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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2011 No.**

**The Water Environment (Controlled Activities) (Scotland) Regulations 2011**

**PART II**

**Authorisations**

**General binding rules**

6.—(1) A controlled activity specified in column 1 of Part 1 of Schedule 3 is authorised under these Regulations if it is carried out in accordance with the rules of general application (“general binding rules”) specified for that activity in column 2 of that Schedule.

(2) Part 2 of that Schedule has effect for the purposes of the interpretation of the Schedule.

**Registration**

7.—(1) Subject to Part 2 of Schedule 10, SEPA may authorise the carrying on of a controlled activity in accordance with the provisions of this regulation.

(2) SEPA may, in authorising such an activity, impose such conditions as it considers necessary or expedient for the purposes of protection of the water environment.

(3) An authorisation given under this regulation (“registration”) must be given by registering the particulars specified in paragraph (4) in the register maintained under regulation 37.

(4) The particulars are—

- (a) the activity authorised;
- (b) any conditions imposed under paragraph (2); and
- (c) the date of authorisation.

**Water use licence**

8.—(1) Subject to Part 2 of Schedule 10, SEPA may authorise the carrying on of a controlled activity under this regulation subject to the conditions provided for in this regulation.

(2) SEPA must impose such conditions as it considers necessary or expedient for the purposes of protection of the water environment.

(3) A condition imposed under this regulation may require an applicant to carry out works or do other things in relation to land not within the ownership or control of that applicant.

(4) If a condition is imposed in accordance with paragraph (3), it is the responsibility of the applicant to obtain all consents necessary to allow the condition to be complied with.

(5) When considering whether to grant an authorisation under paragraph (1), and when imposing conditions in respect of a licence under this regulation, SEPA—

- (a) must have regard to all controlled activities being carried on or likely to be carried on in the area of the water environment likely to be affected by the controlled activity to which the application relates;
  - (b) may have regard to any agreement reached between different persons concerning controlled activities carried on in the relevant area of the water environment.
- (6) SEPA may only grant an authorisation under this regulation if—
- (a) a person has been identified who will be responsible for securing compliance with the authorisation and the conditions specified in it;
  - (b) it is satisfied that that person will secure such compliance; and
  - (c) it is a condition of that authorisation that that person secures such compliance.
- (7) An authorisation granted under this regulation (“water use licence”) must specify the date on which it takes effect.

### **Groundwater Directive**

- 9.—(1) When considering an application in respect of a controlled activity which—
- (a) is made on or after 25th November 2009 but before 22nd December 2013; and
  - (b) falls within the provisions of the Groundwater Directive 1980,

SEPA must impose such conditions as it considers necessary to ensure compliance with the Groundwater Directive 1980 as read with the Groundwater Directive 2006.

(2) Subject to paragraph (1), when considering an application in respect of a controlled activity which falls within the provisions of the Groundwater Directive 2006, SEPA must impose such conditions as it considers necessary to ensure compliance with the Groundwater Directive 2006.

(3) SEPA is the competent authority for the purposes of Articles 2, 8, 12 and 13 of the Groundwater Directive 1980 and Article 6 of the Groundwater Directive 2006.

### **Power of SEPA to impose authorisation**

10.—(1) If it appears to SEPA that a person is carrying on (or is likely to carry on) a controlled activity—

- (a) which has not been authorised under regulations 7 or 8;
- (b) authorised under regulation 6, but that additional measures are necessary to protect the water environment;
- (c) authorised under regulation 7 but that it should be authorised under regulation 8;
- (d) authorised under regulation 8 but that it should be authorised under regulation 7,

SEPA may treat the activity as an activity in respect of which an application has been made, and may, as it thinks fit, grant an authorisation under regulation 7 or 8.

(2) If SEPA decides to treat an activity as an activity in respect of which an application has been made—

- (a) the charge referred to in regulation 11(1)(a) is payable, and
- (b) the remaining provisions of Part III apply as if such an application had been made.

(3) SEPA must give notice to the responsible person, if any, or to the operator that it is treating the activity in accordance with paragraph (1).