

Environmental Quality and Resilience  
Scottish Government  
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Scottish Environmental Protection Agency (SEPA)  
By email only: [iaf@sepa.org.uk](mailto:iaf@sepa.org.uk)

1 May 2024

To whom it may concern,

### **Environmental Authorisations (Scotland) Regulations 2018: Proposed Reform**

I write on behalf of the Environmental Law Sub-committee of the Law Society of Scotland in relation to the recent consultations held by the Scottish Government<sup>1</sup> and SEPA<sup>2</sup> on proposed amendments to the Environmental Authorisations (Scotland) Regulations 2018.

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors. Our Environmental Law Sub-Committee is made up of solicitor and non-solicitor members with an interest in and experience of Environmental Law matters. We work with relevant stakeholders and respond to consultations and changes to legislation on a wide range of environmental issues.

We welcomed the opportunity to consider both consultations, although decided not to submit a substantive response to either. We would nonetheless like to put forward the following comments for consideration in the context of the proposed reforms.

#### **General remarks**

We generally welcome the proposals, which are a step forward in simplifying the system and enabling SEPA to better regulate. We note that the details of the proposals relating to charging and conditions will be contained within separate forthcoming consultations. At this stage, it is difficult to see how the revised system will work in practice, and we welcome further information being provided on these points in due course.

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<sup>1</sup> [Environmental Authorisations \(Scotland\) Regulations 2018: proposed amendments](#)

<sup>2</sup> [Environmental Authorisations \(Scotland\) Regulations 2018: Proposed types of authorisation for Waste, Water and Industrial activities](#)



We highlight the importance of there being sufficient resource to ensure that those who are expected to make applications for new types of authorisation are aware of the changes, and ultimately make the necessary applications.

We recommend that the changes are accompanied by an appropriate awareness-raising campaign so as to make individuals and businesses aware of the revised requirements and help support industry compliance.

### **Consolidation**

We support simplifying the law in this area.

The proposals will result in substantial textual amendments to Environmental Authorisations (Scotland) Regulations 2018. It is crucial to upholding the rule of law that the law is clear, comprehensible, and transparent so that requirements can be understood by those affected.

A framework made up of primary and significant volumes of secondary legislation can be challenging for those directly affected by the law to access and fully understand. Although practitioners working in this field will usually have access to commercial legal databases that are updated regularly, we note concerns that for other stakeholders without access to such platforms, this could present challenges in accessing an accurate text of the applicable law.

We strongly recommend that the statutory provisions in this area should be consolidated. There would be a number of benefits to pursuing such an approach, including making it much easier to understand for all users, and easier to comply with.

If we can provide any additional information, or if it would be helpful to discuss any of these points further, we would be pleased to do so.

Yours faithfully,

**Robbie Forbes**

**Policy Executive & Secretary to the Environmental Law Sub-committee**

**Law Society of Scotland**