
Water Use

REGULATORY METHOD (WAT-RM-09)

Modifications to CAR Authorisations

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Update Summary

Version	Description
v1.0	First issue for Water Use reference using approved content from the following documents: <i>Modifications.doc</i>
v1.1	References added to WAT-LETT-20 & 21
v2.0	Section 6.1 (Administrative variation) and section 9 (Transfers) updated; Surrender summary (Fig 6) revised
v2.1	All Letter/Template references revised to direct links References to WAT-TEMP-71 & 72 added
v3.0	Fig 6 revised, minor text corrections Doc links revised to new website, new template applied
v3.1	Partial Transfer and Partial Surrender references removed pending completion (<i>WAT-LETT-45/46, WAT-TEMP 50 to-53</i>)
v4.0	Sections 7 & 8 revised to include detail on consolidating authorisations and related doc references.
v4.1	Section 6.3 <i>CAR Variation for RBMP</i> added
v6.0	Added Sewer Network Licence (s13), s10 includes CAR 2011 consolidations, Transitional references removed.
v7.0	Charging scheme updates.
v8.0	Replaced references to templates that are no longer available and procedures that are no longer relevant eg CLAS. Revised Table 2 – Variations - Additional Examples. New section 13 Regulation 18 Accelerated Determination
V8.1	Template links removed.

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1 Key Points

This guidance describes the procedures to be followed when dealing with the following modifications to authorised activities.

- Review
- Variation
- Transfer
- Surrender, Suspension and Revocation
- Consolidation of more than one authorisation

For guidance on modifications to deemed licences and deemed registrations, refer to section 5 Modifications to Deemed Authorisations.

2 Process Summary

Who	Steps	Actions	References
Environmental Performance	Reviews (Reg 21)	<p>SEPA must periodically review all registrations and licences</p> <p>RBMP will provide a basic review process every 6 years</p> <p>SEPA will carry out reviews as a result of a variety of drivers. The main one being at Risk Status as identified via RBMP. Other drivers are due to other legislation etc</p> <p>Reviews may lead to no action required, variation of authorisation required and/or need to pursue enforcement action.</p>	<p>Review of Authorisations (section 4)</p> <p>Types of review (section 4.3)</p> <p>Annex 1: Reasons for Review</p>
Water Permitting	Variations: Administrative/Standard /Substantial (Regs 22, 23 & 24)	<p>SEPA may vary an authorisation at any time whether as a result of a review or not.</p> <p>An operator/ authorised person can apply for a variation to the authorisation. The variations can be administrative, standard or substantial.</p> <p>Applications for standard or substantial variations will be treated similarly to a new application. Some requiring advertising,</p> <p>In varying or granting a variation SEPA must serve a notice informing the applicant of the variations being made.</p> <p>If an application for variation is refused by SEPA then SEPA must provide written reasons why.</p> <p>Four month time limit for determining application for variation.</p>	<p>Variations (sections 6,7 & 8)</p> <p>SEPA Charging Scheme</p> <p>WAT-RM-22</p>

Who	Steps	Actions	References
Water Permitting	Transfer of Authorisation (Reg 25 & 26)	<p>An authorised person may apply with another person to transfer an authorisation to that other person.</p> <p>Registrations are not person specific and do not need to be transferred.</p> <p>An application to transfer must be on a suitable application form.</p> <p>SEPA must assess whether the person the authorisation is being transferred to can secure compliance with the authorisation</p> <p>No application fee required</p> <p>SEPA has 2 months to determine an application to transfer or longer if agreed.</p> <p>SEPA must notify the applicants of its determination and if refusing provide reasons.</p> <p>If SEPA fails to determine application within 2 months or longer agreed period application is automatically granted.</p>	<p>Transfer of Authorisation (section 9)</p> <p>SEPA Charging Scheme Guidance WAT-RM-22</p>

Who	Steps	Actions	References
Water Permitting	Surrender of Authorisation (Reg 27 & 28)	<p>An operator/ authorised person can apply for surrender in whole or part of the authorisation</p> <p>Different procedures for surrender of registrations and licences.</p> <p>For surrender of a registration operator must notify within 7 days of ceasing and where possible notify SEPA in advance.</p> <p>For surrender of a licence, the authorised person must make an application to SEPA.</p> <p>SEPA must assess the risk to the environment of ceasing the controlled activity.</p> <p>Only likely to be an issue for ceasing operation of impoundments or open cast coal mines.</p> <p>No application fee required</p> <p>SEPA has 2 months or longer if agreed to determine application. It may be advertised and request for further information made.</p> <p>SEPA must give notice of its determination.</p> <p>If failed to determine application within 2 months or longer if agreed application is automatically granted.</p>	<p>Surrender (section 10)</p> <p>SEPA Charging Scheme Guidance</p> <p>WAT-RM-22</p>
Water Permitting / Environmental Performance	Suspension/ Revoking an Authorisation	<p>Main guidance covered in CAR document on enforcement.</p> <p>Non-enforcement uses:</p> <p>If covered by another regime e.g. PPC etc</p>	<p>Enforcement</p> <p>Non-enforcement use (section 11)</p>
Water Permitting	Consolidation of More than One Authorisation	SEPA may replace authorisations applied to controlled activities carried on by the same authorised person or operator.	

