

Status: This version of this schedule 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

PROSPECTIVE

SCHEDULE 5

Regulation 12(a)

Charging Scheme

1. In the case of an authorisation under these Regulations, SEPA may require the payment to it of such charges as it may from time to time provide for in a charging scheme made in accordance with this Schedule.

Commencement Information

I1 Sch. 5 para. 1 in force at 1.4.2006, see [reg. 1\(2\)](#)

2. Charges may be made in respect of:

- (a) the grant or imposition of an authorisation under regulations 8, 9 or 11
- (b) the variation of any authorisation under regulations 20 or 21;
- (c) the subsistence of an authorisation;
- (d) the transfer of an authorisation to another person, under regulation 22;
- (e) the surrender of an authorisation under regulation 24;
- (f) the determination that information is confidential under regulation 35.

Commencement Information

I2 Sch. 5 para. 2 in force at 1.4.2006, see [reg. 1\(2\)](#)

3. A charging scheme may impose:

- (a) a single charge in respect of the whole of any authorisation;
- (b) separate charges in respect of different parts of any such authorisation;
- (c) both such a single charge and such separate charges.

Commencement Information

I3 Sch. 5 para. 3 in force at 1.4.2006, see [reg. 1\(2\)](#)

4. A charging scheme may make such provision for charges as is reasonable or necessary to meet the requirements of paragraph 6, and may in particular provide for different charges to be payable according to:

- (a) the description of the authorisation in question;
- (b) the controlled activity in question;
- (c) the scale on which the controlled activity is carried on;
- (d) the description or amount of any substance to which the controlled activity in question relates;
- (e) the number of different controlled activities carried on by the same person.

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Commencement Information

I4 Sch. 5 para. 4 in force at 1.4.2006, see [reg. 1\(2\)](#)

5. A charging scheme:

- (a) shall specify, in relation to any charge prescribed by the scheme, the description of the person who is liable to pay the charge;
- (b) may provide that it shall be a condition of an authorisation that any charge prescribed is paid in accordance with the scheme;
- (c) may, where appropriate, provide incentives to secure efficient and sustainable water use.

Commencement Information

I5 Sch. 5 para. 5 in force at 1.4.2006, see [reg. 1\(2\)](#)

6. In making a charging scheme SEPA shall secure that the amounts recovered by way of charges prescribed by the charging scheme are, together with any grants paid to SEPA under section 47 of the Environment Act 1995(1) in respect of the functions under—

- (a) the Act;
- (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District Regulations 2003(2));
- (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(3); and
- (d) these Regulations,

the amounts which, taking one year with another need to be recovered by SEPA to meet the costs and expenses which it incurs in carrying out, or having others carry out, those functions.

Commencement Information

I6 Sch. 5 para. 6 in force at 1.4.2006, see [reg. 1\(2\)](#)

7. Without prejudice to paragraph 5(b), if it appears to SEPA that any charges due and payable to it in respect of an authorisation have not been paid, it may suspend or revoke the authorisation (in whole or in part).

Commencement Information

I7 Sch. 5 para. 7 in force at 1.4.2006, see [reg. 1\(2\)](#)

8. A charging scheme may:

- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
- (b) provide for the times at which and the manner in which, the charges prescribed by the scheme are to be paid;

(1) 1995 c. 25; amended by the Scotland (Consequential Modifications No. 2) Order 1999 (S.I.1999/1820).

(2) S.I. 2003/3245.

(3) S.I. 2004/99.

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- (c) revoke or amend any previous charging scheme;
- (d) contain incidental, consequential or transitional provision for the purposes of the scheme.

Commencement Information

I8 Sch. 5 para. 8 in force at 1.4.2006, see [reg. 1\(2\)](#)

9. SEPA shall not make a charging scheme unless the provisions of the scheme have been approved by the Scottish Ministers.

Commencement Information

I9 Sch. 5 para. 9 in force at 1.4.2006, see [reg. 1\(2\)](#)

10. Before submitting a proposed charging scheme to the Scottish Ministers for their approval under paragraph 9, SEPA shall, in such manner as it considers appropriate for bringing it to the attention of persons affected or likely to be affected by, or having an interest in, the scheme, publish a notice—

- (a) setting out its proposals; and
- (b) specifying the period within which representations or objections with respect to its proposals may be made to the Scottish Ministers.

Commencement Information

I10 Sch. 5 para. 10 in force at 1.4.2006, see [reg. 1\(2\)](#)

11. Where any proposed charging scheme has been submitted to the Scottish Ministers for approval under paragraph 9, the Scottish Ministers shall, in determining whether or not to approve the scheme or to approve it subject to modifications—

- (a) consider any representations or objections duly made to them and not withdrawn; and
- (b) have regard to the matters specified in this Schedule.

Commencement Information

I11 Sch. 5 para. 11 in force at 1.4.2006, see [reg. 1\(2\)](#)

12. It shall be the duty of SEPA to take such steps as it considers appropriate for bringing the provisions of the charging scheme made by it which is for the time being in force to the attention of persons affected or likely to be affected by, or having an interest in, them.

Commencement Information

I12 Sch. 5 para. 12 in force at 1.4.2006, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

- Instrument appl by [S.S.I. 2006/133 reg 3](#)
- Sch. 5 para. 1 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 2 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 3 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 4 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 5 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 6 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 7 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 8 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 9 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 10 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 11 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- Sch. 5 para. 12 coming into force by [S.S.I. 2005/348 reg. 1\(2\)](#)
- 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](#)