SCOTTISH STATUTORY INSTRUMENTS

2003 No. 146

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Scotland) Amendment Regulations 2003

Made - - - -	*6th March 2003*
Laid before the Scottish Parliament - - - -	*10th March 2003*
Coming into force - -	*1st April 2003*

The Scottish Ministers, in exercise of the powers conferred by section 2 of and Schedule 1 to the Pollution Prevention and Control Act 1999(**1**) and of all other powers enabling them in that behalf, having carried out consultation as required by section 2(4) of that Act, hereby make the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (Scotland) Amendment Regulations 2003 and shall come into force on 1st April 2003.

(2) These Regulations extend to Scotland only.

(3) In these Regulations, "the Regulations" means the Pollution Prevention and Control (Scotland) Regulations 2000(**2**).

Amendment of the Regulations

2. The Regulations are amended as follows.

3. In regulation 2 (interpretation: general)–

(a) in paragraph (1) in the definition of "change in operation"–

(i) "the" is deleted where it first appears in the last line; and

(ii) at the end there is inserted ", or which in itself constitutes the carrying out of an activity falling within Schedule 1, exceeding any threshold capacity listed therein"; and

(b) in paragraph (5) for "Part 3", there is substituted "those Parts".

(**1**) 1999 c. 24. 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 said Act of 1999.

(**2**) S.S.I.2000/323.

4. In regulation 6 (requirement for permit to operate installation and mobile plant), for paragraph (2) there is substituted–

"(2) In paragraph (1) the " prescribed date" means in respect of any installation or mobile plant–

(a) referred to in Table 1 in paragraph 2 of Part 1 of Schedule 3, the date set out or determined in accordance with paragraphs and 2 of Part 1 of Schedule 3;

(b) referred to in Table 2 in paragraph 2 of Part 1 of Schedule 3, and licensed under Part I of the Environmental Protection Act 1990(**3**) on 1st April 2003, the date set out or determined in accordance with paragraphs 1A and 2 of Part 1 of Schedule 3; and

(c) referred to in Part 2 of Schedule 3, the date set out or determined in accordance with that Part.".

5. In regulation 7 (permits: general provisions)–

(a) in paragraph (1) after "an installation" there is inserted "or mobile plant"; and

(b) in paragraph (8) after "or" where it appears for the second time in the second line, there is inserted "mobile".

6. In regulation 9 (conditions of permits: specific requirements)–

(a) in paragraph (1)–

(i) after "paragraphs" there is inserted "(1A),"; and

(ii) in subparagraph (b)(ii), after "8(2)" there is inserted "and (3)";

(b) after paragraph (1), there is inserted–

"(1A) No conditions shall be included in a permit for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974(**4**)).";

(c) in paragraph (7)–

(i) after "description of" there is inserted "the"; and

(ii) for "of installation of" there is substituted "of an installation or"; and

(d) in paragraph (16) for "respect" there is substituted "respects".

7. In regulation 14 (transfer of permits) in paragraph 6(b) after "in" there is inserted "the".

8. In regulation 22 (appeals to the Scottish Ministers and to the sheriff)–

(a) in paragraph (7), for "(12)" there is substituted "(11)"; and

(b) paragraphs (11), (12), (13) and (14) are renumbered (10), (11), (12) and (13) respectively.

9. In regulation 24 (guidance to SEPA) in paragraph (1) for "their" there is substituted "its".

10. In regulation 26 (information) in paragraph (3) "the" is deleted in the last place it occurs.

11. In regulation 27 (public register of information) after paragraph 5 there is inserted–

"(6) Scottish Ministers may give SEPA directions requiring the removal from the register of any specified information not prescribed for inclusion by paragraph 1 of schedule 9 or which, by virtue of regulation 29, ought to have been excluded from the register.".

12. In regulation 28 (exclusion from the register of information affecting national security)–

(a) after paragraph (1) there is inserted–

(**3**) 1990 c. 43, which has been relevantly amended by the Environment Act 1995 c. 42, Schedules 22 and 24.
(**4**) 1974 c. 37.

