

Paragraph 8(2) Exemption

The storage and spreading of sludge on non-agricultural land

1 INTRODUCTION

This document provides guidance, definitions, operational policy and strategy with regard to registering a paragraph 8(2) exemption under Schedule 1 of the Waste Management Licensing (Scotland) Regulations 2011 ("the Regulations") to treat non-agricultural land with sludge. It will be updated as the need arises.

2 SEPA'S OPERATIONAL POLICY CONCERNING PARAGRAPH 8 EXEMPTIONS.

2.1 What activities does a Paragraph 8 exemption allow?

Paragraph 8(1) allows the secure storage of sewage sludge at the place it is to be used in accordance with the [Sludge \(Use in Agriculture\) Regulations 1989](#) or will be used under a paragraph 8(2) exemption.

Paragraph 8(2) allows the treatment of non-agricultural land with sewage sludge providing it:

- Results in ecological improvement or enhanced growth of non-food crops, and
- it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in the corresponding entry in column 2 of the table.

2.2 What wastes can be used for a paragraph 8 exemption?

"Sludge" is defined in the Sludge (Use in Agriculture) Regulations 1989 as residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters. No other wastes may be used under this exemption.

2.3 What is meant by ecological improvement?

Agricultural Benefit and Ecological improvement is explained in the Regulations and is reproduced in Annex 1 below.

2.4 What must be provided by the applicant?

To register a **Paragraph 8(1)** exemption, the establishment or undertaking must notify SEPA of:

- their name and address;
- the activity which constitutes the exempt activity; and
- the place where the activity is carried on.

Simple exemption registration forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office. Paragraph 8(1) exemptions do not have to be renewed.

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To register a **Paragraph 8(2)** exemption, the establishment or undertaking must provide the following:

- At least 21 days written notice of the date on which the exempt activity is first to be carried on. Paragraph specific forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office.
- A plan of each place at which the exempt activity will be carried on showing the boundary of that place and the locations within that place at which the exempt activity is to be carried on and where storage will take place. You are required to mark on the locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 400m of the boundary.
- A document (described as a certificate in the Regulations) describing how the treatment will result in ecological improvement or enhanced growth of non-food crops. This should identify individual species or habitat type and discuss how they will benefit from the treatment. The statement shall be prepared by or based on advice from a person who, in the opinion of SEPA, has appropriate technical or professional expertise. The document should state this experience and be signed and dated by that person. If you require information on this requirement see Annex 2 or contact your local SEPA office.
- The appropriate notification fee (cheques made payable to “Scottish Environment Protection Agency”). The charging scheme may be found on SEPA’s website at www.sepa.org.uk or obtained by contacting your local SEPA office.

A Paragraph 8(2) exemption is valid for 12 months unless the registration is renewed. To renew a registered exemption, where there are no changes to the activity being carried out, the following documents **must** also be attached:

- A renewal form (available from the SEPA website (www.sepa.org.uk) or from any local SEPA office) submitted at least 21 days before the exempt activity is to expire. Paragraph specific forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office.
- The appropriate notification fee (cheques made payable to “Scottish Environment Protection Agency”). Found on www.sepa.org.uk or obtained by contacting your local SEPA office.

Where minor changes are identified at the renewal stage these should be highlighted in an additional document. It is good practice to discuss this with your local SEPA office prior to the 21 day notification period commencing to ensure that SEPA consider them to be minor.

2.5 What are the main reasons a notification will be taken off the public register?

Although not exhaustive there are several principal reasons why a notification would be taken off the register. These are:

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- The operator is no longer carrying out the activity
- The activity is being carried out in breach of any of the conditions or limitations of the relevant exemption;
- The operator fails to meet the Registration Obligations; and
- The type and quantity of waste submitted to the activity, and method of recovery are not consistent with the Relevant Objectives.

In the Regulations, Paragraph 6 of Schedule 4 specifies the 'Relevant Objectives' that must be met when carrying out the activity, in this case, recovery of waste. It must be ensured that waste is recovered without endangering human health and without using processes or methods which could harm the environment and in particular without:

- i. Risk to water, air, soil, plants or animals; or
- ii. Causing nuisance through noise or odours; or
- iii. Adversely affecting the countryside or places of special interest.

2.6 How often will a paragraph 8 exemption be inspected?

The Waste Management Licensing (Scotland) Regulations 2011 states that:
"An initial inspection shall be carried out at the time of treatment or, where that is not possible, no later than 4 weeks thereafter." In practice this means one inspection when registered and only inspect again upon renewal or if there is a complaint or incident.

2.7 How many farms can I apply for under one notification?

SEPA will accept:

- separate notifications for geographically separate farm units, even if IACS farm holding numbers are the same; or
- single notifications for multiple farms where the farms neighbour one another and are managed as one unit and which are, as a result of amalgamation of farm businesses, under the same IACS holding number.

This has been the approach taken by SEPA for farms regulated under the Groundwater Regulations since 1999. Note: it is different for Paragraph 7 where there is a maximum area of 50 hectares.

2.8 What changes can I make to the land notified at renewal time?

You cannot add additional land (not previously registered under this exemption) at renewal time. You may however reduce the area registered.

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3 OTHER SOURCES OF INFORMATION AND GUIDANCE

Technical Note T481: Risks from Spreading Liquid Waste on Sloping Ground (1999)
Scottish Agricultural College.

The Waste Management Licensing (Scotland) Regulations 2011, Statutory Instrument
2011 No 228

The Sludge (Use in Agriculture) Regulations 1989, Statutory Instrument 1989 No. 1263

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Annex 1

ASSESSMENT OF BENEFIT TO AGRICULTURE OR ECOLOGICAL IMPROVEMENT

In assessing benefit to agriculture, regard shall be had to whether the use of the waste on the land will result in an improvement of the soil for the purpose of growing crops or grazing, and the following criteria shall apply for the purposes of such assessment–

- (a) the addition of nitrogen, phosphorus and other plant nutrients in the waste material should take account of the soil nutrient status and other sources of nutrient supply and be matched to the needs of the planned crop rotation;
- (b) the addition of total nitrogen attributable to the use of the waste on the land in any 12 month period must not exceed 250 kilograms per hectare, except in the case of the following wastes as listed in the European Waste Catalogue–
 - (i) soil from cleaning and washing beet (02 04 01);
 - (ii) soil (including excavated soil from contaminated sites), stones and dredging spoil consisting of soil and stones other than those containing dangerous substances (17 05 04);
 - (iii) dredging spoil other than those containing dangerous substances (17 05 06); and
 - (iv) garden and park wastes (including cemetery wastes) consisting of soil and stones (20 02 02);
- (c) the addition of organic matter which improves the capacity of the soil to hold water, or its porosity, stability, tilth and workability and is a benefit;
- (d) the addition of materials containing lime should take account of the neutralising value of the material, the pH of the soil and the target soil pH for the crop rotation;
- (e) the spreading of watery wastes may be a benefit where the moisture of the soil is insufficient to support the growth of crops at the time of application, or where they contain nutrients which are applied at an appropriate rate;
- (f) the spreading of waste soil may be a benefit where it is done in order to level uneven land and thereby facilitate the use of the land for agriculture, but not where it is done solely in order to raise the level of the land.

In assessing ecological improvement, regard shall be had to the extent to which wildlife habitats which might otherwise deteriorate are maintained or supported. The creation of a new habitat, or the restoration of an old habitat, is regarded as an “improvement.”