

**Status:** This version of this part contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Water Environment (Controlled Activities) (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 10

### Transitional, Savings and Supplemental Provisions

## PART 1

### Water Environment

PROSPECTIVE

1. Where on or before 1st July 2005 a person—
- (a) holds a consent under section 34 of the Control of Pollution Act 1974<sup>(1)</sup> which is subject to an annual charge under the Control of Pollution Act 1974 (Fees and Charges) (Scotland) Scheme 2005<sup>(2)</sup>; or
  - (b) has applied for a consent under section 34 of the Control of Pollution Act 1974 but that application has not been determined,
- in respect of an activity which is a controlled activity, the provisions of paragraphs 2 to 6 apply.

#### Commencement Information

**I1** Sch. 10 para. 1 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

2. Subject to paragraph 3, the person referred to in paragraph 1 must make an application to SEPA under regulation 12 for an authorisation under regulation 9 within the period beginning on 1st October 2005 and ending on 31st March 2006.

#### Commencement Information

**I2** Sch. 10 para. 2 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

3. Paragraph 2 does not apply where the controlled activity concerned will cease before 1st April 2006.

#### Commencement Information

**I3** Sch. 10 para. 3 in force at 1.10.2005, see [reg. 1\(4\)](#)

(1) 1974 c. 40; amended by section 168 and Schedule 23 of the Water Act 1989 (c. 15) and Schedule 22 of the Environment Act 1995 (c. 25).

(2) A copy of the Control of Pollution Act 1974 (Fees and Charges)(Scotland) Scheme 2005 is published on SEPA's website and can be found at the following address: [www.sepa.org.uk/pdf/charging/legal/copa\\_2005.pdf](http://www.sepa.org.uk/pdf/charging/legal/copa_2005.pdf). Copies can also be obtained from SEPA Corporate Office, Erskine Court, Castle Business Park, Stirling FK9 4TR.

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PROSPECTIVE

4. Regulations 8 to 10, 12, 14, 15(2) to (5), 19 to 21, 35 to 36, 46(a) to (e) and (j), 47 to 49, 52 and 53 shall have effect for the purposes of the consideration of an application under paragraph 2.

**Commencement Information**

**I4** Sch. 10 para. 4 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

5. Subject to paragraph 6, an authorisation granted by SEPA in respect of an application under paragraph 2 shall take effect on 1st April 2006.

**Commencement Information**

**I5** Sch. 10 para. 5 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

6. Where—

- (a) SEPA has not determined an application made under paragraph 2 on or before 31st March 2006; or
- (b) SEPA has determined that application and the applicant has appealed against that determination,

the consent or activity referred to in paragraph 1 shall, for the purposes of regulation 5, be deemed to be an authorisation granted under regulation 9 subject to the conditions of that consent or in accordance with the description of the activity in the application under paragraph 2, as the case may be, until SEPA has determined the application, or the Scottish Ministers have determined the appeal.

**Commencement Information**

**I6** Sch. 10 para. 6 in force at 1.10.2005, see [reg. 1\(4\)](#)

7. The person referred to in paragraph 1 may make an application under paragraph 2 before 30th September 2005, and any application made before 1st July 2005 shall be treated as if made on that date.

**Commencement Information**

**I7** Sch. 10 para. 7 in force at 1.7.2005, see [reg. 1\(3\)](#)

8. The provisions of paragraphs 3 to 6 apply to an application under paragraph 7 as they do to an application under paragraph 2.

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**Commencement Information**

**I8** Sch. 10 para. 8 in force at 1.7.2005, see [reg. 1\(3\)](#)

PROSPECTIVE

**9.** Where a person—

- (a) holds a consent under section 34 of the Control of Pollution Act 1974 which is not subject to an annual charge under the Control of Pollution Act 1974 (Fees and Charges) (Scotland) Scheme 2005;
- (b) holds an authorisation under regulation 18 of the Groundwater Regulations 1998<sup>(3)</sup>; or
- (c) has applied for an authorisation under regulation 18 of the Groundwater Regulations 1998,

in respect of an activity which is a controlled activity, the provisions of paragraphs 10 to 12 apply.

**Commencement Information**

**I9** Sch. 10 para. 9 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

**10.** The person referred to in paragraph 9 shall be deemed to have made an application to SEPA on 1st April 2006.

**Commencement Information**

**I10** Sch. 10 para. 10 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

**11.** —

- (a) Until SEPA has determined the application under paragraph 10; or
- (b) where SEPA has determined the application and the determination has been appealed against, the Scottish Ministers have determined that appeal,

the consent, authorisation or activity in respect of which an application has been made, shall for the purposes of regulation 5, be deemed to be an authorisation granted under regulation 8, subject to the conditions of that consent or authorisation or in accordance with the description of the activity in the application under paragraph 10, as the case may be, with effect from 1st April 2006.

(3) S.I.1998/2746, amended by S.S.I. 2000/323 and 2005/22.

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**Commencement Information**

**I11** Sch. 10 para. 11 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

**12.** Regulations 8 to 10, 12, 14, 15(2) to (5), 19 to 21, 35, 36, 46(a) to (e) and (j), 47 to 49, 52 and 53 shall have effect for the purposes of consideration of an application under paragraph 10.

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**Commencement Information**

**I12** Sch. 10 para. 12 in force at 1.10.2005, see [reg. 1\(4\)](#)

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**Changes and effects yet to be applied to :**

- Instrument appl by [S.S.I. 2006/133 reg 3](#)
- Regulations revoked by [S.S.I. 2011/209 reg. 58\(1\)\(a\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 rule 16 words substituted by [S.S.I. 2009/420 reg. 4\(7\)](#)
- Sch. 8 para. 1(v)(w) inserted by [S.S.I. 2009/420 reg. 4\(9\)\(b\)](#)
- reg. 10(A1) inserted by [S.S.I. 2009/420 reg. 4\(4\)\(a\)](#)
- reg 15A added by [S.S.I. 2006/553 reg 2](#)