
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

**PART VII
APPEALS**

Appeals to the Scottish Ministers and to the sheriff

58.—(1) A person—

- (a) who has been refused a permit after an application under regulation 13,
- (b) who has been refused the variation of a permit after an application under regulation 46,
- (c) who is aggrieved by the conditions attached to a permit granted to that person—
 - (i) after application under regulation 13, or
 - (ii) by a variation notice following an application under regulation 46,
- (d) whose application for a transfer under regulation 47 has been refused, or who is aggrieved by the conditions attached to a permit to take account of such transfer,
- (e) whose application under regulation 48 to surrender a permit has been refused, or who is aggrieved by the conditions attached to that person's permit to take account of the surrender,
- (f) whose request to begin closure procedure is not approved under regulation 17(3)(b) of the Landfill Regulations,
- (g) who is aggrieved by a decision under paragraph 1(3)(b) of Schedule 5 to the Landfill Regulations,

may appeal against the decision of SEPA to the Scottish Ministers.

(2) A person—

- (a) who is served with a variation notice (other than in respect of an application for variation),
- (b) a revocation notice,
- (c) an enforcement notice,
- (d) a suspension notice, or a
- (e) closure notice under regulation 18(1) of the Landfill Regulations,

may appeal against the notice to the Scottish Ministers.

(3) Paragraphs (1) and (2) do not apply where the decision or notice (as the case may be) gives effect to a direction under paragraph (4), or under—

- (a) regulation 60,
- (b) paragraph 19(7) of Schedule 4, or
- (c) paragraph 6(7) of Schedule 7.

(4) On determining an appeal against a decision of SEPA under paragraph (1), the Scottish Ministers may—

- (a) affirm the decision,
- (b) where the decision was a refusal to grant a permit or to vary the conditions of a permit, direct SEPA to grant the permit or to vary the conditions of the permit,
- (c) where the decision was as to the conditions attached to a permit, quash all or any of the conditions of the permit,
- (d) where the decision was a refusal to effect the transfer or accept the surrender of a permit, direct SEPA to effect the transfer or accept the surrender,

and the Scottish Ministers may give directions as to the conditions to be attached to the permit. where they exercise a power in sub-paragraph (b) or (c).

(5) On determining an appeal against a notice under paragraph (2), the Scottish Ministers may—

- (a) quash or affirm the notice,
- (b) if affirming it, may do so either in its original form or with such modifications as they think fit.

(6) An appeal may be taken to the sheriff against a determination by the Scottish Ministers under paragraphs (4) and (5) by—

- (a) SEPA, or
- (b) any person referred to in paragraphs (1) or (2) who is affected by the determination.

(7) The appeal referred to in paragraph (6) must be made by summary application within 21 days from the date of the decision of the Scottish Ministers.

(8) In disposing of an appeal taken under paragraph (6), the sheriff may take any step open to the Scottish Ministers under paragraphs (4) and (5).

(9) The determination or disposal of an appeal which relates to a decision to include in a permit a standard rules condition does not affect the continued validity of the relevant standard rules.

(10) In an appeal under—

- (a) paragraph (1)(c), (d) or (e) in relation to a conditions attached to a permit, the bringing of the appeal does not suspend the operation of the condition, and
- (b) paragraph (2), the bringing of the appeal does not suspend the operation of an enforcement notice, a suspension notice or a variation notice.

(11) In an appeal under paragraph (2) against a revocation notice, the notice if affirmed does not take effect until—

- (a) expiry of the period referred to in paragraph (7), or
- (b) withdrawal of the appeal.

(12) In an appeal under paragraph (1)(g) in relation to closure procedure, or under paragraph (2) against a closure notice, the closure procedure may not begin until—

- (a) determination of the appeal, or
- (b) withdrawal of the appeal.

(13) Where the Scottish Ministers give directions as to a condition to be included in a permit—

- (a) Part II of these Regulations, and
- (b) regulation 37, or the appropriate provisions of regulation 10 of the Landfill Regulations,

apply as if SEPA were determining whether to include the condition.

(14) Schedule 8 has effect.

(15) In an appeal under paragraph (1)(g) where a waste management licence (“a licence”) is in force, this regulation and Schedule 8 apply as if a reference—

- (a) to a permit is a reference to a licence,
- (b) to an operator is a reference to a licence holder, and
- (c) to an installation or mobile plant is a reference to a landfill.

Interest for the purposes of the Industrial Emissions Directive

59. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law is deemed to have an interest for the purposes of Article 25(1)(a) of the Industrial Emissions Directive, and rights capable of being impaired for the purposes of Article 25(1)(b) of that Directive.