

**Question 1 – Do you agree with the benefits set out above?**

Scottish Renewables welcomes the intention to simplify the regulatory landscape by creating a new integrated authorisation framework. We agree that this should make the system easier to use and understand, while allowing more focus on the environmental risks that matter most.

However, some members have expressed concerns that through the proposed integration process, environmental obligations or standards could be tightened unnecessarily. Any tightening of standards must be explicit and clearly justified.

**Question 2 – Are there any other comments you would like to make on Part 2?**

We agree that the majority of the initiatives in the consultation document could be very positive. However, with such a significant overhaul of the system there are risks of unintended consequences and it is important that this is recognised. For example, the over-simplification of permits through the removal of detailed conditions could lead to a lack of clarity of the regulatory requirements, with a resultant increase in regulatory risk for operators.

Some later aspects of this consultation relate to subsistence fees and we believe that any subsistence fee must be proportionate to the scale of the installation.

While not discussed in this consultation, some members have expressed concerns with the proposed fee structure and we welcome consultation on this at a later date.

**Question 3 – How could SEPA better support the uptake of new technologies?**

We welcome SEPA's intention to better support the uptake of new technologies. In order to provide better support, it is imperative that flexibility is built into the permitting process, particularly during the development and testing of new technologies. The ability to have an open discussion with SEPA at an early stage in the process would also prove useful in supporting new technologies.

**Question 4 – Do you agree that the framework should include a set of universal outcomes?**

We agree that the three universal outcomes provide a useful focus for the framework. However, the outcomes will need to be supported by guidance to ensure the process for meeting the outcomes is clear and that they are properly understood by all stakeholders. We would also welcome further information on how these outcomes will be enforced.

**Question 5 – If so, are the outcomes proposed the right ones?**

We broadly agree with the outcomes but are concerned that 'prevent harm' is too simplistic and could be difficult for any operator to comply with. We recommend that the outcome is changed to 'minimise' or 'reduce' harm.

**Question 6 – Do you see any opportunities within your sector for industry led guidance to be produced to support this approach and how could it support you to deliver better?**

As an industry we strive to promote good practice in order to create and communicate methods to foster and encourage environmental responsibility and sustainability. This is highlighted by previous work on peat guidance as well as construction guidance for hydro power and onshore wind.

While we support the role of industry in helping to develop best practice guidance, it is important that issues surrounding status, ownership and enforcement of any guidance are established at the outset. The consultation paper lacks detail on these issues and further information on is welcomed.

**Question 7 – Do you understand the descriptions of the regulated activities in Annex 2?**

We understand the descriptions of the regulated activities in Annex 2.

**Question 8 – Do you agree that these are the right factors for SEPA to consider?**

We agree that these are the right factors for SEPA to consider.

**Question 9 – Do you agree that SEPA should consult on the guidance setting out the likely tier of authorisation for particular activities?**

We agree that SEPA should consult on guidance setting out the likely tier of authorisation for particular activities.

**Question 10 – Do you agree that standard rules will deliver the benefits we have set out?**

We agree that standard rules will increase transparency and consistency and will allow applicants to review the requirements prior to application. However, it is important that any standard rules applied do not go beyond existing requirements and are applied consistently.

**Question 11 - Do you agree with the procedure for making standard rules? If not, why not?**

Yes, consultation on the procedure for making standard rules is crucial.

**Question 12 – Do you agree that SEPA and Scottish Ministers should have the ability to make GBRs?**

We agree that both SEPA and Scottish Ministers should have the ability to make GBRs. However, we would welcome clarity on the circumstances in which GBRs will be made by Scottish Ministers and those which will result in a decision being made by SEPA.

**Question 13 - Do you agree that all regulated activities should have an authorised person responsible for overall compliance and that this person should be named in a permit and registration? If not, why not?**

We agree that all regulated activities should have a named authorised person.

**Question 14 - Do you think it is proportionate to require the person in control to be the person that notifies an activity in the notification tier?**

Yes, it should be the person in control who notifies an activity. In line with our response to question 15, this should apply to more than one person.

**Question 15 - Do you agree that SEPA should include more than one person as the authorised person where appropriate?**

We agree with proposals in paragraph 3.5.7 that in some circumstances it will be appropriate to include more than one person as the authorised person.

**Question 16 - Do you have any views on how SEPA should decide if a person is in “control”?**

We agree with the factors set out in paragraph 3.5.6.

