
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 323

**The Pollution Prevention and
Control (Scotland) Regulations 2000**

**PART IV
APPEALS**

Appeals to the Scottish Ministers and to the sheriff

22.—(1) Subject to paragraph (3), the following persons, namely:—

- (a) a person who has been refused the grant of a permit under regulation 7;
- (b) a person who has been refused the variation of the conditions of a permit on an application under regulation 13;
- (c) a person who is aggrieved by the conditions attached to that person's permit following an application under regulation 7 or by a variation notice following an application under regulation 13;
- (d) a person whose application under regulation 14 for SEPA to effect the transfer of a permit has been refused or who is aggrieved by the conditions attached to that person's permit to take account of such transfer;
- (e) a person whose application under regulation 15 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,

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

(2) Subject to paragraph (3), a person on whom a variation notice is served, other than following an application under regulation 13, or on whom a revocation notice, an enforcement notice or a suspension notice is served may appeal against the notice to the Scottish Ministers.

(3) Paragraphs (1) and (2) shall not apply where the decision or notice, as the case may be, implements directions given under regulations 9(2) or 23, under paragraph (4), under paragraph 14(7) of Schedule 4, or under 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, as the case may be;
- (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, as the case may be,

and where they exercise any of the powers in subparagraph (b) or (c) above, the Scottish Ministers may give directions as to the conditions to be attached to the permit.

(5) An appeal may be taken to the sheriff by SEPA or by any of the persons referred to in paragraphs (1) or (2) affected by a decision made by the Scottish Ministers in pursuance of those paragraphs.

(6) The appeal referred to in paragraph (5) shall be by summary application and shall be taken within 21 days of the decision of the Scottish Ministers made under paragraph (4).

(7) In disposing of an appeal taken under paragraph (5), the sheriff may take any steps open to the Scottish Ministers under paragraphs (4) and (12).

(8) On the determination of an appeal pursuant to paragraph (2), the Scottish Ministers (or the sheriff, as the case may be) may either quash or affirm the variation notice and, if affirming it, may do so either in its original form or with such modifications as may in the circumstances be thought fit.

(9) Where an appeal is brought under this regulation against a revocation notice, the revocation shall not take effect until expiry of the period of appeal following final determination or until the withdrawal of the appeal.

(11) Where—

- (a) an appeal is brought pursuant to paragraph (1)(c), (d) or (e) in relation to the conditions attached to a permit, the bringing of the appeal shall not have the effect of suspending the operation of the conditions; and
- (b) an appeal is brought pursuant to paragraph (2) against a variation notice, an enforcement notice or a suspension notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(12) Regulations 8 and 9 (other than paragraph (2)) shall apply where the Scottish Ministers, in exercising any of the powers in sub-paragraph (b) or (c) of paragraph (4), give directions as to the conditions to be attached to a permit as they would apply to SEPA when determining the conditions of the permit.

(13) Schedule 8 shall have effect in relation to the making and determination of appeals by the Scottish Ministers under this regulation.

(14) So far as relating to appeals to the Scottish Ministers, this regulation and Schedule 8 are subject to section 114 of the Environment Act 1995(1) (delegation of reference of appeals).