

SCHEDULE 10

Regulation 54

Transitional, Savings and Supplemental Provisions

PART 1

Water Environment

PROSPECTIVE

1. Where on or before 1st July 2005 a person—
- (a) holds a consent under section 34 of the Control of Pollution Act 1974⁽¹⁾ which is subject to an annual charge under the Control of Pollution Act 1974 (Fees and Charges) (Scotland) Scheme 2005⁽²⁾; or
 - (b) has applied for a consent under section 34 of the Control of Pollution Act 1974 but that application has not been determined,
- in respect of an activity which is a controlled activity, the provisions of paragraphs 2 to 6 apply.

Commencement Information

I1 Sch. 10 para. 1 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

2. Subject to paragraph 3, the person referred to in paragraph 1 must make an application to SEPA under regulation 12 for an authorisation under regulation 9 within the period beginning on 1st October 2005 and ending on 31st March 2006.

Commencement Information

I2 Sch. 10 para. 2 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

3. Paragraph 2 does not apply where the controlled activity concerned will cease before 1st April 2006.

Commencement Information

I3 Sch. 10 para. 3 in force at 1.10.2005, see [reg. 1\(4\)](#)

(1) 1974 c. 40; amended by section 168 and Schedule 23 of the Water Act 1989 (c. 15) and Schedule 22 of the Environment Act 1995 (c. 25).

(2) A copy of the Control of Pollution Act 1974 (Fees and Charges)(Scotland) Scheme 2005 is published on SEPA's website and can be found at the following address: www.sepa.org.uk/pdf/charging/legal/copa_2005.pdf. Copies can also be obtained from SEPA Corporate Office, Erskine Court, Castle Business Park, Stirling FK9 4TR.

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Water Environment (Controlled Activities) (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

4. Regulations 8 to 10, 12, 14, 15(2) to (5), 19 to 21, 35 to 36, 46(a) to (e) and (j), 47 to 49, 52 and 53 shall have effect for the purposes of the consideration of an application under paragraph 2.

Commencement Information

I4 Sch. 10 para. 4 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

5. Subject to paragraph 6, an authorisation granted by SEPA in respect of an application under paragraph 2 shall take effect on 1st April 2006.

Commencement Information

I5 Sch. 10 para. 5 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

6. Where—

- (a) SEPA has not determined an application made under paragraph 2 on or before 31st March 2006; or
- (b) SEPA has determined that application and the applicant has appealed against that determination,

the consent or activity referred to in paragraph 1 shall, for the purposes of regulation 5, be deemed to be an authorisation granted under regulation 9 subject to the conditions of that consent or in accordance with the description of the activity in the application under paragraph 2, as the case may be, until SEPA has determined the application, or the Scottish Ministers have determined the appeal.

Commencement Information

I6 Sch. 10 para. 6 in force at 1.10.2005, see [reg. 1\(4\)](#)

7. The person referred to in paragraph 1 may make an application under paragraph 2 before 30th September 2005, and any application made before 1st July 2005 shall be treated as if made on that date.

Commencement Information

I7 Sch. 10 para. 7 in force at 1.7.2005, see [reg. 1\(3\)](#)

8. The provisions of paragraphs 3 to 6 apply to an application under paragraph 7 as they do to an application under paragraph 2.

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Commencement Information

I8 Sch. 10 para. 8 in force at 1.7.2005, see [reg. 1\(3\)](#)

PROSPECTIVE

9. Where a person—

- (a) holds a consent under section 34 of the Control of Pollution Act 1974 which is not subject to an annual charge under the Control of Pollution Act 1974 (Fees and Charges) (Scotland) Scheme 2005;
- (b) holds an authorisation under regulation 18 of the Groundwater Regulations 1998⁽³⁾; or
- (c) has applied for an authorisation under regulation 18 of the Groundwater Regulations 1998,

in respect of an activity which is a controlled activity, the provisions of paragraphs 10 to 12 apply.