**Question 17 – Do you think the core requirements set out above will deliver the right approach to FPP for the integrated authorisation framework?**

Yes, however further clarification on the requirements will be required. For example, how will a person be assessed as technically competent? Another example is the requirement for ‘adequate financial provision’. It is imperative that the level of financial provision is proportionate to the level of potential risk.

**Question 18 – Do you think that the criteria set out above will achieve the stated purpose of the FPP test?**

We agree that the criteria set out will achieve the stated purpose of the FPP test. However, guidance on how FPP will be applied in practice is required and we look forward to engaging in the consultation process later this year.

**Question 19 – Do you agree with the proposed application processes?**

We broadly agree, however, in the event that a determination is not granted by SEPA within the four month statutory period, we do not agree that the default position should be refusal. Flexibility to extend the determination period will be essential, particularly for more complex applications.

**Question 20 – Do you agree with the proposal to have a statutory determination period of four months for the majority of permit applications? If not, what do you think the determination period should be?**

We agree that four months is an appropriate determination period.

**Question 21 – Should the legislation make a clear distinction for applications for “non-standard” activities?**

No, the distinction would be better clarified through guidance.

**Question 22 – What other alternative arrangements would you suggest for managing non-standard applications?**

No comment

**Question 23 – Do you agree with the proposals for variations? If not, why not?**

We agree with the proposals.

**Question 24 – Do you agree with the proposals for transfer? If not, why not?**

We agree with the proposals.

**Question 25 – Do you agree with the proposals for surrender? If not, why not?**

We agree with proposals but further guidance as to what will be included in authorisations for the surrender of a registration or permit is essential.

**Question 26 – Do you agree with the proposed approach to enforcement notices set out above?**

We are concerned that the proposals represent a significant extension to the use of enforcement notices with little clarification or justification for doing so. For example, paragraph 3.7.5 suggests SEPA could ‘...specify preventative and remedial steps to be taken where..., or where harm has arisen, or might arise, even though the activity is being carried on in compliance with the conditions of an authorisation.’ This places significant additional risk on developers and operators, and therefore further information is sought as to the circumstances under which such an enforcement notice would be considered. .

**Question 27 – Do you agree a notice used in the way set out in 3.7.10 to 3.7.12 is a different type of notice and should therefore be called something different, such as an improvement notice?**

We agree that this appears to be a different type of notice and should therefore be referred to by a different name. However, we would welcome further clarification on the differences between the two types of notice.

**Question 28 - What benefits and drawbacks do you foresee from SEPA using enforcement notices in the way set out at 3.7.10 to 3.7.12?**

No comment

**Question 29 – Do you agree we should retain suspension notices for use in circumstances where we wish to suspend an activity in order to protect the environment, but the authorised person is not being ‘enforced’ against?**

We agree with this proposal.

**Question 30 – Do you agree SEPA should have the power to revoke authorisations in these circumstances?**

We agree but these should only be used where there is a serious breach of compliance or continual non-compliance.

**Question 31 – Do you agree that appeals against SEPA decisions should continue to be heard by the DPEA on behalf of Scottish Ministers? If not, which alternative body do you think should hear such appeals and why?**

We agree that appeals should continue to be heard by the DPEA.

**Question 32 – Do you have any views on the proposed policy principles for transitional arrangements?**

We agree with the outline proposal but welcome the stated consultation on details on the transitional arrangements.

**Question 33 – Do you have any suggestions for how SEPA might manage the workload to implement integrated, and corporate, authorisations?**

No comment

**Question 34 – Do you support SEPA having more flexibility in how information is made available to the public?**

We support this proposal as long as it is in line with normal commercial confidentiality provisions. This approach works well in the planning system where all applications are publicly available online.

**Question 35 – Do you agree that a consistent, flexible and proportionate approach to public participation should be adopted?**

Public participation is an important part of decision making and in general, we support SEPA having more flexibility in how information is made available. However, it is important that the extent of public participation is proportionate to the proposed activity. If the correct balance is not struck, it could lead to unnecessary delays in the decision making process. We therefore welcome SEPA's intention to consult separately on detailed proposals for public participation.

**Question 36 – Do you agree that the procedural arrangements for third party call-in under CAR should be extended to all regulated activities?**

We are concerned that extending arrangements for third party call-in could result in significant and costly delays in the regulatory process.

If the decision is made to extend the arrangements then call-ins should be restricted to cases where there the application or a proposed decision meets a set of agreed criteria.