
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

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

PART III

Applications and Application Procedure

Determinations of applications by the Scottish Ministers

20.—(1) The Scottish Ministers may direct SEPA to refer to them for their determination—

- (a) applications under these Regulations of any class or description specified in the direction;
- (b) any particular application, or any part of any particular application,

and the provisions of this regulation apply to any application referred to the Scottish Ministers for their determination in accordance with this paragraph; and in this regulation references to “application” or “applications” includes reference to any matter which is treated as an application in accordance with these Regulations.

(2) The Scottish Ministers must consult SEPA before issuing a direction under paragraph (1).

(3) The Scottish Ministers may cause a local inquiry to be held in relation to any such application, and the provisions of subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973⁽¹⁾ (power to direct inquiries) apply to inquiries held in accordance with this provision.

(4) The provisions of regulations 12, 13, 14 and 15(1) to (3) apply to the Scottish Ministers in respect of an application referred in accordance with paragraph (1) as they do to SEPA in respect of an application made under regulation 11.

(5) When they have made a determination under this regulation, the Scottish Ministers must direct SEPA—

- (a) to grant or refuse to grant an application for—
 - (i) an authorisation to carry on the activity, or any of the activities referred to in the application or the relevant part of the application;
 - (ii) a variation of the authorisation or part of the application for it made under regulation 24;
 - (iii) a surrender of the authorisation or part of it,

or to vary or not to vary an authorisation under regulation 23(1), as the case may be; and

- (b) if the determination is—
 - (i) that an authorisation is to be granted under regulation 7 or 8, to grant that authorisation in accordance with that regulation;
 - (ii) that an authorisation is to be varied under regulation 22, to vary that authorisation in accordance with that regulation and regulation 23 or 24, as the case may be;

(1) 1973 c.65; amended by the Criminal Procedure (Scotland) Act 1975 (c.4) and the Housing and Planning Act 1986 (c.63).

- (iii) that an authorisation is to be surrendered under regulations 27 and 28, to grant that surrender in accordance with those regulations;
 - (iv) that an authorisation or a partial surrender of an authorisation is to be granted subject to conditions, to grant that authorisation or partial surrender, specifying the conditions on which that authorisation or partial surrender is to be granted, and, if appropriate, to identify the person responsible for it;
 - (v) to refuse to grant an application for authorisation, variation or surrender, or not to vary an authorisation under regulation 23(1), to notify the applicant of that refusal or determination not to vary as the case may be, specifying the reasons for that determination.
- (6) If, by reason of an emergency, the Scottish Ministers consider that an application they have directed SEPA to refer to them under paragraph (1) requires to be determined urgently, the Scottish Ministers may—
- (a) dispense with consultation with public authorities as would otherwise be required by regulation 12;
 - (b) dispense with advertisement of the application as would otherwise be required by regulation 13;
 - (c) determine the application within such timescale as they consider appropriate.