
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

The Deposit and Return Scheme for Scotland Regulations 2020

PART 6

Appeals or reviews

Right of appeal or review

26.—(1) A producer may, within 28 days of the date on which the decision has been notified, appeal to the Scottish Ministers against a decision of SEPA—

- (a) to refuse to register that producer under regulation 8(1)(b),
- (b) to cancel the registration of that producer under regulation 9(1).

(2) An applicant for approval as a scheme administrator may, within 28 days of the date on which a decision has been notified, apply to the Scottish Ministers for a review of a decision to refuse an application for approval under regulation 15(1)(b).

(3) A scheme administrator may, within 28 days of the date on which a decision has been notified, apply to the Scottish Ministers for a review of a decision to withdraw the approval of that scheme administrator under regulation 17(1).

Procedure

27.—(1) Where an appeal is made under regulation 26(1), the Scottish Ministers may—

- (a) appoint any person to exercise on their behalf, with or without payment, the function of determining the appeal, or
- (b) refer any matter in relation to the appeal to such person as the Scottish Ministers may appoint for the purpose, with or without payment.

(2) Where an application for review is made under regulation 26(2) or (3), the Scottish Ministers may refer any matter in relation to that application for review to such person as the Scottish Ministers may appoint for the purpose, with or without payment.

(3) A person appointed under—

- (a) paragraph (1)(a), may determine the procedure of the appeal, or
- (b) paragraph (1)(b) or paragraph (2), may determine the procedure to be followed in preparing the report required in paragraph (4).

(4) The person appointed under paragraph (1)(b) or (2) must make a written report to the Scottish Ministers which includes that person's findings, conclusions and recommendations, or reasons for not making any recommendations.

(5) An appeal or application for review must be made by notice in writing given or sent to the Scottish Ministers (a copy of which must be sent to SEPA) setting out—

- (a) the grounds of appeal or review, and

- (b) any other information relevant to the appeal or review, including a copy of any relevant correspondence with the decision maker.
- (6) An appellant or applicant for review may withdraw the appeal or application for review at any time by notifying SEPA and the Scottish Ministers in writing.
- (7) On determination of an appeal in accordance with paragraph (1)(a), the person appointed to exercise the function of determining the appeal on behalf of the Scottish Ministers must—
 - (a) notify the appellant in writing of the decision, and the reasons for it, and
 - (b) send SEPA a copy of any document sent to the appellant.
- (8) On determination of an appeal in accordance with paragraph (1)(b), or an application for review in accordance with paragraph (2), the Scottish Ministers must—
 - (a) notify the appellant or applicant for review in writing of the decision, and the reasons for it,
 - (b) provide the appellant or applicant for review with a copy of the report made to the Scottish Ministers in accordance with paragraph (4), and
 - (c) send SEPA a copy of any document sent to the appellant.

Determination of appeals

28. Where, following an appeal under regulation 26(1), the Scottish Ministers, or any other person appointed to determine the appeal, determine that the decision of SEPA must be changed, SEPA must give effect to that determination.

Status pending appeal

29. The decision appealed against or subject to an application for review under this Part will not take effect until the day following the day on which the appeal or review is finally determined or withdrawn.