3 Introduction

The Water Environment (Controlled Activities) (Scotland) Regulations 2011, known as CAR, has three levels of authorisation (general binding rules, registrations and licences) which are proportionate to the degree of environmental risk posed by an activity.

Controlled Activities include: point source discharges, disposal to land of pollutants, abstractions, impoundments and river engineering works. Registrations and licences require assessment and approval by SEPA. The level of authorisation, general binding rules (“GBRs”), requires no prior assessment or involvement by SEPA.

Once a registration or licence is issued, it can be reviewed and/or modified for a variety of reasons. This document outlines the reasons a review is carried out, outlines the issues which are examined and discusses the modifications / changes, such as variations, transfer and surrender which can be made to an authorisation. The reader is referred to further documents for more detailed guidance where necessary.

For guidance on modifications to authorisations which are either deemed registrations or deemed licences, refer to section 5 Modifications to Deemed Authorisations.

3.1 Background

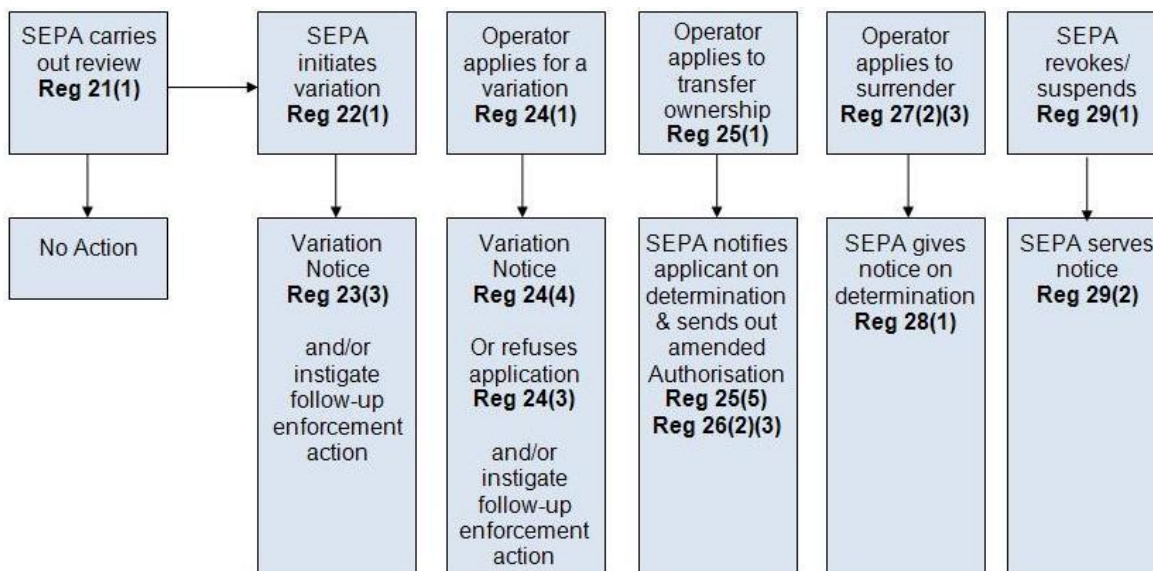
Part IV of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 regulations 21 to 30 deals with the modification and termination of authorisations.

The following modifications can be made to an authorisation in accordance with the specified regulation:

- Reg.21. Review of authorisation
- Reg.22. Variation of authorisation (SEPA-initiated)
- Reg.24. Request for variation (by operator)
- Reg.25. Transfer of authorisation
- Reg.27. Surrender of authorisation

- Reg.29. Suspension and revocation of authorisation
- Reg.30. Consolidation of multiple authorisations

Figure 1 Summary of modifications to an authorisation



4 Review of Authorisations

CAR Reg. 21(1) states that SEPA shall periodically review registrations and licences. There is no minimum time limit following issue of an authorisation (registration or licence) during which a review cannot be made. Under CAR a review may be carried out at any time.

