

SCHEDULE 5

TRANSITIONAL AND SAVINGS PROVISIONS

PART 1

General

Interpretation

1. In this schedule—

“contaminated materials activity” means a radioactive substances activity involving radioactive material where—

- (a) the material is contaminated, but not with the intention of utilising its radioactive, fissile or fertile properties; and
- (b) in the absence of such contamination, the substance or article would not be radioactive material; and
- (c) the radioactive material is kept on the premises on which the contamination occurred;

“concluded” means for the purposes of paragraph 3, in relation to an application, that—

- (a) the application has been granted, refused or withdrawn; and
- (b) the period allowed for appeals has passed or an appeal has been determined or withdrawn;

“concluded” means for the purposes of paragraph 4, in relation to an application, that—

- (a) the application has been granted or withdrawn; or
- (b) the application has been refused and the period allowed for appeals has passed or, where an appeal has been made during that period, the appeal has been determined or withdrawn;

“Exemption Order” means the Radioactive Substances Exemption (Scotland) Order 2011 ^{M1};

“existing licence” means—

- (a) a registration made under section 7 or 10 of the 1993 Act; or
- (b) an authorisation granted under section 13 or 14 of the 1993 Act, before the relevant date;

“new activity” means an activity being carried on immediately before the relevant date which is—

- (a) a regulated activity;
- (b) an activity which the person would have been able to lawfully carry on immediately before the relevant date without an existing licence; and
- (c) not—
 - (i) authorised by means only of being carried on in compliance with the general binding rules specified for the activity; or
 - (ii) a contaminated materials activity;

“relevant date” means the date these Regulations come into force in accordance with regulation 1;

“1993 Act” means the Radioactive Substances Act 1993 ^{M2};

“6 months date” means the date falling after a period of 6 months from the relevant date.

Marginal Citations

M1 S.S.I. 2011/147.

M2 1993 c.12.

2.—(1) An existing licence which—

- (a) is in effect immediately before the relevant date; and
- (b) authorises an activity which is a regulated activity (within the meaning of these Regulations),

has effect on or after that date as if it were a permit (within the meaning of these Regulations) (“a deemed permit”).

(2) In accordance with sub-paragraph (1)—

- (a) any condition subject to which an existing licence is granted has effect as if it were a condition attached to the deemed permit;
- (b) the person who is—
 - (i) registered under section 7 or 10 of the 1993 Act; or
 - (ii) has been granted an authorisation under section 13 or 14 of the 1993 Act,is to be treated as the authorised person in respect of the deemed permit on the relevant date;

(c) where a person—

- (i) is carrying on a contaminated materials activity; and
- (ii) holds a deemed permit in relation to premises on which the contaminated materials activity is being carried on,

the carrying on of the contaminated materials activity is treated as authorised by the deemed permit in the period beginning with the relevant date and ending on the date on which SEPA next varies or consolidates the permit.

(3) SEPA may revoke an existing licence under regulation 31 on the ground that SEPA considers that the authorised person is not in control of the carrying on of the activity no earlier than the 6 months date.

3.—(1) If before the relevant date a person—

- (a) has applied for registration under section 7 of the 1993 Act;
- (b) has applied for registration under section 10 of the 1993 Act;
- (c) has applied for variation or cancellation of a registration under section 12 of the 1993 Act;
- (d) has applied for authorisation under section 13 of the 1993 Act;
- (e) has applied for authorisation under section 14 of the 1993 Act;
- (f) has applied for transfer of an authorisation under section 16A of the 1993 Act;
- (g) has applied for variation or revocation of an authorisation under section 17 of the 1993 Act,

and that application has not been concluded before the relevant date, sub-paragraph (2) applies.

(2) Notwithstanding the repeal of the 1993 Act, the 1993 Act continues to have effect in relation to any application referred to in sub-paragraph (1) until the application is concluded.

(3) A registration or authorisation made or granted by SEPA following an application referred to in paragraph 3(1)(a), (b), (d) or (e) is deemed to be an “existing licence” for the purposes of this schedule.

4.—(1) This paragraph applies to a person (“A”) carrying on a new activity immediately before the relevant date.

(2) Where A is lawfully carrying on a new activity, other than one referred to in sub-paragraph (3), immediately before the relevant date, the activity is treated as authorised under these Regulations during the period beginning with the relevant date and ending on the date specified in sub-paragraph (4).

(3) Where A is carrying on a new activity which, immediately before the relevant date, was exempted from the requirement to have an existing licence by the Exemption Order then, notwithstanding the repeal of the 1993 Act and the Exemption Order, the 1993 Act and the Exemption Order continue to have effect in relation to that activity during the period beginning with the relevant date and ending on the date specified in sub-paragraph (4).

(4) The date specified for the purposes of sub-paragraphs (2) and (3) is the later of—

(a) the 6 months date; or

(b) where an application for a permit or registration or for a variation of an existing licence, was accepted by SEPA before the 6 months date, the date on which the application is concluded.

(5) Where SEPA requires a new activity being carried on by A to be authorised by means of notification, notwithstanding regulation 13(1), a notification made before the 6 months date has effect from the 6 months date.

5.—(1) This paragraph applies to a person (“A”) who has an existing licence to keep or use a sealed source which, as a result of the coming into force of these Regulations, is a high-activity sealed source (“an existing sealed source licence”).

(2) A must apply in accordance with regulation 25 for a variation of an existing sealed source licence before the 6 months date.

(3) Where A fails to apply for a variation in accordance with sub-paragraph (2) before the 6 months date, the existing sealed source licence ceases to be a deemed permit on the 6 months date to the extent it relates to a high-activity sealed source.

6. The 1993 Act continues to have effect notwithstanding its repeal in respect of any notice, investigation or legal proceedings made or begun before the relevant date and not concluded by that date (including for that purpose any penalty, punishment, enforcement measures or other sanction that may be accepted or imposed in respect of a failure to comply with a requirement of the 1993 Act before the relevant date).

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Authorisations (Scotland) Regulations 2018, PART 1.