
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 323

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

**PART I
GENERAL**

Fit and proper person

4.—(1) This regulation applies for the purpose of the discharge of any function under these Regulations which requires SEPA to determine whether a person is or is not a fit and proper person to carry out a specified waste management activity.

(2) Whether a person is or is not a fit and proper person to carry out a specified waste management activity shall be determined by reference to the fulfilment of the conditions of the permit which apply or will apply to the carrying out of that activity.

(3) Subject to paragraph (4), a person shall be treated as not being a fit and proper person if it appears to SEPA that—

- (a) that person or another relevant person has been convicted of a relevant offence;
- (b) the management of the specified waste management activity which is or is to be carried on is not or will not be in the hands of a technically competent person; or
- (c) the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.

(4) SEPA may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person, notwithstanding that paragraph (3)(a) applies in his case.

(5) For the purposes of paragraphs (3) and (6)—

- (a) “relevant offence” means an offence prescribed under section 74(6) of the Environmental Protection Act 1990⁽¹⁾ for the purposes of section 74(3)(a) of that Act; and
- (b) the qualifications and experience required of a person for the purposes of section 74(3)(b) of that Act which are prescribed under section 74(6) of that Act shall be treated as the qualifications and experience required of a person for the purposes of paragraph (3)(b).

(6) In paragraph (3)(a), “another relevant person” means, in relation to the holder or proposed holder of a permit—

- (a) any person who has been convicted of a relevant offence committed in the course of that person’s employment by the holder or proposed holder of the permit or, in the course of the carrying on of any business by a partnership, one of the members of which was the holder or proposed holder of the permit;

(1) 1990 c. 43; see regulation 3 of S.I. 1994/1056 (amended by S.I. 1994/1137).

- (b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder of the permit was a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members); or
- (c) where the holder or proposed holder of the permit is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members) and who—
 - (i) has been convicted of a relevant offence; or
 - (ii) was a person holding such an office at a time when a relevant offence for which that body corporate has been convicted was committed.