4.1 Purpose of Review

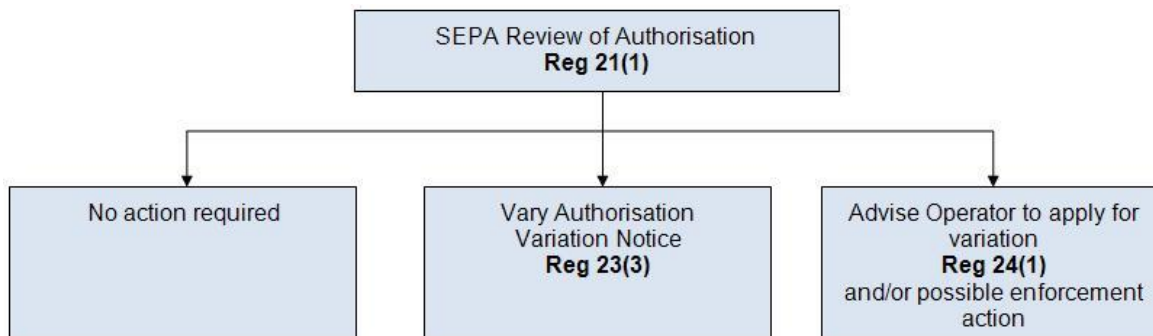
A review of an authorisation is the process of checking whether the conditions of an authorisation meet any one or all of the following:

- Protect the water environment
- Protect other water users
- Consistent with SEPA's sustainability development duties
- Relevant, appropriate and proportionate to the activity and situation
- Are legally correct and enforceable
- Applied consistently across SEPA

4.2 Outcomes of a Review

A review of an authorisation may be carried out for a variety of reasons which are discussed in more detail below. The review process may result in one or more of the following three outcomes, which are also summarised in Figure 2.

- No changes to authorisation are required
- A variation of the authorisation is required
A variation notice under Reg. 23(3) is served which may add, remove or amend any condition of an authorisation. This could involve relaxing or tightening conditions or both.
- Advise operator to apply for a variation under Reg. 24(1)

Figure 2 Review outcomes

4.2.1 SEPA's Review Strategy

SEPA has a duty under CAR to periodically review authorisations. SEPA's intentions for reviews are as follows:

- Six-yearly review

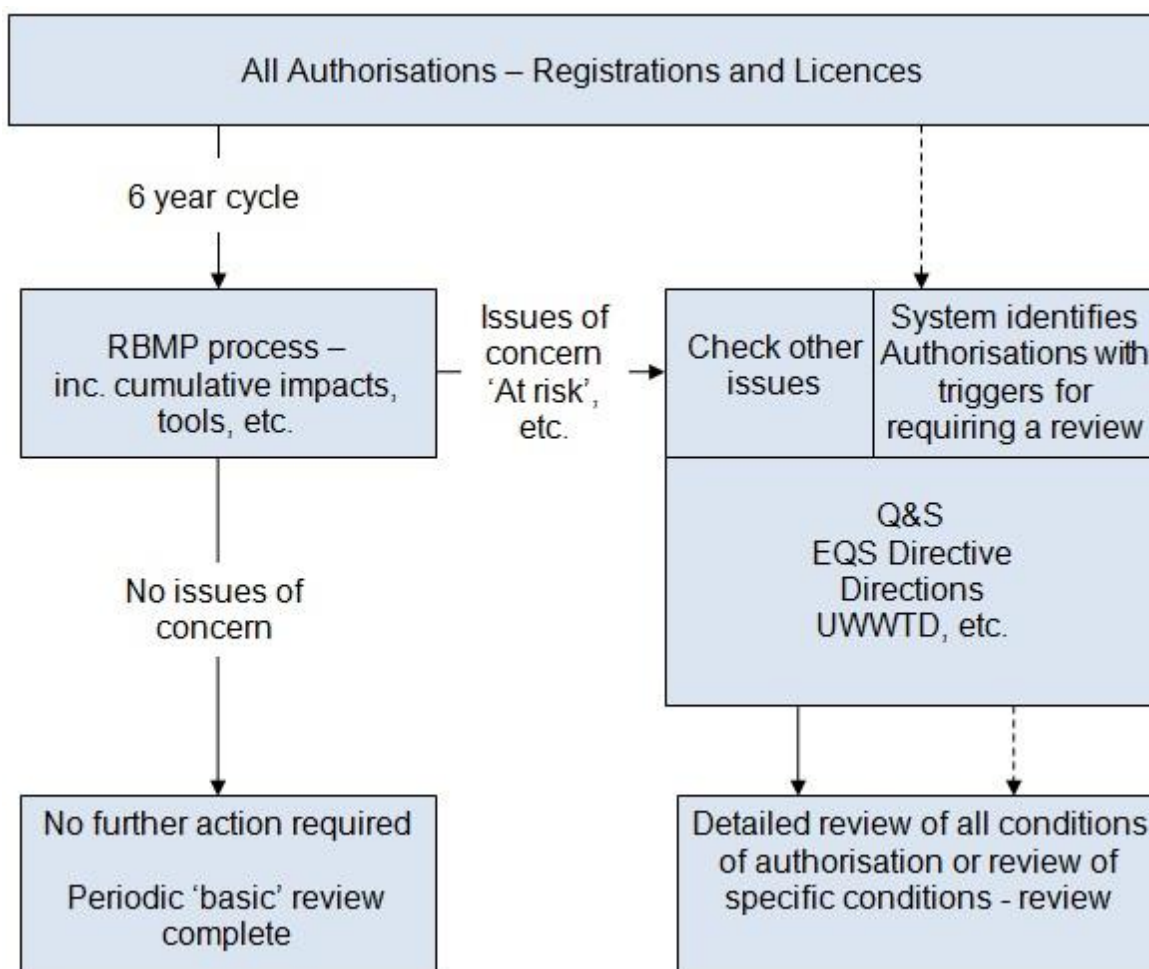
SEPA systems effectively provide an automatic 'basic review' for all authorisations within a 6 yearly cycle. This is delivered via the river basin management planning process which involves the characterisation of water bodies and the development of cumulative impact tools to determine if the conditions of an authorisation are protecting the water environment.

