

2002 No. 493

ENVIRONMENTAL PROTECTION

The Large Combustion Plants (Scotland) Regulations 2002

Made 6th November 2002

Laid before the Scottish Parliament 6th November 2002

Coming into force 27th November 2002

The Scottish Ministers, in exercise of the powers conferred by section 2 of, and paragraph 20(2)(c) of Part I of Schedule 1 to, the Pollution Prevention and Control Act 1999(a) and of all other powers enabling them in that behalf, having in accordance with section 2(4) of that Act consulted the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate, and such other bodies and persons as they consider appropriate, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Large Combustion Plants (Scotland) Regulations 2002 and shall come into force on 27th November 2002.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1990 Act” means the Environmental Protection Act 1990(b);

“the 2000 Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2000(c);

“authorisation” means an authorisation granted under section 6 of the 1990 Act;

“combustion plant” means a combustion plant as defined in Article 2(7) of the Directive and to which the Directive applies(d);

“the Directive” means Council Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants(e);

“new plant” has the meaning given in Article 2(9) of the Directive;

“permit” means a permit granted under regulation 7 of the 2000 Regulations; and

“SEPA” means the Scottish Environment Protection Agency.

(a) 1999 c.24. Directive 2001/80/EC was designated for the purposes of paragraph 20 of Schedule 1 to the 1999 Act by The Pollution Prevention and Control (Designation of Council Directives on Large Combustion Plants and National Emission Ceilings) (Scotland) Order 2002, S.S.I. 2002/488. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the 1999 Act.

(b) 1990 c.43.

(c) S.S.I. 2000/323.

(d) See Articles 1 and 2(7) of the Directive.

(e) O.J.E.C. L 309, 27.11.01, page 1.

Amendment to the Pollution Prevention and Control (Scotland) Regulations 2000

3. Regulation 2(2) of the 2000 Regulations is amended by adding a new sub-paragraph (c) as follows—

“(c) where—

- (i) an installation includes a combustion plant as defined in Article 2(7) of Council Directive 2001/80/EC and to which that Directive applies; and
- (ii) the rated thermal input of the combustion plant is extended by 50 megawatts or more,
the extension shall be treated as a substantial change in operation.”.

Authorisation to operate new plants

4. Where a new plant is, on 27th November 2002, subject to a permit but the plant is not put into operation before 28th November 2003, the permit shall cease to authorise the operation of that plant until such time as it is varied by SEPA pursuant to regulation 13 of the 2000 Regulations so as to give effect, in relation to the plant, to the requirements of the Directive.

Deemed conditions in authorisations and permits

5.—(1) Where on 27th November 2002—

- (a) a new plant is subject to an authorisation or a permit; and
- (b) the plant benefits from the derogation in Article 5(1) of Council Directive 88/609/EEC on the limitation of emissions of certain pollutants into the air from large combustion plants^(a) by virtue of operating between 2000 and 2200 hours a year,

any condition in the authorisation or permit applying that derogation shall, in so far as it applies that derogation, cease to have effect and the relevant emission limit values prescribed in Articles 4(1) and 17(2) of the Directive shall apply to the plant.

(2) Paragraph (1) shall cease to apply in relation to any authorisation or permit which is varied by SEPA under Part I of the 1990 Act or regulation 13 of the 2000 Regulations so as to give effect, in relation to the plant, to Article 5(1) of the Directive.

(3) Where a combustion plant is subject to an authorisation or a permit on 27th November 2002, the authorisation or permit shall be read as containing the following additional condition—

“In the event of malfunction or breakdown of the abatement equipment, the operator shall, if a return to normal operation is not achieved within 24 hours, reduce or close down operations or use low-polluting fuels, or take such other steps as SEPA requires. The cumulative duration of unabated operation in any twelve month period shall not, unless agreed in advance by SEPA, exceed 120 hours.”.

(4) Paragraph (3) shall cease to apply in relation to any authorisation or permit which is varied by SEPA under Part I of the 1990 Act or regulation 13 of the 2000 Regulations so as to give effect, in relation to the plant, to Article 7(1) of the Directive.

(5) Where a new plant is, on 27th November 2002, subject to an authorisation or a permit the authorisation or permit shall be read as containing the following additional condition—

“The values of the 95% confidence intervals of single measured result shall not exceed the following percentages of the emission limit values:

Sulphur dioxide	20%
Nitrogen oxides	20%
Dust	30%

The validated hourly and daily average values shall be determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified above.

Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the continuous measurement system shall be invalidated.”.

(6) Paragraph (5) shall cease to apply in relation to any authorisation or permit which is varied by SEPA under Part I of the 1990 Act or regulation 13 of the 2000 Regulations so as to give effect in relation to the plant to paragraph 6 of Part A of Annex VIII to the Directive.

St Andrew's House,
Edinburgh
6th November 2002

Allan Wilson
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (1999 c.24). They partly implement in Scotland the provisions of Council Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants. The remaining provisions of the Directive are being implemented in Scotland by means of Directions issued to the Scottish Environment Protection Agency. These Directions are the Environmental Protection (Combustion Plants) (Scotland) Directions 2002, made on 5th November 2002 and entering into force on 27th November 2002, and the Pollution Prevention and Control (Combustion Plants) (Scotland) Directions 2002, made on 5th November 2002 and entering into force on 27th November 2002. Copies of these Directions are available at www.scotland.gov.uk/environment/airquality/publications.asp

Regulation 3 supplements the definition of “substantial change in operation” in regulation 2(2) of the Pollution Prevention Control (Scotland) Regulations 2000 (S.S.I. 2000/323) to give effect in part to article 10 of the Directive, by expressly including the extension of a combustion plant by 50 megawatts or more.

Regulation 4 provides that where a new plant is subject to a permit but the plant is not put into operation before 28th November 2003, the permit shall cease to authorise the operation of the plant until the Scottish Environment Protection Agency has varied the permit to give effect to the requirements of the Directive. This implements in part article 4(2) of the Directive.

Regulation 5 sets out requirements which new plants subject to an authorisation or permit must comply with from 27th November 2002. These requirements are deemed to be included in the authorisation or permit from that date. This implements in part articles 5(1) and 7(1), and paragraph 6 of Part A of Annex VIII of the Directive.

These Regulations extend to Scotland only.

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