
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

The Environmental Authorisations (Scotland) Regulations 2018

PART 9

Enforcement

Regulatory notices

- 46.**—(1) This regulation applies where SEPA is of the opinion that—
- (a) a person has carried on or is carrying on a regulated activity or is in control of or has been in control of the carrying on of a regulated activity; and
 - (b) at least one of the following apply—
 - (i) steps are required to be taken to prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity;
 - (ii) steps are required to be taken to restore the environment affected or likely to be affected by the regulated activity;
 - (iii) the person has contravened, is contravening, or is likely to contravene a condition, or other provision, of a permit or registration or a general binding rule;
 - (iv) the person has committed an offence under these Regulations;
 - (v) the person has ceased to be a fit and proper person.
- (2) Where this regulation applies SEPA may serve a notice (a “regulatory notice”) on—
- (a) a person who has carried on or is carrying on a regulated activity;
 - (b) a person who is in control of or has been in control of the carrying on of a regulated activity.
- (3) A regulatory notice must specify—
- (a) the activity;
 - (b) if SEPA is of the opinion that steps are required to be taken to prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity, the reasons why SEPA is of that opinion;
 - (c) if SEPA is of the opinion that steps are required to be taken to restore the environment affected or likely to be affected by the regulated activity, the reasons why SEPA is of that opinion;
 - (d) if SEPA is of the opinion that the carrying on of the activity has contravened, is contravening, or is likely to contravene any condition, or other provision, of a permit or registration or a general binding rule, the matters constituting the contravention or likely contravention;
 - (e) if SEPA is of the opinion that the person has committed an offence under these Regulations, the matters constituting the offence;
 - (f) if SEPA is of the opinion that the person has ceased to be a fit and proper person, the reasons why SEPA is of that opinion;

- (g) the steps to be taken by the person which SEPA considers to be necessary or appropriate to—
 - (i) prevent or mitigate environmental harm caused, being caused or likely to be caused by the regulated activity;
 - (ii) restore the environment affected, being affected or likely to be affected by the regulated activity;
 - (iii) comply with a condition, or other provision, of a permit or registration or a general binding rule;
 - (iv) stop or prevent the commission of an offence under these Regulations;
 - (v) ensure that person is a fit and proper person; and
- (h) the date from which the notice has effect.
- (4) Where a regulatory notice is served on more than one person it must—
 - (a) identify each recipient; and
 - (b) specify whether each step is to be undertaken—
 - (i) by an individual recipient and, if so, which recipient; or
 - (ii) jointly by two or more recipients and, if so, which recipients.
- (5) The steps referred to in paragraph (3)(g) may include any or all of the following—
 - (a) steps to remedy or mitigate any environmental harm caused by the contravention or offence or the carrying on of the activity;
 - (b) the removal of waste deposited on, in or under, land or in inland water;
 - (c) the cessation of the carrying on of an activity for such period as SEPA considers necessary or appropriate.
- (6) SEPA may impose such time limits as it considers appropriate in a regulatory notice and may describe a time limit by reference to the completion of steps or any other requirement specified in that notice.
- (7) A person on whom a regulatory notice is served must comply with the notice from the date on which it has effect (as stated in the notice).

SEPA: regulatory notices requiring cessation

- 47.—(1) Where SEPA serves a regulatory notice requiring the cessation of an activity authorised by a permit, registration or notification—
- (a) the permit, registration or notification ceases to have effect to authorise the activity on the date and to the extent specified in the notice; and
 - (b) the notice must specify—
 - (i) the extent to which the permit, registration or notification ceases to have effect;
 - (ii) that the permit, registration or notification shall, until the regulatory notice is withdrawn, cease to have effect to authorise the activity to the extent specified;
 - (iii) the limitations or conditions to which any permit or registration that is not wholly suspended is to be subject until the regulatory notice is withdrawn; and
 - (iv) the date on which the notice takes effect (which must not be earlier than the date on which the notice is served).
- (2) Where SEPA serves a regulatory notice on a person requiring the cessation of an activity to which general binding rules apply—

- (a) regulation 10(1) has no effect to authorise the carrying on of the activity by the person from the date specified in the notice; and
- (b) the notice must specify—
 - (i) that the activity ceases to be authorised until the regulatory notice is withdrawn;
 - (ii) the date on which the notice takes effect (which must not be earlier than the date on which the notice is served).

Withdrawing regulatory notices

48.—(1) SEPA must withdraw a regulatory notice if it is satisfied that the steps required by the notice have been taken.

- (2) A notice withdrawing a regulatory notice must specify—
 - (a) the date on which the withdrawal takes effect; and
 - (b) the reasons for the withdrawal of the notice.

Regulatory notices: off-site conditions

49. SEPA may impose an off-site condition in a regulatory notice.

Enforcement by the courts

50. SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance (whether or not it has taken other steps for that purpose) with any or all of the following:

—

- (a) these Regulations;
- (b) a general binding rule;
- (c) an authorisation;
- (d) a regulatory notice;
- (e) a surrender notice;
- (f) a revocation notice.