- Reviews of controlled activities which are taking place in 'At Risk' water bodies.

- During the first and second RBMP cycles (2009 – 2015 and 2015-2021) SEPA reviewed authorisations and varied conditions to achieve RBMP objectives.
- In the third RBMP (2021-2027) reviews will be carried out on controlled activities taking place in 'At Risk' water bodies.

- Review of all authorisations for Scottish Water assets identified through the Quality and Standards process to ensure relevant environmental objectives are met.
- Reviews of authorisations for reasons other than those stated above (see section 4.2.2 and Annex 1) shall be carried as per business requirements and the legislative or other driver’s timescale requirements.

Figure 3 Review Process



4.2.2 When are Authorisations Reviewed and Why?

The main reasons a SEPA review of the authorisation may be triggered are set out below:

- River Basin Management Planning
- Scottish Water - Quality and Standards Process (Q&S)
- Other legislative requirements
 - Urban Waste Water Treatment Directive (UWWTD)
 - WFD priority & Hazardous Substances/ OSPAR
 - Natura 2000 (SACs, SPAs)
 - Other Natural Heritage sites, SSSI etc
- Pollution reduction plans
- Scottish Government Directions / New Designations etc
- PPC / CAR interactions
- Significant changes in available techniques for control of water use
- Significant changes in development plans
- Complaints and environmental harm

These are discussed in more detail in Annex 1.

4.3 Types of Review: Establishing Scope and Objectives

Some reviews will be quick and simple whilst others may involve more detailed assessment. It is important that the level of scrutiny is appropriate to the objectives of the review.

To decide which aspects of the authorisation should be looked at and at what detail, the reason/ objectives for the review must be clearly established. Once this is known it should be clearer what the scope will be and what questions should be asked.

4.3.1 “Basic” System Review

All authorisations are reviewed by virtue of the RBMP process. This ‘basic’ review may be sufficient for the majority of low risk authorisations. The process essentially identifies whether any individual authorisation or group of authorisations is having an impact or at risk of causing harm to the water environment and only if certain criteria apply will that authorisation be looked at in more detail in a review.

4.3.2 Review

A review usually examines the relevance and appropriateness of all conditions of the authorisation.

In certain cases the review may only look at those aspects which are the subject of concern, i.e. there could be a requirement to reduce releases of a certain chemical or provision of certain flow monitoring equipment

The review questions in Table 1 can assist in carrying out a review. Record your results.

Table 1 Standard review questions

	Questions for Review	Y/N	Comment
1	Has the authorised activity changed since it was authorised or last reviewed?		If yes, request operator to apply for variation if appropriate (see charging scheme guidance)
2	Does the authorisation relate to Scottish Water asset?		If Y consult Q&S process
3	Is the controlled activity having an adverse effect on the water environment?		Examine any impact monitoring inspection data etc. If impact, assess /re model activity- vary conditions.
4	Is the water body less than good status or 'at risk status'?		If Y -assess why and determine relevance to authorisation. If relevant consider varying conditions.
5	Is the authorised activity in or near an SPA or SAC, SSSI?		If Y – use WAT-SG-90.
6	Has the receiving environment changed sensitivity (new receptors / use of water) since the authorisation was issued?		If Y assess – consider implications – are new conditions needed?
7	(Point Source Discharges only) Does the authorisation contain conditions relating to the release of priority hazardous (PHS) or priority (PS) substances?		If Y assess – do limits need to be varied?
8	(Point Source Discharges only) Does the controlled activity use any of the PS, PHS, etc.?		If Y consider – should operational controls be introduced?
9	Do any other plans apply?		If Y consider implications
10	Is the controlled activity having an adverse effect on other water users?		If Y consider how to resolve conflict of interests.