Commencement Information

I9 Sch. 10 para. 9 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

10. The person referred to in paragraph 9 shall be deemed to have made an application to SEPA on 1st April 2006.

Commencement Information

I10 Sch. 10 para. 10 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

11. —

- (a) Until SEPA has determined the application under paragraph 10; or
- (b) where SEPA has determined the application and the determination has been appealed against, the Scottish Ministers have determined that appeal,

the consent, authorisation or activity in respect of which an application has been made, shall for the purposes of regulation 5, be deemed to be an authorisation granted under regulation 8, subject to the conditions of that consent or authorisation or in accordance with the description of the activity in the application under paragraph 10, as the case may be, with effect from 1st April 2006.

(3) S.I.1998/2746, amended by S.S.I. 2000/323 and 2005/22.

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Commencement Information

I11 Sch. 10 para. 11 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

12. Regulations 8 to 10, 12, 14, 15(2) to (5), 19 to 21, 35, 36, 46(a) to (e) and (j), 47 to 49, 52 and 53 shall have effect for the purposes of consideration of an application under paragraph 10.

Commencement Information

I12 Sch. 10 para. 12 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

PART 2

Pollution Control

13. Where on 31st March 2006 a relevant authorisation is in force in respect of an activity which is a controlled activity, the provisions of paragraphs 14 to 17 apply.

Commencement Information

I13 Sch. 10 para. 13 in force at 1.10.2005, see [reg. 1\(4\)](#)

14. The relevant authorisations referred to in paragraph 13 shall, for the purposes of regulation 5, be deemed to be an authorisation granted under these Regulations.

Commencement Information

I14 Sch. 10 para. 14 in force at 1.10.2005, see [reg. 1\(4\)](#)

15. SEPA shall review all relevant authorisations referred to in paragraph 13 in accordance with the relevant provisions of the authorising legislation and where that legislation makes provision for variation or transfer of such an authorisation, it may carry out that review at the same time as such a variation or transfer.

Commencement Information

I15 Sch. 10 para. 15 in force at 1.10.2005, see [reg. 1\(4\)](#)

- 16.** When carrying out a review in accordance with paragraph 15, SEPA shall—
- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
 - (b) assess what steps may be taken to ensure efficient and sustainable water use;

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- (c) apply the requirements of–
 - (i) the legislation referred to in Part 1 of Schedule 4; and
 - (ii) regulation 24(5); and

- (d) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4,

and shall take such steps under the authorising legislation as are necessary to ensure that the relevant authorisations comply with the requirements of these Regulations.

Commencement Information

I16 Sch. 10 para. 16 in force at 1.10.2005, see [reg. 1\(4\)](#)

17. The review required under paragraph 15, and the steps required under paragraph 16 shall be completed by 1st April 2010.

Commencement Information

I17 Sch. 10 para. 17 in force at 1.10.2005, see [reg. 1\(4\)](#)

18. Where, on or after 1st April 2006, an application for a relevant authorisation is made, or if made before that date has not been determined, in respect of an activity which is a controlled activity, the provisions of paragraph 19 and 20 apply.

Commencement Information

I18 Sch. 10 para. 18 in force at 1.10.2005, see [reg. 1\(4\)](#)

19. SEPA shall, when considering an application referred to in paragraph 18–

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) assess what steps may be taken to ensure efficient and sustainable water use;
- (c) apply the requirements of–
 - (i) the legislation referred to in Part 1 of Schedule 4; and
 - (ii) regulation 24(5); and

- (d) have regard to the provisions of the legislation referred to in part 2 of Schedule 4,

and shall, if they grant the application, ensure that the relevant authorisation complies with the requirements of these Regulations.

Commencement Information

I19 Sch. 10 para. 19 in force at 1.10.2005, see [reg. 1\(4\)](#)

20. Where an application is granted in accordance with paragraph 19, it shall, for the purposes of regulation 5, be deemed to be an authorisation granted under these Regulations.

Commencement Information

I20 Sch. 10 para. 20 in force at 1.10.2005, see [reg. 1\(4\)](#)

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21. In this Part—

- (a) “authorised activity” means an activity referred to in paragraph 14 or 19, as the case may be;
- (b) “authorising legislation” means the legislation referred to in paragraph (c); and
- (c) “relevant authorisation” means—
 - (i) an authorisation under Part I of the Environmental Protection Act 1990⁽⁴⁾;
 - (ii) a registration or authorisation under the Radioactive Substances Act 1993⁽⁵⁾;
 - (iii) a permit under the Pollution Prevention and Control (Scotland) Regulations 2000⁽⁶⁾; and
 - (iv) a waste management licence under the Waste Management Licensing Regulations 1994⁽⁷⁾;

Commencement Information

I21 Sch. 10 para. 21 in force at 1.10.2005, see [reg. 1\(4\)](#)

PROSPECTIVE

PART 3

Abstractions and Impoundments

22. Where a person will be carrying out an activity on or after 1st April 2006 which is a controlled activity referred to in section 20(3)(b) or (c) of the Act and which will not be authorised under regulation 7, the provisions of paragraphs 23 to 26 apply.

