
EXPLANATORY NOTE

(This note does not form part of these Regulations)

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

Regulation 3 amends the interpretation provisions in the PPC Regulations to define terms used in connection with the standard rules provided by these Regulations, and to replace the old definition of the Integrated Pollution Prevention and Control Directive with a definition referring to Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control (O.J. L 24, 29.1.2008, p.8) (the “new IPPC Directive”).

Regulation 4 amends regulation 4 (fit and proper person) of the PPC Regulations, which applies where SEPA requires to determine whether or not a person is a fit and proper person to carry out a specified waste management activity, by—

- (a) omitting paragraph (5)(b) so that SEPA, in considering whether to treat a person as not being a fit and proper person on the basis that the management of that activity will not be in the hands of a technically competent person, will no longer require to treat the qualifications and experience prescribed in regulations made under section 74(6) (meaning of “fit and proper person”) of the Environmental Protection Act [1999 \(c. 43\)](#) as the qualifications and experience required of a person who is to be considered as technically competent;
- (b) amending paragraph (6), so that SEPA when considering whether to treat a body corporate as not being a fit and proper person, will be able to take into account that a person who is a director or similar officer of that body held office in another body corporate at the time that the second such body committed a relevant offence; and
- (c) omitting paragraph (7), which provides for activities involving the disposal of specified types of waste, so that a person who has applied to Waste Management Industry Training and Advisory Board for a certificate of technical competence shall not for that reason alone be treated as a technically competent person for the purposes of regulation 4 of the PPC Regulations.

Regulations 5(a), 11(b) and 13(a) and (b) amend the PPC Regulations with the effect that SEPA shall when (say) granting a permit require in addition to impose such conditions as are needed to ensure that the requirements of regulations 9C to 9F of those Regulations are met.

Regulations 5(b) and (d), 6(b), 7, 8, and 17(b) to (d) and (f) and (h) amend the PPC Regulations with the effect that regulation 10 (general binding rules) is repealed, and replaced with new provision based on inserted regulations 10 to 10F under which the Scottish Ministers or SEPA may make standard rules which apply to installations or mobile plant described in such rules. The effect is that SEPA may specify in a permit granted under regulation 7 (permits: general provision) of the PPC Regulations that the contents of any set of standard rules are to be conditions of the permit.

Regulations 6(a), 14, 17(j) and 18(c) to (f) correct minor errors in the PPC Regulations.

Regulation 9(b) inserts a new paragraph (4A) into regulation 13 (variation of permits) of the PPC Regulations, so that an application for variation of a permit which would if granted have the effect of authorising a specified waste management activity for the first time, shall be treated as an application for a permit in respect of that activity. The effect is that SEPA will require to determine whether or not the permit holder is a fit and proper person to carry out such an activity in accordance with regulation 4 of the PPC Regulations.

Status: This is the original version (as it was originally made).

Regulation 10 amends regulations 14 (transfer of permits) and 15 (application to surrender a permit) of the PPC Regulations so that an agreement between SEPA and an applicant to extend the period after which a transfer application is deemed to be refused, or in which notification of determination of a surrender application must be given, does not require to be in writing.

Regulation 11(a) amends regulation 22 (appeals) of the PPC Regulations, so that the determination by the sheriff of an appeal against a decision to include a standard rules condition in a permit does not affect the validity of the standard rules in question.

Regulations 12, 17(j) and 18(g) effect minor changes to the PPC Regulations needed as a consequence of the new IPPC Directive.

Regulations 13, 17(e) and (g) and 18(b) amend Schedules 1 (Part 1 (activities)), 4 (grants of permit) and 9 (variations of conditions) to the PPC Regulations, so that burning of waste oil, recovered oil or fuel manufactured from waste is no longer either a Part A activity (if burned in an appliance with a net rated thermal input of three megawatts or more) or a Part B activity (if burned in an appliance with an input of less than three megawatts).

Regulation 15 inserts a new Section 6.10 concerning carbon capture and storage into Chapter 6 (other activities) of Schedule 1 Part 1, so that the capture of carbon dioxide streams for the purposes of geological storage is now a relevant activity. The regulation transposes point 6.9 of Annex I to the new IPPC Directive, as inserted by Article 37 of Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide (O. J. L 140, 5.6.2009, p. 114).

Regulation 17(a) effects a minor change to the PPC Regulations needed as a consequence of the repeal of the Companies Act [1985 \(c.6\)](#).

Regulation 18(a) amends paragraph 1 of Schedule 7 to the PPC Regulations, so that any person applying for a variation of a permit shall when appropriate provide SEPA with information relevant to whether the person is a fit and proper person to carry out a specified waste management activity.

Regulation 19 amends Schedule 8 (appeals) to the PPC Regulations, with the effect that an appeal against a condition attached to a transferred permit and an appeal against a variation notice in connection with a partial transfer are both subject to a 6 month time limit.

A Business and Regulatory Impact Assessment has been prepared in respect of the standard rules provisions, and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Environment Quality Division, Scottish Government, Victoria Quay, Edinburgh EH6 6QQ. An assessment has not prepared for the other provisions as they have no impact on the cost of business.