5 Modifications to Deemed Authorisations

The activities set out below are deemed authorised, subject to the same conditions, under the Water Environment (Controlled Activities) (Scotland) Regulations 2011, as specified in Schedule 10 of those Regulations.

- Holders of Non subsistence Control of Pollution Act 1974 (CoPA) consents held on 31 March 2006
- Groundwater authorisations issued under Reg 18 of the Groundwater Regulations 1998 held on 31 March 2006
- Applications for authorisations under Reg 18 of the Groundwater Regulations 1998 which were undetermined as of 1 April 2006
- Subsistence CoPA consents held on 1 July 2005 for which an application to transfer to CAR was made between 1 October 2005 and 31 March 2006.

However, SEPA continues to receive requests e.g. from operators and solicitors acting on behalf of house purchasers either for a copy of an up to date CAR authorisation where only an existing CoPA consent may exist or where they wish to vary an existing consent. SEPA may also be required to vary existing historic consents or Groundwater authorisations under CAR as necessary.

All such tasks should be dealt with as CAR Variations (SEPA or Operator initiated as appropriate) even if the change is simply to issue the previous consent/authorisation in CAR format. In some cases, re-issue in CAR format may not be needed at all e.g. where enquirers may be satisfied in receiving a copy of the original CoPA consent only.

Since CoPA consents and groundwater authorisations are valid authorisations under CAR 2011, SEPA should review, vary, suspend or revoke the authorisation in accordance with the CAR 2011 provisions, as detailed in the following sections.

N.B. Both chargeable and non-chargeable CoPA consents are treated as valid CAR 2011 authorisations.

5.1 Transfer of CoPA Consents / Groundwater Authorisations into CAR and subsequent Modifications

Where the applicant or C&B officer requests that an existing CoPA consent / Groundwater authorisation is varied, a CAR authorisation number is generated in the normal way. If the authorisation to be issued is registration level (≤ 3 houses or 15pe) this will be a CAR registration number. The COPA consent conditions will normally be replaced by up-to-date registration template conditions.

If the varied authorisation to be issued is for a sewage discharge from >3 houses or 15 pe, this is licence level and therefore Authorised Person details need to be provided (WAT-FORM-16). The COPA consent conditions will normally be replaced by up-to-date licence template conditions. The licence should be issued with the appropriate variation notice template dependent on whether it is a SEPA initiated or an Operator initiated variation. If it is a SEPA initiated variation then it cannot take effect for three months, but the existing CoPA consent/Groundwater Authorisation is still in effect and they can therefore be sent a copy if requested.

If the consent/authorisation is to be revoked, suspended or surrendered, there is no need to generate a CAR authorisation number. The relevant revocation, suspension or surrender task should be followed.

5.2 Supplementary Information

5.2.1 What is the status of an old CoPA consent now that CAR 2011 is in force?

Holders of non-chargeable CoPA consents and groundwater authorisations were treated as having made a deemed application for a CAR authorisation on 1st April 2006; pending determination, the consent was treated as a CAR registration under the 2005 Regs. Schedule 10, para 1 of CAR 2011 provides that where an authorisation (being either a registration or a licence) is in force on 31st March 2011, that authorisation will be treated as an authorisation granted under CAR 2011, subject to the same conditions that attach to it. Going forward, SEPA will treat the old CoPA

consent as a valid authorisation under CAR 2011 and will be able to review, vary, suspend or revoke the authorisation in accordance with the CAR 2011 provisions.

Chargeable CoPA consents with outstanding undetermined applications for CAR 2005 authorisations were treated as deemed authorisations under the 2005 Regs (licences) pending determination. These authorisations have been carried over to CAR 2011 under the provisions of para 1 of schedule 10 of CAR 2011. SEPA will treat the old CoPA consent as an automatic CAR 2011 authorisation and will be able to review, vary, suspend or revoke the authorisation in accordance with the CAR 2011 provisions.

6 SEPA and Operator-Initiated Variations

Variations involve the removing, adding or amending of any condition of an authorisation.

Variations can be initiated by SEPA (either as a result of a review or not) or applied for by the operator. Variations can be minor in nature (i.e. mainly administrative) or significant i.e. technical and involve environmental assessment work by SEPA.

The following application forms are available:

- [Form G: Application for Variation to a Licence](#)
- [Application: Variation to CAR Registration](#)
- [Application For Variation: Switching irrigation from river abstraction to groundwater abstraction \(water scarcity\)](#)
- [Application for Interim Variation to a Sewer Network Licence Asset\(s\) \(SW-FORM-A\)](#)

NOTE: A variation cannot be made from one form of authorisation to another. i.e. a registration issued under Reg 7 cannot be varied to a licence issued under Reg 8. This would require a new application to be made. Note however that a variation can be made from a simple licence to a complex licence, or vice-versa as these are licences issued under Reg 8 of CAR.