"(1A) No information shall be included in the register maintained by SEPA under regulation 27 if and so long as a direction under section 20(6) of that Act is issued or has been issued in relation to that information."; and

(b) after paragraph (2) there is inserted–

"(2A) Directions issued under section 20(6) of that Act shall apply to the register maintained by SEPA under regulation 27 as they apply to the register maintained under section 20 of that Act.".

13. In regulation 29 (exclusion from the register of certain confidential information)–

(a) in paragraph (5) for "section 114" there is substituted "section 113";

(b) for paragraph (8), there is substituted–

"(8) The Scottish Ministers–

(a) may, before giving notice of their determination of an appeal under paragraph (6), afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by them and shall do so in any case where a request is duly made by the appellant or SEPA to be so heard; and

(b) shall, when issuing their determination, advise the appellant of the right of appeal under paragraph (13)."; and

(c) in paragraph (10), in the fifth line, "the" is deleted in the second place it occurs.

14. In regulation 35 (notices) there is inserted after paragraph (5)–

"(6) When issuing any decision or determination in respect of which there exists a right of appeal to the Scottish Ministers under these Regulations, SEPA shall advise all persons who have such a right of appeal of its existence.".

15. In Schedule 1 (activities and installations and mobile plant) in Part 1 (activities) in Chapter 1 (energy industries)–

(a) in Section 1.1 (combustion)–

(i) in Part A, in the paragraph below the heading "Interpretation of Part A", after "aggregate" and "appliance with a" there is inserted "net";

(ii) in Part B, in paragraph (e) for "more than" there is substituted "at least"; and

(iii) in Part B, in paragraph 2 below the heading "Interpretation of Part B", for "(c)" there is substituted "(e)"; and

(b) in Section 1.2 (refining mineral oil and gas, operating coke ovens and coal gasification and liquefaction activities), in Part A, in paragraph (f)(ii), after "stabilised" there is inserted "crude".

16. In Schedule 1, in Part 1 in Chapter 2 (production and processing of metals)–

(a) in Section 2.1 (ferrous metals)–

(i) in Part A, in paragraph (f), for "kilogoules" there is substituted "kilojoules"; and

(ii) in Part B, in paragraph d(i) after "a" there is inserted "net";

(b) in Section 2.2 (non ferrous metals), in Part A–

(i) in paragraph (c), at the end there is inserted "except where the activity is related to an activity described in paragraph (a), (d) or (e) of Part B of this Section"; and

(ii) in paragraph (j) for "calcining" there is substituted "calcination"; and

(c) in Section 2.3 (surface treating metals and plastic materials), in Part B, after "metal" there is inserted "that".

17. In Schedule 1 in Part 1 in Chapter 3 (mineral industries)–

(a) in Section 3.1 (production of cement and lime) in Part A, after paragraph (b) there is inserted–

"(c) Unless falling within Part A of Section 2.1 or Section 2.2, grinding metallurgical slag in plant with a grinding capacity of more than 250,000 tonnes in any period of 12 months.";

(b) in Section 3.3 (glass and glass fibre manufacture) in Part A, in paragraph (b)–

(i) for "fit" there is substituted "frit"; and

(ii) for "stances" there is substituted "substances"; and

(c) in Section 3.5 (other mineral activities)–

(i) in Part A for "NIL" there is substituted "Manufacturing cellulose fibre reinforced calcium silicate board.";

(ii) in Part B, in paragraph (a), for "any Part A of this Part of" there is substituted "Part A of any Section in"; and

(iii) in Part B, in paragraph (g), for "calcined" there is substituted "calcinated".

