Introduction

1. One key aim of the Regulatory Reform (Scotland) Act 2014 ("RR(S)A") was to enable the creation of an integrated framework of environmental authorisations. The purpose of the framework is to integrate the authorisation, procedural and enforcement arrangements relating to the existing water, waste, radioactive substances and pollution prevention and control regimes, as far as the relevant European Directives allow.

2. This integrated framework will help SEPA to deliver proportionate, joined up, and outcome focussed regulation, thus enabling SEPA to focus most effort on the most important environmental risks. This will ensure more effective and efficient protection of the environment, whilst reducing the regulatory burden on business.

3. The framework will also support delivery of SEPA’s statutory purpose, which is to ensure that environmental protection is carried out in a way that, as far as possible, supports health and wellbeing and sustainable economic growth. To deliver this purpose, SEPA is taking a new approach to regulating as set out in its regulatory strategy “One Planet Prosperity - Our Regulatory Strategy”. The framework has a key role to play in enabling SEPA to deliver its regulatory strategy.

4. This integrated authorisation framework will be delivered through regulations made under the RR(S)A. It will replace a range of existing legislation which currently implements the existing regimes by re-transposing the requirements of a number of Directives.

5. The features of the proposed integrated authorisation framework include:

   - The standardisation, simplification and streamlining of the process for obtaining, modifying, transferring or surrendering an authorisation, replacing the existing regimes with, as far as possible, a common framework;
   - The creation of an integrated approach to public participation in decision-making on the authorisation of regulated activities;
   - An integrated “fit and proper person” test across all regulated activities; and
   - The standardisation of arrangements relating to statutory notices (such as information, enforcement and revocation notices).

6. The Environmental Authorisations (Scotland) Regulations 2018 are the first step towards the delivery of this integrated framework. The Regulations put in place the common framework and introduce the technical provisions relating to the radioactive substances regime.

7. It is planned that the technical provisions for the water, pollution prevention and control, and waste regimes will be brought forward over the next year or two for integration into the framework created by these Regulations.
Current legislative and regulatory framework

8. The current legislative landscape is unnecessarily complicated. The regulatory systems for the existing regimes that SEPA is responsible for have developed and evolved largely separately, and have adopted different approaches to achieve similar outcomes.

9. Each regime has a different history:
   - The water regime benefits from being the most recent having been substantially reformed in 2005; and is the model for proportionate tiers of authorisation.
   - The waste regime has evolved over decades and relies on at least eight different pieces of legislation.
   - The radioactive substances regime has evolved over the last 50 years and whilst it has stood the test of time well, will benefit from being updated to reflect modern approaches and practices.
   - The Pollution Prevention and Control regime has already adopted a more integrated approach across environmental media, but complex signposting and interaction is needed with the other regimes. It also only deals, on the whole, with the more significant polluting activities.

10. Figure 1 below shows the different tiers of authorisation currently used in each of the existing regimes, as well as the proposed future tiers.

Figure 1 – Current and Future Authorisation Tiers
11. In addition to the complexities around authorisations, there are unnecessary differences between the procedural requirements of the existing regimes. This includes fundamental concepts such as, who holds an authorisation, determination periods, how the suitability of a person to hold an authorisation is assessed, and how the public and other interested parties are consulted in relation to applications.

12. While there has often been good reason for the differences in the existing regimes, it has resulted in a legislative framework and regulatory procedures that are inconsistent, and onerous to administer, both for SEPA and operators.

Overview of the proposed integrated authorisation framework

13. The RR(S)A 2014 enables the Scottish Ministers to make provision for, or in connection with, protecting and improving the environment, including provision for regulating environmental activities and provision for implementing European and international obligations relating to protecting and improving the environment.

14. Since 2014, the Scottish Government and SEPA have been working to simplify, streamline and integrate, as far as possible, the existing environmental authorisation regimes into an integrated authorisation framework (as illustrated by Figure 1 above).

15. However, there are some constraints in the Directives, which are not themselves integrated. The integrated authorisation framework has been developed to be as integrated as possible but there are some circumstances and activities where specific directive requirements must be applied.