Substantial and standard variations are treated much the same as new applications for authorisations with the ability to require the application to be advertised and for SEPA to request further information or to carry out investigations as it believes appropriate. In addition, these variations will need to adhere to the current SEPA's policies and guidance.

Note that changes, of any scale, proposed by an operator to a site which currently has a CAR authorisation should be dealt with by requiring an application for a variation of that CAR authorisation and not a new CAR application.

In varying an authorisation or granting an application for authorisation, SEPA has to serve notice on the authorised person/ operator specifying the variations being made and the date on which the changes take effect.

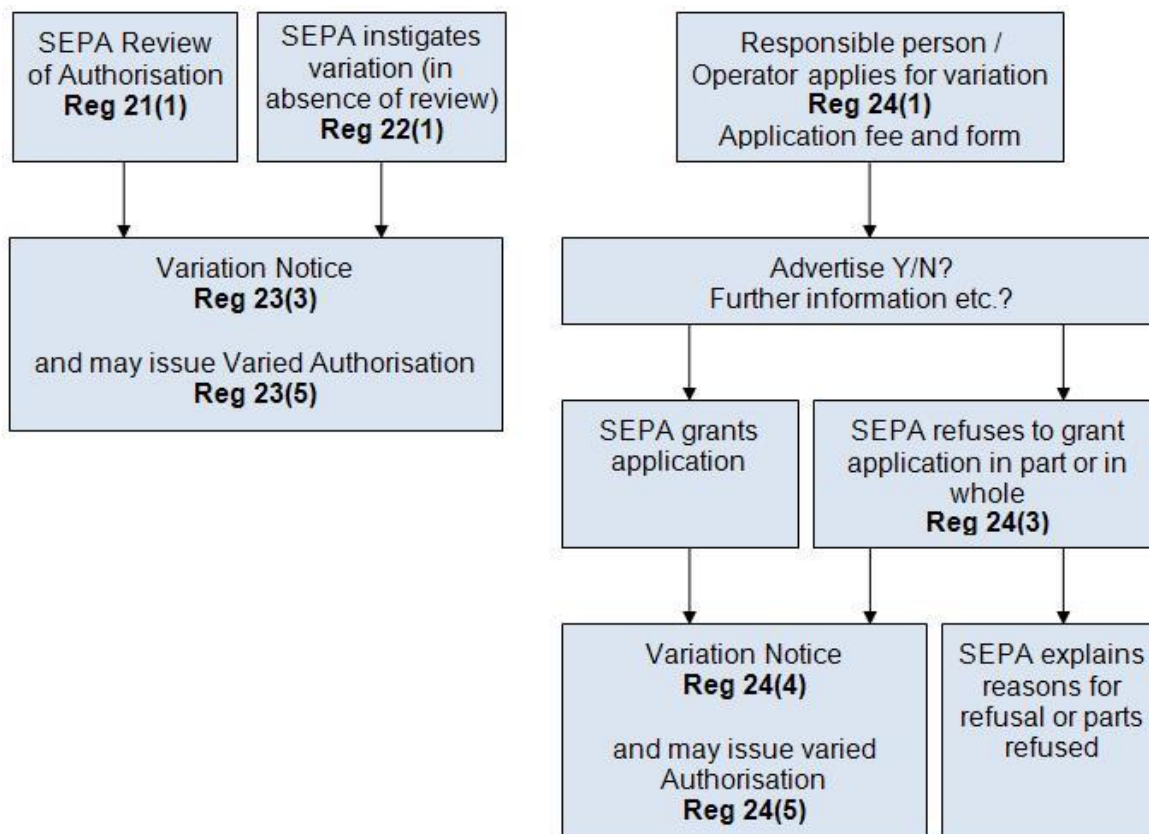
If an application for variation is refused, then SEPA must give its reasons for refusal in writing.

Variations are set out within the following regulations of CAR:

- Reg.22. Variation of authorisation – SEPA-initiated
- Reg.23. Procedure for variation
- Reg.24. Request for variation – by operator/ Authorised Person

A formal application should be made accompanied by the correct fee. Refer to current [Environmental Regulation \(Scotland\) Charging Scheme](#) (SEPA Charging Scheme) page for details of fees and charges.

Figure 4 Summary chart: Variation of authorisation



6.1 Administrative Variation

An application for an administrative variation to an authorisation is for keeping an authorisation up to date, so long as these changes do not involve SEPA in much technical work. There will be no charge for administrative variations. This will normally be minor changes and /or reduction in scale of an authorised activity, such as: reductions in volume abstracted, volume discharged, changes to descriptions of equipment etc.

