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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 95**

**The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000**

**PART II**

**HOLDING, LABELLING, DECONTAMINATION AND DISPOSAL**

**Prohibition on holding without registration**

**3.—**(1) Subject to paragraphs (2) to (4), no person shall hold any contaminated equipment after 31st July 2000, unless that person is a registered holder of that equipment.

(2) A person may hold contaminated equipment, notwithstanding that such person is not a registered holder, for the purposes of, or in the course of, any business, manufacturing process or trade concerned with the decontamination or disposal of such equipment.

(3) A person who applies for registration, in accordance with regulations 6(1) and (2) and 12, no later than 22nd May 2000 but whose application has not been finally determined by 31st July 2000 shall be treated as a being a registered holder until 14 days after his application is finally determined.

(4) A person who first holds contaminated equipment on or after 8th May 2000 shall be treated as being a registered holder from the date on which that person first holds such equipment until 14 days after the application by that person for registration is finally determined, if that person applies for registration, in accordance with regulations 6(1) and (2) and 12, no later than 28 days after the date on which that person becomes the holder of contaminated equipment.

(5) For the purposes of this regulation, an application is finally determined—

- (a) where it is granted under regulation 6(3), on the date on which it is granted;
- (b) where it is refused under regulation 6(3), on the date on which SEPA gives notice under regulation 6(5);
- (c) where it is deemed by regulation 6(6) to be refused—
  - (i) where the period allowed for appealing against that refusal under regulation 8(2)(a) expires without an appeal being brought, on the expiry of that period;
  - (ii) where an appeal to the Scottish Ministers is taken within that period, on the expiry of the period of 28 days beginning with the date of the determination or earlier withdrawal of that appeal, without an appeal being taken to the sheriff under regulation 8(5);
  - (iii) where an appeal to the sheriff is taken under regulation 8(5), on the expiry of the time period for any further appeal following determination without such further appeal being taken or, if there is no further right of appeal, the date of final disposal of the matter (or in either case the date of withdrawal of the appeal).

*Status: Point in time view as at 08/05/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000, PART II. (See end of Document for details)*

### **Prohibition on holding irrespective of registration**

4.—(1) Subject to paragraphs (2), (3), (5) and (9), no person shall, after 31st December 2000, hold—

- (a) any PCBs, including any used PCBs; or
- (b) any equipment (whether or not that equipment is contaminated equipment)—
  - (i) which contains PCBs; or
  - (ii) which, having contained PCBs, has not been decontaminated.

(2) A person may hold—

- (a) PCBs, including any used PCBs, or equipment for the purposes of, or in the course of any business, manufacturing process or trade concerned with the decontamination or disposal of PCBs or such equipment;
- (b) PCBs, including any used PCBs, which are manufactured, supplied or used solely for the purposes of analysis or research connected with the properties and effects of PCBs, and any equipment used as a receptacle for those PCBs, provided that any such PCBs and equipment are disposed of as soon as possible after the PCBs are no longer required for those purposes.

(3) A transformer in respect of which it is reasonable to assume that the fluids contain 0.05% by weight, or less, of PCBs—

- (a) may be held until the end of its useful life; and
- (b) shall then, unless decontaminated in accordance with paragraph (4)(b) to (d), be disposed of as soon as possible.

(4) A transformer in respect of which it is reasonable to assume that the fluids contain more than 0.05% by weight shall be decontaminated under the following conditions:—

- (a) the objective of the decontamination must be to reduce the content of PCBs in the fluid to less than 0.05% by weight and, if possible, to no more than 0.005% by weight;
- (b) the replacement fluid not containing PCBs must entail markedly lesser risks;
- (c) the replacement of the fluid must not compromise the subsequent disposal of the PCBs; and
- (d) the labelling of the transformer must be replaced by the labelling specified in Schedule 2 to these Regulations after its decontamination.

(5) SEPA may, on an application in writing (or in an electronic form acceptable to SEPA) made by a holder and if they are satisfied as to the matters specified in paragraph (7), by a direction in writing (or in electronic form) given to the holder before 31st December 2000 provide that paragraph (1) shall not apply in relation to such equipment as is specified in the direction, until such date, being after 31st December 2000 but before 1st January 2008, as shall be specified in the direction; but no such direction shall have effect, unless it is confirmed by the Scottish Ministers.

(6) The Scottish Ministers may confirm a direction under paragraph (5) with or without modifications or may refuse to confirm it.

(7) The matters referred to in paragraph (5) are—

- (a) that the equipment will be replaced as part of a major programme for the replacement of an installation or plant of which the equipment is part (“the programme”);
- (b) that the programme was approved by the owner or other person in control of the operation of the installation or plant before the date on which these Regulations are made;
- (c) that the equipment will be disposed of by the date to be specified in the direction;

- (d) that to require the disposal of the equipment before that date would disrupt the programme to a significant extent; and
  - (e) that all reasonable precautions have been taken to secure that PCBs cannot escape from the equipment pending its disposal.
- (8) Equipment in respect of which a direction is given and has effect under paragraph (5) shall, unless decontaminated or disposed of before the date specified in the direction, be disposed of on that date.
- (9) Any equipment containing PCBs—
- (a) which is equipment to which none of paragraphs (2), (3) and (5) applies;
  - (b) which is not contaminated equipment; and
  - (c) which is part of other equipment which is also not contaminated equipment,
- may be held until that other equipment is taken out of use, recycled or disposed of; and shall then, where reasonably practicable, be removed and collected separately from that other equipment.

### **Labelling of contaminated equipment**

5.—(1) The registered holder of any contaminated equipment in respect of which an inventory is to be, or has been, made under regulation 9 shall affix to that equipment and to the doors of premises where such equipment is located an indelible sign and, subject to regulation 4(4)(d), shall take reasonable steps to secure that the sign remains so affixed while that equipment remains at that location.

(2) Subject to paragraph (3), such sign shall record that the equipment is, or the premises contain equipment that is, contaminated by PCBs.

(3) In the case of equipment in respect of which it is reasonable to assume that the content of PCBs in the fluid is between 0.05% and 0.005% by weight, the holder of that equipment may label that equipment as “PCBs contaminated < 0.05%”.

**Status:**

Point in time view as at 08/05/2000.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000, PART II.