Benefits of an integrated authorisation framework

16. The framework is designed to standardise, simplify and streamline the process for complying with environmental legislation in Scotland, while also improving transparency and engagement in decision making.

17. For Scotland’s environment and communities, the integrated authorisation framework will:

   - Enable SEPA to focus on the environmental risks that matter most;
   - Support SEPA’s efforts to bring all regulated businesses into compliance quickly, easily and cost-effectively;
   - Ensure that people are properly informed and engaged in decision making, particularly communities directly impacted by regulated activities;
   - Improve flexibility for SEPA to undertake enforcement that secures compliance, prevents harm and requires restoration of the environment; and
   - Give SEPA discretion to revoke authorisations if the holder of the authorisation has ceased to be a fit and proper person, has repeatedly failed to secure compliance with regulatory requirements, or has harmed the environment.
18. These benefits will enable SEPA to maximise the effectiveness of its regulatory activities to ensure Scotland’s environment and communities are protected from environmental harm.

19. For Scotland’s regulated businesses, the integrated authorisation framework will:

- Provide a simple, consistent, transparent and integrated system that is easier to use and understand;
- Make it quicker, easier and more cost effective to comply with environmental legislation;
- Provide clarity for regulated businesses about the type of authorisation they need, why and what is required of them to comply;
- Provide a robust and risk-based approach that adopts a level of control proportionate to the risks posed by regulated activities;
- Enable the introduction of simpler, integrated authorisations (e.g. single site and corporate authorisations) replacing regime specific authorisations;
- Support innovation so that businesses can realise the financial and reputational benefits of going beyond compliance;
- Provide a more ‘level playing field’ for business by ensuring that disreputable operators or criminals are unable to obtain authorisations; and
- Unlock new opportunities to streamline administrative processes and increase efficiency.

20. These benefits will enable SEPA to help businesses secure compliance as well as maximise the efficiency and transparency of its processes to ensure Scotland’s businesses are regulated effectively with minimised administrative burden.

21. Those currently regulated under more than one regime are likely to see the biggest benefits as a result of integrating regulatory requirements. Those that are currently only regulated under the older waste or radioactive substances regimes will also benefit from the simplification and modernisation of these regimes. Those currently regulated under PPC will benefit from simplification and SEPA’s ability to take a more proportionate approach by using other types of authorisation than permits, where appropriate. Those that are currently only regulated under the water regime may not see direct benefits but these changes deliver wider benefits across all activities.

22. For SEPA, the integrated authorisation framework will:

- Enable it to work in a more integrated and transparent way across different sites, operators and sectors;
- Enable it to support innovation and help businesses realise the benefits of going beyond compliance;
- Secure more effective environmental regulation by focussing on practical environmental protection rather than administrative processes;
- Allow it to apply a level of authorisation that is appropriate to the risk of an activity;
• Simplify legislation and processes that will in turn enable service improvement and long term costs savings through greater operational efficiency; and
• Ensure it has the right enforcement tools to allow it to intervene where necessary, including on a preventative basis, to protect the environment.

23. These benefits will enable SEPA to maximise the efficiency and effectiveness of its regulatory activities and to focus efforts on protecting Scotland’s environment and communities from environmental harm, while facilitating innovation and supporting sustainable economic growth.

Consultation

24. Proposals for this integrated authorisation framework have been subject to several public consultations, such as the joint Scottish Government–SEPA consultation on Proposals for an Integrated Framework of Environmental Regulation in 2012. This generated strong and widespread support, with proposals for simpler, more risk-based environmental regulation supported by 92% of respondents.

25. In January 2017, a consultation on a more detailed set of proposals was published. 61 responses were received. The vast majority of respondents (over 80%) agreed with the proposals, and feedback was taken on board to inform the development of the draft Regulations.

26. The draft Regulations in turn were subject to public consultation during September-November 2017. This time 29 responses were received. The bulk of the detailed provisions set out in the draft Regulations were widely supported. Some comments on specific points of detail were made, and these have been taken into account in preparing the final draft of the Regulations which is currently expected to come forward in May 2018.

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