6.2 Substantial Variation

An application for a substantial variation is the default charge. It applies to any change to an authorisation where the work involved is comparable to that required for a new application. This will usually require SEPA to carry out an assessment of the environmental effects of that change.

Substantial variations would typically apply to increases in an authorised limit such as volume abstracted / discharged and changes in the composition of a discharge.

- [WAT-RM-20: Advertising and Consultation](#) should be referred to in order to determine the need for consultation or advertisement.
- Refer to current [SEPA Charging Scheme](#) page for further details including fees and charges.

The environmental assessment of the variation application will be carried out following the appropriate guidance on authorising an activity page of the water manual for the relevant regime. Applications for a substantial variation will be charged 70% of the full application charge.

Variations to accommodate growth at Scottish Water assets should be substantial variations, even though SW may have undertaken modelling. These are an increase in scale/risk and SEPA needs to undertake a technical assessment of the proposals including any modelling outputs.

6.3 Standard Variation

A standard variation applies unless it is clearly an administrative or substantial variation. Applications for a standard variation will be charged 30% of the full application charge.

- [WAT-RM-20: Advertising and Consultation](#) should be referred to in order to determine the need for consultation or advertisement.
- Refer to current [SEPA Charging Scheme](#) page for further details including fees and charges.

6.4 CAR Variation to Meet RBMP Environmental Improvement Objectives

Following a SEPA review of a licence to meet environmental improvement objectives, there are 2 approaches to achieving the required licence variation, as follows:

1. Operator initiated variation – this is the preferred approach and is used when SEPA and the operator have entered into an agreed process for achieving the objectives (e.g. the Quality & Standards process and the current approach for large hydro schemes).
2. SEPA initiated variation – this approach is used where the operator is unable to sustain an agreed process or refuses to cooperate, and therefore does not submit an application as above. The SEPA initiated variation would either:
 - specify the exact mitigation to be carried out (if this is known)
 - specify a standard to be met and requiring the operator to submit the mitigation details within a specified time period. This could then result in an operator initiated variation to implement the solution.

CAR variations to meet RBMP objectives can entail significant technical assessment and are considered as substantial variations. Even though they deliver environmental improvements and are not commercial, they are driven by tighter regulatory / directive requirements and therefore cannot be considered as standard variations. See section 3.6 of Environmental Regulation (Scotland) Charging Scheme - Charging Guidance

Therefore for Quality & Standards purposes, there is a presumption that an operator initiated variation should be made as above. In addition, in relation to Sewer Network Licences if work is carried out for Q&S follow the approach of 1 above. However if Scottish Water makes changes outwith of the Q&S programme then the variations and fees described in section 6.2 and section 6.3 apply.

6.5 CAR Registration Variations – Additional Examples

Section 3.6 of the Charging Scheme Guidance describes the level of variation and provides examples. However, Table 2 below provides additional examples and clarification. For sewage registrations also refer to section 3.2 of WAT-RM-03 and WAT-RM-04.

Table 2 - Registration Variations – Additional Examples

Variation Type	Fee	Example
No variation needed	N/A	<p>Sewage registration</p> <ul style="list-style-type: none"> • Addition of extra bedrooms or toilet etc / increase in p.e. No additional property. Reduction in P.E.
Administration	0%	<ul style="list-style-type: none"> • Name or address details <p>Discharge registration</p> <ul style="list-style-type: none"> • Improvement in treatment eg septic tank to package treatment plant (PTP) • Adding in name of property already connected to existing system (i.e. property missed off discharge registration).
Standard	30%	<ul style="list-style-type: none"> • Not applicable for registrations
Substantial	70%	<p>All registration variations passed to Permitting (i.e. Technical assessment required) are substantial variations:</p> <p>Discharge registration</p> <ul style="list-style-type: none"> • Change of discharge (outfall pipe/soakaway) location. • Change of discharge receiving environment eg soakaway to watercourse or vice versa. • Sewage registration - additional property added. • Reduction in treatment eg PTP to septic tank, eg relaxation of BOD from 10 to 15mg/l. <p><i>(An alteration to an existing sewage discharge registration serving >3 properties requires a new licence application – unless in one of the categories above).</i></p> <ul style="list-style-type: none"> • Engineering variations within Registration level • Abstraction increase within Registration level

7 SEPA-Initiated Variations (Reg 22 and 23)

Variations of an authorisation initiated by SEPA are typically required where it is intended to change licence conditions to deliver an environmental improvement. SEPA would not normally incur any charges to the authorised person or operator.

If during a review of an authorisation, SEPA discovers that there have been significant changes in the controlled activity and these increase the risk to the environment or require environmental assessment then SEPA should request the authorised person to submit an application for a substantial variation and submit the correct fee in accordance with the Environmental Regulation (Scotland) Charging Scheme.

