

WRITTEN EVIDENCE FROM THE SCOTTISH ENVIRONMENTAL PROTECTION  
AGENCY

**Q1. Section 1 of the Bill proposes placing a duty on Scottish Ministers to take such reasonable steps as they consider appropriate to ensure the development of the value of Scotland’s water resources. Do you consider these proposals to be sufficient to drive forward the delivery of the Scottish Government’s aim of making Scotland a Hydro Nation?**

SEPA would like to reiterate our support for the Scottish Ministers’ ambition to become a Hydro Nation. We believe that placing a duty upon the Scottish Ministers to develop it is vital to its success. We do note that the Bill (1(3)) says “economic and other benefit” whereas the policy memo in paragraph 2 makes it clear that the “value should be measured in economic, environmental and social terms”. SEPA suggests that the Bill is amended to specifically include environmental and social aspects.

**Q2. What are your views on the proposal that Scottish Ministers should be able to direct public bodies to participate in the development of water resources?**

SEPA supports the development of a Hydro Nation. We believe that our core duties to protect and improve the environment are essential foundations to a successful Hydro Nation. We work closely with many other public, private and NGO organisations to develop and implement River Basin Management Plans, which have the ambitious environmental objective (appropriate for Scotland as a Hydro Nation) for 98% of water bodies to be at Good Status by 2027. As a designated body SEPA may be given additional extra duties under the direction of Ministers. Providing these do not compromise our ability to carry out our core duties, or create a conflict of interest, then we are supportive of the duty on Scottish Ministers to direct public bodies to participate in the development of water resources. To this effect we welcome the inclusion of a period of consultation prior to any direction from the Scottish Ministers.

**Q3. Do you have any comments on the requirement for Scottish Ministers to report to the Scottish Parliament on these activities every three years? Is this sufficient to ensure that Scottish Ministers will be held accountable for meeting the duty placed upon them to ensure the development of Scotland’s water resources?**

SEPA has no strong views on the reporting period. Three years would seem a reasonable length of time. Any shorter would perhaps be overly onerous and any longer would be insufficient to ensure a quick response to any particular issue that requires Scottish Parliament input. We would suggest aligning the reporting periods with the River Basin Management Planning (RBMP) cycle which is every six years. This would mean two reports per RBMP cycle and allow the Scottish Parliament to assess progress in meeting objectives.

**Q4. In your view is the new licensing regime necessary and will it offer the desired benefit of ensuring that the value of the water resources of Scotland is maximised for the people of Scotland?**

SEPA’s main concern would be a conflict with our duty to protect the water environment from abstractions under the Controlled Activity Regulations 2011 (CAR). As the Bill clearly sets out that it does not affect the requirements under CAR then we have no further

comment to make as the issue of water rights is for the Scottish Ministers to determine on behalf of the Scottish people.

**Q5. Is the threshold set in the Bill for defining large scale abstractions of greater than 10 megalitres of water per day appropriate?**

SEPA considers that the threshold is appropriate. This is a very large abstraction volume requiring a large amount of infrastructure and investment, and therefore will only occur in exceptional circumstances.

**Q6. Is the list of possible purposes by which a large scale abstraction may be exempt from requiring Ministerial approval, such as where an abstraction is carried out for the purpose of generating electricity by hydro-power, appropriate?**

SEPA considers the list of possible purposes that may be exempt from requiring approval to be appropriate. Used in conjunction with the abstraction threshold it is unlikely that it will provide any additional regulatory burden for Scottish industry.

**Q7. What are your views on Scottish Water being given specific powers to develop its assets and support the generation of renewable energy?**

SEPA is fully supportive of Scottish Water being given specific powers to develop its assets to support the generation of renewable energy. Scottish Water currently transports water and waste water around the country through existing pipework and we believe that there is potential to develop assets to generate energy. Likewise, there are opportunities to utilise waste water as a product with energy production potential. However, such development of the assets should not be at the expense of the environment, or of meeting future environmental objectives. SEPA would still expect Scottish Water to comply with the requirements of the Controlled Activities Regulations 2011.

