
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 95

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

PART III

REGISTRATION OF HOLDERS OF CONTAMINATED EQUIPMENT

Registration

- 6.—(1) An application for registration shall, subject to paragraph (2)—
- (a) be made in writing on a form provided by SEPA; and
 - (b) contain the following particulars:—
 - (i) the name and address of the applicant;
 - (ii) a description of the contaminated equipment, identifying its location or intended location;
 - (iii) a description of the PCBs which are or were contained in the equipment, so far as can reasonably be identified without excessive cost;
 - (iv) so far as can reasonably be ascertained without excessive cost, the quantity of such of those PCBs as have been identified; and
 - (v) every date on which treatment or replacement was carried out or is envisaged, specifying in each case the nature of the treatment or replacement.
- (2) Information of the descriptions—
- (a) in paragraph (1) may be provided in an electronic form acceptable to SEPA;
 - (b) in paragraph (1)(b)(iii) to (v) need not be provided as regards any equipment in respect of which it is reasonable to assume that the fluids contain between 0.05% and 0.005%, by weight, of PCBs.
- (3) An application for registration shall be granted where the applicant has complied with paragraph (1) and shall otherwise be refused.
- (4) Where an application for registration is granted, SEPA shall register the applicant and, in respect of the applicant, the other particulars furnished under paragraph (1)(b) and shall, within 28 days of it being granted, confirm in writing (or in electronic form) that the applicant is registered with it.
- (5) Where an application for registration is refused, SEPA shall give notice in writing (or in electronic form) of the refusal to the applicant within 28 days of the refusal; and the notice shall be accompanied by a statement of the reasons for the decision and as to the circumstances in which an offence under regulation 13(1) may be committed.
- (6) Where SEPA fails to determine the application within 56 days of the date on which the application was made, the application shall be deemed to have been refused at the end of that period.

Cancellation of registration or particulars

7.—(1) SEPA may cancel the registration with it of a holder where it appears to them that the applicant supplied false information in connection with that application for registration or has failed to comply with regulation 10(1) or (2) or a notice under regulation 10(4) (whether or not proceedings are instituted under regulation 13).

(2) SEPA shall cancel the registered particulars in respect of a particular location if it appears to them that the registered holder does not hold contaminated equipment there.

(3) Before any cancellation under paragraph (1) or (2) takes effect, SEPA shall, subject to paragraph (4), serve on the registered holder notice in writing (or in electronic form) of—

- (a) its decision to cancel;
- (b) the reasons for the decision; and
- (c) the date when the cancellation will take effect, being not earlier than 28 days from the date of service of the notice.

(4) Nothing in paragraph (3) shall require SEPA to give notice of a cancellation which gives effect to information supplied by a registered holder pursuant to regulation 10(1) and (2) or a notice under regulation 10(4).

Appeals

8.—(1) A person may, by notice given in writing (or in electronic form) to the Scottish Ministers, appeal to the Scottish Ministers against—

- (a) the deemed refusal under regulation 6(6) of an application for registration; or
- (b) the cancellation of a registration under regulation 7.

(2) An appeal—

- (a) under paragraph (1)(a) shall be brought within the period of 28 days beginning with the day on which the application is deemed to be refused;
- (b) under paragraph (1)(b) shall be brought before the date on which the cancellation takes effect.

(3) The provisions set out in section 114(1), (3)(a) and (4) of, and Schedule 20 to, the 1995 Act (concerning the delegation of functions of determining and the reference of matters involved in, appeals) shall apply in relation to appeals to the Scottish Ministers under this regulation, and matters involved in them, as they apply to appeals under the provisions specified in section 114(2)(a) of the 1995 Act and matters involved in those appeals.

(4) Where an appeal is made to the Scottish Ministers, if a party to the appeal so requests, or the Scottish Ministers so decide, the appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).

(5) A person aggrieved by a decision of the Scottish Ministers under this regulation may, within 28 days of that decision, appeal to the sheriff by way of summary application.

(6) Where, on an appeal in a case falling within paragraph (1)(b), the person determining the appeal determines that the decision of SEPA shall be altered, it shall be the duty of SEPA to give effect to the determination on the date it becomes effective.

(7) While an appeal is pending in a case falling within paragraph (1)(b), the decision in question shall be ineffective; and the decision on the appeal shall become (or shall be treated as) effective 28 days after the day on which the appeal is decided or withdrawn, unless an appeal is taken to the sheriff in accordance with paragraph (5), in which case the decision shall become (or shall be treated as) effective from the expiry of the time period for any further appeal without any 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).