activities) (Scotland) Regulations 2005**

*Made - - - - 7th June 2005*

*Coming into force in accordance with regulation 1*

**THE WATER ENVIRONMENT (CONTROLLED  
ACTIVITIES) (SCOTLAND) REGULATIONS 2005**

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SCHEDULE 1 Indicative list of the main pollutants

- 1. Organohalogen compounds and substances which may form such compounds in...
- 2. Organophosphorous compounds.
- 3. Organotin compounds.
- 4. Substances and preparations, or the breakdown products of such, which...
- 5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
- 6. Cyanides.
- 7. Metals and their compounds.
- 8. Arsenic and its compounds.
- 9. Biocides and plant protection products.
- 10. Materials in suspension.
- 11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)...
- 12. Substances which have an unfavourable influence on the oxygen balance...

SCHEDULE 2 Substances referred to in regulations 4(1)(b) and 28(1)(b) (iii)

- 1. Subject to paragraph 2, a substance is listed in this...
- 2. A substance is not listed in this Schedule if it...
- 3. SEPA shall publish any determination it makes under paragraph 2...

SCHEDULE 3 General Binding Rules

PART 1  
PART 2

SCHEDULE 4

PART 1  
PART 2

SCHEDULE 5 Charging Scheme

- 1. In the case of an authorisation under these Regulations, SEPA...
- 2. Charges may be made in respect of:
- 3. A charging scheme may impose: (a) a single charge in...
- 4. A charging scheme may make such provision for charges as...
- 5. A charging scheme: (a) shall specify, in relation to any...
- 6. In making a charging scheme SEPA shall secure that the...
- 7. Without prejudice to paragraph 5(b), if it appears to SEPA...
- 8. A charging scheme may: (a) make different provision for different...
- 9. SEPA shall not make a charging scheme unless the provisions...
- 10. Before submitting a proposed charging scheme to the Scottish Ministers...

11. Where any proposed charging scheme has been submitted to the...
12. It shall be the duty of SEPA to take such...

#### SCHEDULE 6

##### PART 1 Powers

1. To enter at any reasonable time (or, in an emergency,...
2. On entering any premises by virtue of paragraph 1, to...
3. To make such examination and investigation as may in the...
4. As regards any premises which that person has power to...
5. To take such measurements and photographs and make such recordings...
6. To obtain and to take samples, or cause samples to...
7. To monitor– (a) the water environment or any part of...
8. To take steps for the measurement and recording of precipitation....
9. To install and maintain gauges, or other apparatus and works...
10. To take such steps as may be necessary in order...
11. In the case of any article or substance found in...
12. In the case of any such article or substance as...
13. (1) Subject to sub paragraph (2), to require any person...
14. To require the production of, or where the information is...
15. To require any person to afford such facilities and assistance...
16. To carry out borings or other works on any premises...

##### PART 2 Procedures etc.

17. Any person authorised by SEPA under regulation 27(4) shall produce...
18. Except in an emergency, in any case where it is...
19. Except in an emergency, where an authorised person proposes to...
20. Where an authorised person proposes to exercise the power conferred...
21. Before exercising the power conferred by paragraph 11 in the...
22. No answer given by a person in pursuance of a...
23. Nothing in this schedule shall be taken to compel the...
24. A person who enters any premises in the exercise of...

##### PART 3 Issue of warrants

25. If a sheriff or justice of the peace is satisfied...
26. The conditions mentioned in paragraph 25 are–
27. In a case where paragraph 25 applies, a justice of...
28. Every warrant under this Schedule shall continue in force until...

##### PART 4 Evidence

29. In any legal proceedings it shall be presumed until the...
30. Subject to paragraph 22, information obtained in consequence of the...
31. Without prejudice to the generality of paragraph 30, information obtained...

##### PART 5 Compensation

32. (1) SEPA must compensate any person who has sustained loss...

#### SCHEDULE 7 Compensation for Grant of Rights

1. Interpretation
2. Period for making an application
3. Form of application
4. Loss and damage for which compensation payable
5. Basis on which compensation assessed
6. Payment of compensation and determination of disputes

#### SCHEDULE 8 Register

1. The register maintained by SEPA under regulation 33 shall contain...
2. Where an application is withdrawn by the applicant at any...
3. Nothing in paragraph 1 shall require SEPA to keep in...
4. Paragraph 3(a) shall not apply to any aggregated monitoring data...

SCHEDULE 9 Procedures in connection with appeals to the Scottish Ministers

1. A person who wishes to appeal to the Scottish Ministers...
2. The documents mentioned in paragraph 1 are–
3. An appellant may withdraw an appeal by notifying the Scottish...
4. Subject to paragraph 5, notice of appeal in accordance with...
5. The Scottish Ministers may in a particular case allow notice...
6. Subject to paragraph 9, SEPA shall, within 14 days of...
7. A notice under paragraph 6 shall– (a) state that the...
8. SEPA shall, within 14 days of sending a notice under...
9. In the event of an appeal being withdrawn, SEPA shall...
10. Hearing procedure
11. A hearing held under paragraph 10 may, if the appointed...
12. Where the Scottish Ministers cause a hearing to be held...
13. In the case of a hearing which is to be...
14. The Scottish Ministers may vary the date fixed for the...
15. The Scottish Ministers may also vary the time or place...
16. The persons entitled to be heard at any hearing are...
17. Nothing in paragraph 16 shall prevent the appointed person from...
18. After the conclusion of a hearing, the appointed person shall...
19. Subsections (3) to (8) of section 210 of the Local...
20. Procedure for written representations
21. The appellant shall make any further representations by way of...
22. Any representations made by the appellant or SEPA shall bear...
23. When SEPA or the appellant submits any representations to the...
24. The Scottish Ministers shall send to the appellant and SEPA...
25. The Scottish Ministers may in a particular case–
26. Determination and publication of appeal
27. The Scottish Ministers shall at the same time send–

SCHEDULE 10 Transitional, Savings and Supplemental Provisions  
PART 1 Water Environment

1. Where on or before 1st July 2005 a person–
2. Subject to paragraph 3, the person referred to in paragraph...
3. Paragraph 2 does not apply where the controlled activity concerned...
4. Regulations 8 to 10, 12, 14, 15(2) to (5), 19...
5. Subject to paragraph 6, an authorisation granted by SEPA in...
6. Where– (a) SEPA has not determined an application made under...
7. The person referred to in paragraph 1 may make an...
8. The provisions of paragraphs 3 to 6 apply to an...
9. Where a person– (a) holds a consent under section 34...
10. The person referred to in paragraph 9 shall be deemed...
11. – (a) Until SEPA has determined the application under paragraph...
12. Regulations 8 to 10, 12, 14, 15(2) to (5), 19...

PART 2 Pollution Control

13. Where on 31st March 2006 a relevant authorisation is in...
14. The relevant authorisations referred to in paragraph 13 shall, for...
15. SEPA shall review all relevant authorisations referred to in paragraph...
16. When carrying out a review in accordance with paragraph 15,...
17. The review required under paragraph 15, and the steps required...
18. Where, on or after 1st April 2006, an application for...
19. SEPA shall, when considering an application referred to in paragraph...
20. Where an application is granted in accordance with paragraph 19,...
21. In this Part– (a) “authorised activity” means an activity referred...

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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PART 3      Abstractions and Impoundments

22. Where a person will be carrying out an activity on...
23. The person referred to in paragraph 22 must make an...
24. Regulations 8 to 10, 12, 14, 15(2) to (5), 19...
25. Subject to paragraph 26, an authorisation granted by SEPA in...
26. Where— (a) SEPA has not determined an application made under...  
Explanatory Note