

SCHEDULE 10

Transitional and Savings Provisions

PART 1

Water Environment

1. If on 31st March 2011 an authorisation under regulation 8 or 9 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005(1) (“the 2005 Regulations”) is in force, that authorisation will be treated as an authorisation granted under these Regulations which is subject (unless subsequently varied) to the same conditions, if any, as that authorisation.

2. For the avoidance of doubt, paragraph 1 applies to any authorisation that is treated as an authorisation by virtue of paragraphs 6, 11, 14 or 26 of Schedule 10 to the 2005 Regulations.

3. If on or before 31st March 2011 a person—

- (a) has applied under regulation 12 of the 2005 Regulations for an authorisation under regulations 8 or 9 of the 2005 Regulations;
- (b) has received notice from SEPA under regulation 11 of the 2005 Regulations that SEPA is treating an activity as an activity in respect of which an application has been made;
- (c) has applied under regulation 21 of the 2005 Regulations for a variation of an authorisation under regulations 8 or 9 of the 2005 Regulations;
- (d) has applied under regulation 22 of the 2005 Regulations to transfer an authorisation under regulation 9 of the 2005 Regulations; or
- (e) has applied under regulation 24 of the 2005 Regulations to surrender an authorisation under regulation 9 of the 2005 Regulations;

and that application has not been determined, paragraph 4 applies.

4. Notwithstanding the revocation of the 2005 Regulations by regulation 58, regulations 8 to 10, 12 to 17, and 46 to 49 of the 2005 Regulations continue to have effect in relation to any application referred to in paragraph 3.

5. If an authorisation is granted in respect of an application referred to in paragraph 3, that authorisation will be treated as an authorisation granted under these Regulations.

6. Notwithstanding the revocation of the 2005 Regulations by regulation 58—

- (a) any enforcement notice issued by SEPA in accordance with regulation 28 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 32 of these Regulations;
- (b) any variation notice issued by SEPA in accordance with regulation 20(2) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 23(3) of these Regulations;
- (c) any authorisation issued by SEPA under regulation 27(1) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 31(4) of these Regulations;
- (d) any notice of suspension or revocation issued by SEPA in accordance with regulation 26(1) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 29(1) of these Regulations;

(1) S.S.I. 2005/348.

- (e) any application for compensation made by a person in accordance with regulation 30(5) of the 2005 Regulations before 31st March 2011 has effect as if it had been made under regulation 34(5) of these Regulations;
- (f) any court proceedings commenced by SEPA under regulation 31 of the 2005 Regulations before 31st March 2011 will be treated as if they had been commenced under regulation 35 of these Regulations;
- (g) any notice served by the Scottish Ministers or SEPA under regulation 32 of the 2005 Regulations before 31st March 2011 has effect as if it had been served under regulation 36 of these Regulations;
- (h) any application for the determination of commercial confidentiality made by a person in accordance with regulation 35 of the 2005 Regulations before 31st March 2011 has effect as if it had been made under regulation 39 of these Regulations;
- (i) any notice of the registration of commercially confidential information and any notice of determination of commercial confidentiality issued by SEPA in accordance with regulation 36(1) or 36(3) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 40(1) or 40(3) of these Regulations, as appropriate;
- (j) any notice of review and any notice of the determination of a review issued by SEPA under regulation 37(2) or (37(4) of the 2005 Regulations before 31st March 2011 will be treated as if it had been issued under regulation 41(2) or 41(4) of these Regulations, as appropriate;
- (k) any direction issued by the Scottish Ministers under regulation 39 of the 2005 Regulations before 31st March 2011 will be treated as if it had been issued under regulation 43 of these Regulations;
- (l) any order issued by a court under regulation 45 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 49 of these Regulations;
- (m) any appeal under regulation 46 of the 2005 Regulations, notice of which has been given to the Scottish Ministers in accordance with paragraph 1 of Schedule 9 to the 2005 Regulations before 31st March 2011, will be treated as if it had been commenced under Part VIII of these Regulations;
- (n) any guidance issued by the Scottish Ministers under regulation 52 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 56 of these Regulations.