

SCHEDULE 5

Regulation 20

TRANSITIONAL PROVISIONS

Existing landfills : transitional provisions

1.—(1) Subject to sub-paragraph (2), this regulation shall apply to a landfill if—

- (a) it is already in operation on the relevant date; or
- (b) it has not been brought into operation by that date but the relevant authorisation for its operation was granted before that date.

(2) A landfill to which this paragraph applies which falls within paragraph (b) of Part A of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations shall be treated as an existing installation for the purposes of Part 1 of Schedule 3 to those Regulations.

(3) Subject to sub-paragraph (4), where—

- (a) the operator has notified SEPA that the operator does not propose to accept waste for disposal after 16th July 2002;
- (b) SEPA decides, following the submission by the operator of a conditioning plan, as required by article 14(a) of Directive 99/31/EC on the landfill of waste, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations, (such decision and the reasons for it to be set out in a notice served on the operator); or
- (c) the operator has failed to submit a conditioning plan or has failed to notify SEPA that the operator does not propose to accept waste after 16th July 2002,

SEPA shall ensure that closure of the landfill site (in whole or in part) takes place as soon as possible in accordance with regulation 17.

(4) Where the operator proposes to continue to accept waste but has failed to submit a conditioning plan the relevant authorisation shall cease to have effect so as to authorise the disposal of waste at the landfill, and SEPA shall proceed with the closure of the site under sub-paragraph (3) unless and until the operator submits a conditioning plan and SEPA has agreed to consider it.

(5) In any case falling within paragraph (3)—

- (a) regulation 17 shall apply as if—
 - (i) references to a landfill permit were references to a relevant authorisation; and
 - (ii) where the relevant authorisation is a waste management licence, references to the operator were references to the licence holder; and
 - (iii) in paragraph (6) after “revocation of permits)” there were inserted “and sections 38, 39 and 42 of the Environmental Protection Act 1990 (revocation, suspension and surrender of waste management licences)”;
- (b) SEPA shall, if necessary, by notice in writing served on the operator or, in the case of a waste management licence, the licence holder, vary the conditions of the relevant authorisation so that—
 - (i) waste is no longer accepted for disposal on the whole or the relevant part of the landfill site from such date as is specified in the notice; and
 - (ii) the closure and after care procedures will operate in accordance with regulation 17.

(6) In any case where the whole of a landfill site is not subject to closure under sub-paragraph (3), SEPA shall by notice served on the operator specify the period (which shall not be less than six months) within which an application must be made (accompanied by a copy of the conditioning plan)—

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- (a) where no landfill permit is in force, for a landfill permit under regulation 7 of the 2000 Regulations; or
- (b) where a landfill permit is in force, for a variation of the permit under regulation 13(2) of the 2000 Regulations,

so that waste may continue to be accepted for disposal at the landfill.

(7) In any case falling within sub-paragraph (6)(b), if an application is not duly made within the period specified in the notice served on the operator under that provision, the landfill permit shall cease to authorise the disposal of waste at the landfill until the application is duly made.

(8) Where SEPA decides to grant or vary a landfill permit pursuant to an application made in accordance with sub-paragraph (6), SEPA shall specify the date or dates on which the permit conditions authorised or required by these Regulations take effect.

(9) SEPA shall exercise its powers under sub-paragraphs (6) and (8)–

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations–
 - (i) as soon as possible; and
 - (ii) for landfills falling within Part A(a) of Section 5.2 of Part I of Schedule 1 to the 2000 Regulations by 31st March 2007 at the latest; and
 - (iii) for landfills falling within Part A(b) of Section 5.2 of Part I of Schedule 1 to the 2000 Regulations by 16th July 2009.

(10) In this Schedule “the relevant requirements of these Regulations” do not include the requirements of paragraph 1 of Schedule 3.

2.—(1) Paragraph 1 does not apply to a landfill if–

- (a) a landfill permit for its operation was granted on or after 16th July 2001 and before the relevant date;
- (b) it falls within Part A(b) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations and a waste management licence for its operation was granted on or after 16th July 2001 and before the relevant date; or
- (c) the prescribed date determined in accordance with Schedule 3 to the 2000 Regulations for the installation at which the landfill activity is carried out is before the relevant date and an application for a landfill permit was duly made (but not determined) before the relevant date.

(2) In any case falling within sub-paragraph (1)(b), the waste management licence shall have effect on or after the relevant date as if it were a landfill permit.

(3) In any case falling within sub-paragraph (1) SEPA shall exercise its power to vary the relevant authorisation (or determine the outstanding application) so that the relevant requirements of these Regulations are complied with as soon as possible in relation to the landfill in question.

(4) In any case falling within sub-paragraph (1)(c), where an application for a waste management licence is also outstanding on the relevant date there shall be no obligation on SEPA to determine the application for a waste management licence.

3.—(1) The following provisions of these Regulations impose obligations directly on the operator of any landfill which is for the time being classified as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 1(6)–

- (a) on or after the relevant date–

- (i) regulation 11 (prohibition of acceptance of certain wastes); and
- (ii) regulation 14 (waste acceptance procedures);

(b) on or after 16th July 2004, regulation 12(1) and (2) (waste acceptance requirements).

(2) For the purposes of applying regulation 11(1)(g) under sub-paragraph 3(1)(a)(i) in relation to the period beginning on the relevant date and ending on 15th July 2004, only the criteria in paragraph 1 of Schedule 2 are to be treated as relevant waste acceptance criteria.

(3) The operator of a landfill which is not classified as a landfill for hazardous waste shall only accept hazardous waste at that landfill on or after the relevant date in the circumstances specified in regulation 12(3)(c) and (4).

4.—(1) This paragraph shall apply to any landfill if –

- (a) it falls within of Part A(b) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations; and
- (b) it has not been brought into operation by relevant date but an application for a waste management licence was duly made before that date.

(2) Paragraph 1 of Part 1 of Schedule 3 to the 2000 Regulations shall apply as if in subparagraphs (a) and (b) “the relevant date” were substituted for “1st January 2001”.

(3) Anything duly done by or in relation to the application for a waste management licence shall be treated as if it had been duly done in relation to an application for a landfill permit.

(4) SEPA may give the applicant notice requiring him–

- (a) to provide such further information of any description specified in the notice; or
- (b) to take such further steps as it may require for the purpose of determining the application.