

# SCOTTISH ENVIRONMENT PROTECTION AGENCY

## ENVIRONMENTAL REGULATION (SCOTLAND) CHARGING SCHEME

### GUIDANCE ON PARTIAL WAIVERS FOR ANNUAL CHARGES

#### 1. INTRODUCTION

There are situations where a site is not operating for a period of time, and SEPA may accept that the annual charge does not have to be paid in full.

The three main examples of this are where:

1. construction has not started at the site;
2. a licence allows for water abstraction for irrigation which will not be used in a particular year; or
3. an activity or site is mothballed for more than 6 months for a non-seasonal or 12 months for a seasonal licence.

This Guidance applies to charges under the Environmental Regulation (Scotland) Charging Scheme from 1 April 2018 onwards.

#### 2. SUMMARY

##### Application

- Operators apply to SEPA using the form “Application to reduce annual charges” on the [“Application Forms”](#) page on SEPA’s website.

##### Assessment

- Regulatory Services Officers assess the application and inform the Operator of the outcome.
- Where the application is successful, the Officer informs [charging@sepa.org.uk](mailto:charging@sepa.org.uk) who update the Charging System.

#### 3. GUIDANCE

##### 3.1 General

Any application for a waiver in the annual charge will only be considered if all fees due to SEPA have been paid.

It should be noted that this application has serious implications, since the licence holder is explicitly renouncing the opportunity to undertake the Activity for that period.

If the Activity is undertaken following notification to SEPA that there is to be a temporary cessation, this would be a breach of the licence and an offence under the relevant legislation and appropriate enforcement action may be taken.

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This enforcement action (if undertaken) is in addition to the full Annual Activity Charge, and any associated Environmental Charge, being due for the full financial year; as if the waiver were not applied for.

## **3.2 Annual charge where construction or operation has not commenced**

Generally the annual charge applies from the date when the authorisation is issued. However in certain cases the charge will be deferred until either construction work in relation to, or the operation of, any of the authorised activities has commenced (whichever is earlier).

While an authorisation is in force, but there is no equipment or facilities available to operate it, the amount of regulatory work we do is limited. In these instances, we will not apply the annual charge. However, our work will increase once construction commences or operations start whichever occurs first.

For example, if an operator has successfully applied for an authorisation to help with securing planning permission or financing for the project, but no actual construction has taken place, we will not apply the annual charge.

However, when construction starts, for example on a landfill site, we may need to check the integrity of liner being installed in any disposal cells as it is a key abatement technique. Similarly, if a major installation starts construction then we will often be approached for advice on any changes during the construction phase. In such circumstances the annual charge will apply from the time such construction commences.

For smaller scale activities where there are minimal potential environmental impacts, we will start annual charging when commissioning / initial operation commences, as these represent stages where regulatory work increases.

In situations where all the necessary equipment is in place (e.g. a waste storage site, or a marine cage fish farm) but the operation has not started, the annual charge will apply. However, if the operation is not planned to commence for a period of time (for example no waste is to be imported, or the fish farm has not been stocked) then the operator can apply for “mothballing” (section 3.4 below). SEPA will need to periodically inspect to ensure operation has not started.

A fee waiver under this section is valid for a maximum of 5 years. After that, an operator will have to apply for a further fee waiver under the “mothballing” procedure.

## **3.3 Temporary cessation of agricultural irrigation**

Where a farmer has decided not to grow crops that may require irrigation in a particular year, then they can notify SEPA in writing between 1 December and the last day of February of their intention not to abstract water in that growing season. SEPA will then reduce the annual activity charge for that farm by 85% that year only. For ease of use, a ‘year’ is specified as a financial year.

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A further consequence of the notification is that SEPA may allow another operator to use the available environmental capacity for that year. Once the notification is made to SEPA, it cannot be reversed. For example, it does not provide the flexibility for farmers to change their mind over what crops they will be growing or whether to irrigate or not. Therefore, if a crop is planted that **may** require irrigation, farmers should not apply for such reduction in the annual activity charge. If an operator is found to have abstracted during a period they applied for a fee waiver then SEPA may not grant future fee waivers since SEPA considers that operations may not in reality be ceased.

## **3.4 All other temporary cessations / mothballing of sites**

If an operator applies to SEPA in writing that they will not be undertaking a particular activity over the coming period of more than 6 months and for a maximum of two years, and if SEPA agrees to this, there will be a reduction of 85% in the annual activity charge for this period. This application shall give SEPA at least 28 days' notice, and must include the start and end dates over which the temporary cessation shall occur.

For seasonal activities or activities which are only undertaken for specific periods of time in a year; the minimum period of cessation / mothballing is 12 months. Examples of this include summer or winter abstractions, or food harvesting processing.

In order for a site to be mothballed for a period of greater than 12 months, all materials that may cause pollution if there was an incident must be removed from the site. For example: a waste site must be cleared of all wastes; a PPC site must be cleared of raw materials and other chemicals; etc. The local Regulatory Services Team will usually conduct a site visit prior to determining an application for cessation of greater than 12 months.

The operator of an activity ceases to benefit from the reduced annual activity charges if they subsequently undertake the activity (for example, operates a facility such as a marine cage fish farm) during the granted period of temporary cessation. Under these circumstances the full annual activity charge will apply. Subsequently SEPA may not grant future fee waivers since SEPA considers that operations may not in reality be ceased.

Once the agreed period of temporary cessation has come to an end, the normal annual charges shall apply. If an operator so wishes, they may reapply for another period of temporary cessation of up to 2 years between 28 days and 3 months before the expiry of the original period.