
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 348

The Water Environment (Controlled Activities) (Scotland) Regulations 2005

PART IV

Modification and termination of authorisations

Review of authorisations

18.—(1) SEPA shall periodically review authorisations granted under regulations 8 and 9, and may do so at any time.

(2) SEPA shall periodically review the provisions of Schedule 3 and shall make recommendations, in writing, to Scottish Ministers as to any changes to that Schedule which it considers necessary or appropriate.

Variation of authorisation

19.—(1) Whether or not as a result of a review under regulation 18(1), SEPA may vary an authorisation granted under regulation 8 or 9.

(2) A variation under paragraph (1) may include removing, adding or amending any condition of an authorisation.

Procedure for variation

20.—(1) Regulations 12, 13, 14 and 15(1) apply when SEPA is considering variation of an authorisation under regulation 19 as if the variation proposed by SEPA is an application, and the responsible person or operator, as the case may be, is the applicant.

(2) If SEPA decides to vary an authorisation, it shall serve notice on the applicant specifying—

- (a) the variations being made to the authorisation; and
- (b) the date on which the variations are to take effect which shall not be less than 3 months from the date on which the notice was served.

(3) SEPA may issue a varied authorisation to the applicant incorporating the variations made under this regulation.

Request for variation

21.—(1) A responsible person or operator may apply to SEPA for a variation of an authorisation granted under regulation 8 or 9.

(2) The provisions of regulations 12, 13, 14 and 15(1) apply to an application under paragraph (1) as if it is an application.

(3) SEPA must either grant or refuse to grant (in whole or in part) an application under paragraph (1), and if it refuses to grant the application it must give its reasons for such refusal.

(4) Where SEPA grants an application under paragraph (1), it shall serve notice on the applicant specifying—

- (a) the variations being made to the authorisation; and
- (b) the date on which the variations are to take effect, which shall not (unless agreed by the applicant in writing) be less than 3 months from the date on which the notice was served.

(5) SEPA may issue a varied authorisation to the applicant incorporating the variations made under this regulation.

Transfer of authorisation

22.—(1) A responsible person may, jointly with another person, apply to transfer an authorisation granted under regulation 9 (in whole or in part) to the other person.

(2) The provisions of regulation 12 and 14(1) to (3) apply to an application under paragraph (1) as if it is an application.

(3) SEPA shall not grant an application under paragraph (1) unless it is satisfied that the person to whom the authorisation is to be transferred will secure compliance with the terms, limitations and conditions specified in the authorisation, or relevant part thereof.

(4) SEPA shall determine an application under this regulation within 2 months beginning with the date on which it receives the application, or such longer period as may be agreed with the applicants in writing.

(5) SEPA shall notify the applicants of its determination and, if it refuses the application, give its reasons for doing so.

(6) Where SEPA fails to determine the application within the period specified in paragraph (4), it shall be deemed to have been granted.

Conditions of transferred authorisations

23.—(1) Where an application under regulation 22 is granted, or deemed to have been granted, the following provisions of this regulation apply.

(2) In the case of a transfer of the whole of an authorisation SEPA shall send a copy of the amended authorisation specifying—

- (a) the date on which the transfer is to have effect; and
- (b) the responsible person in respect of the authorisation,

to that responsible person.

(3) In the case of transfer of part of an authorisation, SEPA shall—

- (a) issue a new authorisation in respect of the part to be transferred, which specifies—
 - (i) the controlled activities being transferred and any conditions applying to them;
 - (ii) the responsible person for that authorisation; and
 - (iii) the date on which the new authorisation is to have effect,to the responsible person for that part; and
- (b) issue an amended authorisation in respect of the part not so transferred which specifies—
 - (i) the controlled activities in relation to that part and any conditions applying to them;
 - (ii) the responsible person for that authorisation; and
 - (iii) the date on which the amended authorisation is to have effect,to the responsible person for that part.

Surrender of authorisation

24.—(1) This regulation applies where an authorisation granted under regulation 8 or 9 is in force and either—

- (a) it is intended to cease the authorised activity; or
- (b) the authorised activity has ceased.

(2) Where paragraph (1) applies and the authorisation is under regulation 8, the operator—

- (a) where possible, shall notify SEPA of the intention to cease the authorised activity and the date on which it will cease as soon as that information is known to the operator; and
- (b) shall in any event notify SEPA of the cessation of the activity within 7 days of that cessation.

(3) Where paragraph (1) applies and the authorisation is under regulation 9, the responsible person shall apply to SEPA to surrender the authorisation or part of it.

(4) The provisions of regulations 12, 13 and 14(1) to (3) apply to an application under paragraph (3) as if it is an application.

(5) Before determining an application under paragraph (3) SEPA shall—

- (a) assess the risk to the water environment posed by the cessation of the activity referred to in paragraph (1); and
- (b) take account of the steps (if any) that have been taken and identify any steps necessary to—
 - (i) avoid any risk of adverse impact on the water environment resulting from the cessation of the authorised activity; and
 - (ii) leave the relevant part of the water environment affected by the authorised activity in a state which will permit compliance with any relevant requirements of the legislation referred to in Part 1 of Schedule 4.

Determination of application for surrender

25.—(1) SEPA shall give notice to the applicant of its determination of an application under regulation 24(3) within 2 months beginning with the date on which SEPA receives the application, or within such longer period as it may agree with the applicant in writing.

(2) The provisions of regulation 16(2) apply in respect of the period mentioned in paragraph (1) as they apply in respect of the periods mentioned in regulation 16(1).

(3) Where SEPA grants an application, the notice given under paragraph (1) shall specify the date on which the authorisation ceases to have effect.

(4) In the case of a partial surrender, if SEPA is of the opinion that it is necessary to vary the authorisation to take account of the surrender, it shall send a notice to the applicant specifying—

- (a) variations to the authorisation consequent on the partial surrender; and
- (b) the date on which the authorisation, as varied, takes effect.

(5) If SEPA has failed to determine the application within the period specified in paragraph (1) the application will be deemed to be granted at the end of that period.

Suspension and revocation of authorisation

26.—(1) SEPA may at any time suspend or revoke an authorisation (in whole or in part) by serving a notice on the responsible person or operator, as the case may be.

(2) A notice under paragraph (1) shall specify—

- (a) in the case of a partial suspension or partial revocation, the extent to which the authorisation is being revoked or suspended;
 - (b) the date on which the suspension or revocation shall take effect, which shall be at least 28 days after the date on which the notice is served; and
 - (c) the reasons for the suspension or revocation .
- (3) An authorisation shall cease to have effect (in whole or in part) from the date specified in the notice.