**Q8. Are you content that the definition of core powers will provide sufficient safeguards for core water and sewerage functions against risks incurred by Scottish Water in pursuing non-core functions?**

SEPA are pleased that Scottish Water's core functions are safeguarded and the new duties will not affect the financial provisions allocated to its core duties.

**Q9. Do you have any views about the proposals to give Scottish Water new powers of entry and inspection of premises (other than a house) in relation to the quality of raw water?**

SEPA welcomes the proposals to give Scottish Water powers of entry and inspection to premises in order to protect raw water to ensure it is fit for drinking water purposes.

**Q10. Do you have any views on how the proposal allowing Scottish Water to enter into agreements with owners or occupiers of land to undertake works to prevent the deterioration of water quality will work in practice and whether this is necessary and/or appropriate?**

SEPA welcomes this proposal and considers it entirely appropriate and necessary. It will help to ensure there is no unnecessary investment in drinking water treatment to deal with poor water quality arising from poor land management. SEPA and Scottish Water are currently working in partnership to work with land managers within a number of catchments to reduce pesticide levels that otherwise would have required expensive treatment to remove.

**Q11. Are the new duties to be placed on landlords appropriate and do they raise any concerns?**

SEPA has no comment.

**Q12. Do you have any comments on the proposed arrangements for the creation of a scheme setting out the terms and conditions under which a deemed contract for the provision of water is to exist?**

SEPA has no comment.

**Q13. Do you have any comments about the proposal granting Scottish Water powers of entry and inspection of land or non-domestic property in relation to passing substances and pollutants into the sewer network?**

SEPA welcomes the proposal to grant Scottish Water powers of entry and inspection to prevent certain substances and pollutants entering the sewer network. This is an appropriate step to ensure that the network and treatment systems work efficiently and effectively and that there is no unnecessary investment in end of pipe treatment where sewer catchment management would be the more cost effective solution.

**Q14. Do you have any comments about the creation and enforcement of a new offence of passing, or permitting to be passed, fat, oil or grease into the public sewer network?**

SEPA welcomes the proposal to create a new enforcement provision regarding the entry of fat, oil and grease into the sewer. SEPA and Scottish Water put significant effort into responding to pollution incidents as a direct result of blockages to the foul sewer caused by fat or grease, and direct discharges of oil into surface water sewers. Such measures are necessary to act as a deterrent against reckless 'in-house' management.

**Q15. Do you have any comments on the proposal to allow any one proprietor to carry out works to private sewage treatment works, such as septic tanks, to maintain and empty these shared assets without having to secure the consent of the other owners?**

SEPA welcomes the proposal to allow one owner to maintain their sewage treatment plant without the consent of the other owner(s). Appropriate maintenance of sewage is essential to ensure the environment is protected. Shared maintenance of small private treatment plants is a long standing problem for SEPA. Often one owner is willing to carry out the necessary measure but cannot get the necessary consent of the others

SEPA would have liked to have seen the Bill expanded to allow Scottish Water to maintain or empty the plant where neither owner would be willing to undertake maintenance with additional provisions to recover their costs. SEPA also believes there should be provision

within the Bill for Scottish Water to require owners of poor private drainage and treatment systems to connect into the foul sewer where it is reasonable to do so.

**Q16. Are the proposals to create new water shortage and emergency water shortage orders proportionate and will they have the desired effect of dealing with temporary water shortages?**

We do consider that these provisions are proportionate and will assist in reducing water demand during water shortage. However they do not remove the requirements (under the Controlled Activities Regulations 2011) for Scottish Water to apply for authorisation (or a variation to an existing authorisation) for a new abstraction or for changes to existing abstractions.

**Q17. Do you have any comments on the estimated costs associated with the Bill?**

SEPA has no comment on this.