
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

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

PART IX

General

Application to the Crown

54.—(1) Subject to the provisions of this regulation, these Regulations bind the Crown.

(2) No contravention by the Crown of any provision of these Regulations will make the Crown criminally liable under regulation 44 and no proceedings may be taken against the Crown under regulation 44 but the Court of Session may, on an application by SEPA, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), the provisions of these Regulations apply to persons in the public service of the Crown as they apply to other persons.

Application to SEPA

55.—(1) In the application of these Regulations to SEPA if it is carrying on, or intends to carry on, a controlled activity, and subject to paragraph (2), any functions conferred on SEPA by these Regulations must instead be carried out by the Scottish Ministers.

(2) Paragraph (1) does not apply to regulations 11(1)(a), 20, 21(2), 31 to 35, 43, 50 to 53 and 56.

Guidance to SEPA

56. The Scottish Ministers may issue guidance to SEPA with respect to the carrying out of its functions under these Regulations, and SEPA must have regard to any guidance issued by the Scottish Ministers under this regulation.

Notices

57.—(1) Any notice served or given under these Regulations by the Scottish Ministers or SEPA—

(a) must be in writing; and

(b) may be withdrawn, varied or revoked by a further notice in writing (whether before or after the notice has come into effect).

(2) Any notice may be served on or given to a person by leaving it at that person's proper address or by sending it by post to that person at that address.

(3) Any such notice may—

(a) in the case of a body corporate, be served on the secretary or clerk of that body;

(b) in the case of a partnership, be served on or given to a partner or person having the control or management of the partnership business.

(4) For the purpose of this regulation the proper address of a person will be construed in accordance with section 26(4) of the Interpretation and Legislative Reform (Scotland) Act 2010⁽¹⁾.

Revocations, transitional and savings provisions, and amendments

58.—(1) Subject to paragraph (2), the following enactments are revoked—

- (a) the Water Environment (Controlled Activities) (Scotland) Regulations 2005⁽²⁾ (“the 2005 Regulations”);
- (b) the Water Environment (Controlled Activities) (Third Party Representations etc) (Scotland) Regulations 2006⁽³⁾;
- (c) the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2007⁽⁴⁾;
- (d) regulation 2 of, and the Schedule to, the Water Environment (Diffuse Pollution) (Scotland) Regulations 2008⁽⁵⁾;
- (e) regulation 4 of, and Schedules 1 and 2 to, the Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009⁽⁶⁾.

(2) Schedule 10, which makes transitional and savings provisions in relation to the revocation of the 2005 Regulations, has effect.

(3) Schedule 11, which makes minor amendments and savings provisions consequential on the provisions of these Regulations, has effect.

(1) asp 10.
(2) S.S.I 2005/348.
(3) S.S.I. 2006/553.
(4) S.S.I. 2007/219.
(5) S.S.I. 2008/54.
(6) S.S.I. 2009/420.