

SCHEDULE 7

PART 2

DETERMINATION OF APPLICATIONS FOR VARIATIONS AND VARIATION NOTICES

- 4.—(1) Subject to paragraphs (3) and (4), this paragraph applies where—
- (a) an application is made for the variation of the conditions of a permit under regulation 13(2) which will authorise a substantial change in the operation of an installation or mobile plant; or
 - (b) SEPA proposes to serve a variation notice under regulation 13(5) otherwise than for the purposes of determining an application mentioned in paragraph (a) and the variation will authorise a substantial change in the operation of an installation or mobile plant.
- (2) Subject to sub-paragraphs (3) and (4), this paragraph shall also apply where an application is made for the variation of the conditions of a permit under regulation 13(2) or SEPA proposes to serve a variation notice under regulation 13(5) and SEPA determine that in the particular circumstances the procedure set out in the following sub-paragraphs should be followed even though no substantial change is involved (so that paragraph (1) does not apply).
- (3) This paragraph shall not apply where SEPA proposes to serve a variation notice—
- (a) which has been modified to take account of representations made in accordance with this paragraph in relation to the SEPA's previous proposal to serve the notice without the modifications; or
 - (b) in order to comply with a direction given by the Scottish Ministers.
- (4) This paragraph shall not apply in relation to an application for the variation of the conditions of a permit or a proposed variation notice relating to an installation involving only the burning of waste oil (as defined in Section 1.1 of Part 1 of Schedule 1) in an appliance with a rated thermal input of less than 0.4 megawatts.
- (5) Where this paragraph applies, SEPA shall—
- (a) notify the operator that the paragraph applies by virtue of sub-paragraph (1) or a determination under sub-paragraph (2) and of any fee prescribed in respect of the variation on the application of this paragraph under section 41 of the Environment Act 1995;
 - (b) in the case of a proposed variation notice, serve a copy of the proposed notice on the operator;
 - (c) give notice of the application or proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 9 of Schedule 4 in the case of an application for a permit to operate the installation or mobile plant.
- (6) In the case of an application to which this paragraph applies—
- (a) SEPA shall, subject to paragraph 15(a), comply with sub-paragraph (5) within 14 days of receiving the application;
 - (b) if the applicant does not pay to SEPA any fee notified under sub-paragraph (5)(a) within 28 days of the notification, the application shall be deemed to have been withdrawn.
- (7) For the purpose of calculating the 14 day period mentioned in sub-paragraph (6)(a), no account shall be taken of any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator furnishes the information specified in the notice.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(8) Subject to paragraph 15(b), an operator notified under sub-paragraph (5)(a) shall, within 28 days beginning on the day on which the notification is made, advertise the application or proposed variation notice, as the case may be—

- (a) in the case of a variation affecting the operation of an installation or Part A mobile plant, in one or more newspapers circulating in the locality in which the installation or mobile plant is operated; and
- (b) in the case of a Part A installation or Part A mobile plant, in the Edinburgh Gazette.

(9) An advertisement required by sub-paragraph (8) shall—

- (a) state the name of the operator;
- (b) in the case of a variation affecting the operation of an installation or Part A mobile plant, state the address of the site of the installation or mobile plant concerned;
- (c) describe briefly the activities in Part 1 of Schedule 1 carried out in the installation or by means of the mobile plant and the change in the operation of the installation or mobile plant that will be authorised by the variation;
- (d) state where any register containing particulars of the application or proposed variation notice may be inspected and that it may be inspected free of charge;
- (e) explain that any person may make representations to SEPA in writing (or in electronic form acceptable to it) within the period of 28 days beginning with the date of the advertisement and give the address of SEPA for receiving the representations;
- (f) explain that any such representations made by any person will be entered in a public register unless that person requests in writing (or in electronic form) that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.

(10) Sub-paragraph (8) shall not apply in relation to an application for the variation of the conditions of a permit or a proposed variation notice relating to an installation which is only used to carry out an activity falling within paragraph (c)(ii) of Part B of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations).

(11) Any representations made by any person within the period allowed shall be considered by SEPA in determining the application or before serving the variation notice.

(12) For the purpose of sub-paragraph (11), the period allowed for making representations is—

- (a) in the case of persons notified pursuant to sub-paragraph (5)(c), the period of 28 days beginning with the date on which notice of the application or proposed variation notice was given under that sub-paragraph;
- (b) in the case of other persons, the period of 28 days beginning with the date on which the application or proposed variation notice was advertised pursuant to sub-paragraph (8).

(13) Where this paragraph applies by virtue of sub-paragraph (1) to a variation affecting the operation of a Part A installation, any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment in relation to the substantial change shall be taken into consideration by SEPA in determining the application or before serving the variation notice.