18. In Schedule 1 in Part 1 in Chapter 4 (the chemical industry)–

(a) at the end of the first paragraph there is inserted–

", but does not include production for the purposes of research, development and testing of new products and processes unless such production is carried out at an installation which is regulated by these Regulations";

(b) in Section 4.1 (organic chemicals) in Part A, in paragraph (a), and in section 4.2 (inorganic chemicals) in Part A, in paragraph (a), "or manufacturing" is deleted;

(c) in Section 4.2 (inorganic chemicals) in Part A–

(i) in paragraph (a)(ii) "hydrochloric acid" is deleted in the second place it occurs;

(ii) in paragraph (d), in subparagraph (xii) for "hromium" there is substituted "chromium" and in subparagraph (xvi) for "admium" there is substituted "cadmium"; and

(iii) in paragraph (e) after "release" there is added "to air" and for "to air of" there is substituted "or";

(d) in Section 4.4 (biocide production) in Part A, in paragraph (a), ", and formulating" is deleted; and

(e) in Section 4.5 (pharmaceutical production) in Part A, in paragraph (b), for "month" there is substituted "months".

19. In Schedule 1 in Part 1 in Chapter 5 (waste management)–

(a) after the heading there is inserted–

"This chapter should be interpreted in accordance with Article 11 of Council Directive 75/442/EEC(**5**) or Article 3 of Council Directive 91/689/EEC(**6**).";

(b) in Section 5.1 (incineration) in the paragraph headed "Interpretation of Section 5.1", in the definition of "hazardous waste", in paragraph (iii), "the exploration of" is deleted;

(**5**) O.J. No. L 194, 25.7.75, as amended by Council Directives 91/156/EEC (O.J. No. L 78, 26.3.91) and 91/692/EEC (O.J. No. L 337, 31.12.91, and Commission Decision 96/350/EC (O.J. No. L 135, 6.6.96, p.32).

(**6**) O.J. No. L 377, 31.12.91).

(c) in Section 5.2 (landfill and disposal to land) in the paragraph headed "Interpretation of Section 5.2", in the definition of "inert waste" for "or" in the second last place it occurs, there is substituted "of";

(d) in Section 5.3 (disposal of waste other than by incineration or landfill) in Part A–

(i) in paragraph (c)(i) for "75/441" there is substituted "75/442/EEC, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex"; and

(ii) in paragraph (c)(ii) for "75/441" there is substituted "75/442/EEC, which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 in that Annex (for example, evaporation, drying, calcination, etc)"; and

(e) in Section 5.3, after paragraph 2 below the heading "Interpretation of Part A", there is inserted–

"**3.** Nothing in this Part applies to the treatment of waste soil by means of mobile plant.";

(f) in Section 5.4 (recovery activities) in Part A, in paragraph (c)–

(i) at the end of subparagraph (i) there is inserted "(R1)"

(ii) at the end of subparagraph (ii) there is inserted "(R5)"

(iii) at the end of subparagraph (iii) there is inserted "(R6)"

(iv) at the end of subparagraph (iv) there is inserted "(R8)"

(v) at the end of subparagraph (v) there is inserted "(R9)"

(vi) at the end of subparagraph (vi) there is inserted "(R2)"

(vii) at the end of subparagraph (vii) there is inserted "(R7)"; and

(g) the paragraph headed "Interpretation of Part A" is numbered as paragraph "1." and at the end of that paragraph there is inserted–

"**2.** Paragraph (c)(ii) of this Part does not apply to the treatment of waste soil by means of mobile plant.

3. The reference to a paragraph number in brackets at the end of paragraphs c(i) to (vii) of this Part is to the number of the corresponding paragraph in Annex IIB of Council Directive 75/442/EEC on waste (recovery operations).".

20. In Schedule 1 in Part 1 in Chapter 6 (other activities)–

(a) in Section 6.1 (paper and pulp manufacturing activities)–

(i) in Part A, in paragraph (b), for "listed in paragraph 12" there is substituted "listed in the table in paragraph 13", and for "of substance in column 2 of that Schedule" there is substituted "of the substance set out in column 1 of that Table in the corresponding entry in column 2 of that Table."; and

(ii) in Part A, after paragraph (b) there is inserted–

"(c) Manufacturing wood particleboard, oriented strand board, wood fibreboard, plywood, cement-bonded particleboard or any other composite wood-based board with a production capacity exceeding 20 tonnes per day.";

(b) in Section 6.4 (coating activities, printing and textile treatments) in Part B in paragraph (b), for "or organic" there is substituted "of organic";