Commencement Information

I22 Sch. 10 para. 22 in force at 1.10.2005, see [reg. 1\(4\)](#)

23. The person referred to in paragraph 22 must make an application to SEPA for an authorisation under regulation 9 in respect of the activity referred to in that paragraph, within the period beginning on 1st October 2005 and ending on 31st March 2006.

Commencement Information

I23 Sch. 10 para. 23 in force at 1.10.2005, see [reg. 1\(4\)](#)

- (4) 1990 c. 43; amended by the Environment Act 1995 (c. 25), the Pollution Prevention and Control Act 1999 (c. 24); the Anti Social Behaviour (Scotland) Act 2004 (asp 8) and the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323).
- (5) 1993 c. 12, amended by the Clean Air Act 1993 (c. 11), the Environment Act 1995 (c. 25), the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11), the Food Standards Act 1999 (c. 28) and the Statute Law (Repeals Act 2004 (c. 14).
- (6) S.S.I. 2000/323; amended by paragraph 7 of Schedule 2 to the Anti Social Behaviour etc. (Scotland) Act 2004 (asp 8), S.S.I. 2002/493, 2003/146, 170, 221, 235 and 411, 2004/26, 110, 112, 512 and 2005/101.
- (7) S.I. 1994/1056; amended by S.I. 1994/1137, 1995/288, 1950, 1996/593, 634, 916, 972, 973, 1279; 1997/351, 2203, 1998/606, 2746 and S.S.I. 2000/323, 2003/170, 171 and 2005/22.

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24. Regulations 8 to 10, 12, 14, 15(2) to (5), 19 to 21, 35, 36, 46(a) to (e) and (j), 47 to 49, 52 and 54 shall have effect for the purposes of the consideration of an application under paragraph 23.

Commencement Information

I24 Sch. 10 para. 24 in force at 1.10.2005, see [reg. 1\(4\)](#)

25. Subject to paragraph 26, an authorisation granted by SEPA in respect of an application under paragraph 23 shall take effect on 1st April 2006.

Commencement Information

I25 Sch. 10 para. 25 in force at 1.10.2005, see [reg. 1\(4\)](#)

26. Where—

- (a) SEPA has not determined an application made under paragraph 23 on or before 1st April 2006; or
- (b) SEPA has determined that application and the applicant has appealed against that determination,

the activity referred to in paragraph 22 shall, for the purposes of regulation 5, be deemed to be authorised under these Regulations in accordance with the description of the activity given in the application referred to in paragraph 23, until SEPA has determined the application, or the Scottish Ministers have determined the appeal, as the case may be.

Commencement Information

I26 Sch. 10 para. 26 in force at 1.10.2005, see [reg. 1\(4\)](#)

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Changes and effects yet to be applied to :

- Instrument appl by [S.S.I. 2006/133 reg 3](#)
- Sch. 10 para. 1 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 2 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 3 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 4 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 5 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 6 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 9 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 10 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 11 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 12 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 13 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 14 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 15 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 16 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 17 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 18 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 19 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 20 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 21 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 22 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 23 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 24 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 25 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Sch. 10 para. 26 coming into force by [S.S.I. 2005/348 reg. 1\(4\)](#)
- Regulations revoked by [S.S.I. 2011/209 reg. 58\(1\)\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 rule 16 words substituted by [S.S.I. 2009/420 reg. 4\(7\)](#)
- Sch. 8 para. 1(v)(w) inserted by [S.S.I. 2009/420 reg. 4\(9\)\(b\)](#)
- reg. 10(A1) inserted by [S.S.I. 2009/420 reg. 4\(4\)\(a\)](#)
- reg 15A added by [S.S.I. 2006/553 reg 2](#)