
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 348

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

PART III

Applications and Application Procedure

Form and content of applications for authorisation

12. An application to SEPA for an authorisation to carry on one or more controlled activities shall be made in writing, in such form as SEPA may from time to time require, and shall be accompanied by—

- (a) any charge prescribed in accordance with Schedule 5; and
- (b) such information in such form as SEPA may reasonably require.

Advertisement of application

13.—(1) Where SEPA receives an application it may, where it considers that the controlled activity has or is likely to have a significant adverse impact on the water environment, require the application to be advertised in accordance with this regulation.

(2) SEPA shall serve notice requiring the applicant to advertise the application within 28 days beginning with the date on which the notice was served.

(3) SEPA shall specify in a notice under paragraph (2)—

- (a) the form of the advertisement;
- (b) the text to be included in the advertisement;
- (c) the publications or locations in which the advertisement should be placed; and
- (d) the dates between which the advertisement should be placed.

(4) An advertisement under paragraph (2) shall explain that any person affected or likely to be affected by, or having an interest in, the application may make representations to SEPA in writing within 28 days beginning with the date of the advertisement and give the address to which such representations should be sent.

(5) SEPA shall consider all written representations made under paragraph (4).

(6) The requirements of this regulation shall not apply insofar as they would require the advertisement of information which is not to be included in the register maintained under regulation 33 by virtue of regulation 34.

Further information etc.

14.—(1) SEPA may request such additional information in relation to any application as it reasonably requires.

(2) SEPA may request such additional information within such period as it may specify, or agree with the applicant in writing.

(3) SEPA may carry out such examination and investigation as it considers necessary to allow it to make a determination in respect of the application.

(4) SEPA may require an applicant to nominate a person who shall be responsible for securing compliance with the terms of any authorisation to be granted in accordance with regulation 9, within such period as it may specify.

Determination of application

15.—(1) Before determining an application SEPA shall—

- (a) assess the risk to the water environment posed by the carrying on of the activity referred to in the application;
- (b) assess what steps may be taken to ensure efficient and sustainable water use;
- (c) apply the requirements of—
 - (i) the legislation referred to in Part 1 of Schedule 4, and
 - (ii) regulation 24(5); and
- (d) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4.

(2) Where an application is in respect of the carrying on of more than one controlled activity, SEPA may grant or refuse to grant it in relation to any one or more of those activities.

(3) SEPA shall consider an application and shall either grant or refuse to grant an authorisation to carry on the activity, or, as the case may be, each of the activities referred to in that application, and shall notify the applicant of its decision.

(4) Where SEPA refuses to grant an application (in whole or in part) it shall, when notifying that refusal, give its reasons for doing so.

(5) Where SEPA decides to grant an authorisation, it shall, having considered the matters referred to in paragraph (1) and the nature of the impact or likely impact of the activity (whether on its own or in association with other activities) on the water environment, grant it in the form of an authorisation under either—

- (a) regulation 8, or
- (b) regulation 9.

Time-limits for determining applications

16.—(1) SEPA shall determine an application—

- (a) for an authorisation under regulation 8, within 30 days; and
- (b) for an authorisation under regulation 9 within 4 months,

beginning with the date on which it receives the application; but may determine it within such other period as may be agreed in writing with the applicant.

(2) For the purposes of calculating the periods mentioned in paragraph (1), SEPA shall disregard any periods—

- (a) beginning with the date on which it serves notice under regulation 13(2) and ending with the date by which any written representations must be made under regulation 13(4); and
- (b) beginning with the date it requests information under regulation 14(1) and ending with the expiry of the period specified or agreed under regulation 14(2).

(3) Where SEPA fails to determine the application within the period provided for in paragraph (1) the application shall be deemed to have been refused.

(4) Where paragraph (3) applies, SEPA shall notify the applicant of that refusal and the reasons for it.

Determinations of applications by the Scottish Ministers

17.—(1) The Scottish Ministers may direct SEPA to refer to them for their determination—

- (a) applications under these Regulations of any class or description specified in the direction;
- (b) any particular application, or any part of any particular application,

and the provisions of this regulation apply to any application referred to the Scottish Ministers for their determination in accordance with this paragraph.

(2) The Scottish Ministers shall consult SEPA before issuing a direction under paragraph (1).

(3) The Scottish Ministers may cause a local inquiry to be held in relation to any such application, and the provisions of subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973⁽¹⁾ (power to direct inquiries) apply to inquiries held in accordance with this provision.

(4) The provisions of regulations 13, 14 and 15(1) to (3) apply to the Scottish Ministers in respect of an application referred in accordance with paragraph (1) as they do to SEPA in respect of an application made under regulation 12.

(5) When they have determined an application, the Scottish Ministers shall direct SEPA—

- (a) to grant or refuse to grant an authorisation to carry on the activity, or any of the activities, referred to in the application or in the relevant part of the application, as the case may be;
- (b) where the determination is that an authorisation is to be granted under regulation 8 or 9, to grant that authorisation in accordance with that regulation;
- (c) where the determination is that an authorisation is to be granted subject to conditions, to grant that authorisation, specifying the conditions on which the authorisation is to be granted, and, if appropriate, identifying the responsible person for that authorisation;
- (d) where the determination is to refuse to grant an authorisation, to notify the applicant of that refusal, specifying the reasons for refusal.

(1) 1973 c. 65; amended by the Criminal Procedure (Scotland) Act 1975 (c. 4) and the Housing and Planning Act 1986 (c. 63).