Many SEPA initiated variations will arise out of the prioritised planned review process (whereby licences are reviewed and subsequently varied to ensure that WFD objectives are met or where an exemption from the standards should apply).

When carrying out such a planned review/SEPA initiated variation the procedures in [WAT-RM-41: Derogation Determination – Improvements to the Water Environment](#) should be followed. This document sets out the framework for an operator to claim that they cannot meet the WFD objectives due to technical infeasibility /disproportionate costs etc and the resulting advertising and third party consultation process.

When SEPA determines that a proposal to vary requires to be advertised the operator / authorised person will be required to cover the costs of the advert. For guidance refer to [WAT-RM-20: Advertising and Consultation](#).

The relevant Decision Document should be completed.

7.1 Variation Notice Reg 23(3)

If SEPA decides to vary the authorisation it must serve a notice specifying the variations being made and the date on which the variations take effect, which must be no sooner than three months from the date on which the notice is served.

There are template documents available for Notices served under Reg 23(3).

7.1.1 Consolidating the Authorisation

Under Reg 23(5) SEPA may issue a varied (or consolidated) authorisation to the operator/ authorised person which incorporates the variations made. Variations made by more than one variation notice (of either type) can be consolidated at the same time. A consolidated authorisation can be issued together with a variation notice or later.

Template documents for consolidating authorisations are not yet available.

8 Operator-Initiated Variation (Reg 24)

Under Reg 24, an operator or authorised person may apply to SEPA for a variation of an authorisation:

An application for variation should be made if there are any of the following changes to the Controlled Activity:

- Changes to plant/equipment described in the authorisation
- Significant changes (increase in scale or change in nature) in the process (volume discharged/ abstracted/ operating conditions, duration, treatment techniques, etc.)

A distinction must be made between a request for administrative, substantial and standard variations as defined in sections 6.1, 6.2 and 6.3 above.

[CAR Application Form G](#) (Application for an administrative, substantial or standard variation) must be accompanied by the correct fee in accordance with the Environmental Regulation (Scotland) Charging Scheme.

SEPA will use the same rules for consultation and advertising as for new applications for authorisation. Refer to [WAT-RM-20: Advertising and Consultation](#) for further details.

There is a four month time limit for determining the application for variation of a licence.

The relevant Decision Document should be completed.

8.1 Variation Notice Reg 24 (4)

If SEPA grants the application for variation it must serve a notice specifying the variations being made and the timescales within which these take effect, note this shall not (unless agreed by the applicant in writing) be less than three months from the date on which the notice was served.

There are template documents available for Notices served under Reg 24(4).

8.1.1 Consolidating the Authorisation

Under Reg 24(5) SEPA may issue a varied (or consolidated) authorisation to the applicant which incorporates the variations made.

Refer to section 7.1.1.

8.2 Refusal of Application for Variation (Reg 24(3))

Where SEPA decides to refuse to grant in whole or part an application for variation under Reg 24(1) then SEPA should issue a letter/notification of refusal stating the reasons for refusal.

There are template documents available for refusal Notices served under Reg 24(3).

The situations under which SEPA would refuse to grant such an application are detailed in [WAT-RM-22: Managing Refusals and Appeals](#).

The process whereby an applicant can appeal the details of a variation notice or refusal is detailed in WAT-RM-22.

9 Transfer of Authorisation

Under CAR Reg 25(1) an authorised person can apply jointly with another person to transfer a licence (in whole or in part) to the other person. Note registrations are not person specific and do not need to be transferred.

The transfer of authorisations is set out within the following regulations of CAR:

- Reg 25. Transfer of authorisation
- Reg 26. Conditions of transferred authorisation

A [CAR Application Form](#) (Form H) for transfer is currently available. Applications should include: (Form H) for transfer is currently available. Applications should include:

- The authorisation to be transferred
- Whether this transfer is in whole or in part
- The person to whom the authorisation or part of the authorisation is being transferred, and
- The date on which they want the transfer to take effect.
- The original licence and any variations issued should be returned with the application to transfer.
- The application should be signed and dated by both parties.

For details of fees and charges refer to the Environmental Regulation (Scotland) Charging Scheme.

Applications for transfer cannot be advertised but SEPA may request further information or carry out investigations as it considers necessary.

SEPA must not grant an application for transfer of ownership if it is not satisfied that the person to whom the licence is to be transferred will not secure compliance with the terms, limitations and conditions as specified in the licence- Reg 25(3). The questions on the relevant application form and /or additional information requested by SEPA will usually enable SEPA to satisfy itself of this aspect.

SEPA has 2 months to determine an application to transfer ownership. If SEPA fails to determine the application within the 2 months it will be deemed to be granted.

SEPA must notify the applicants of its determination and if refusing the application gives its reasons for doing so.

Having determined to grant the transfer application, SEPA will amend the original licence. .

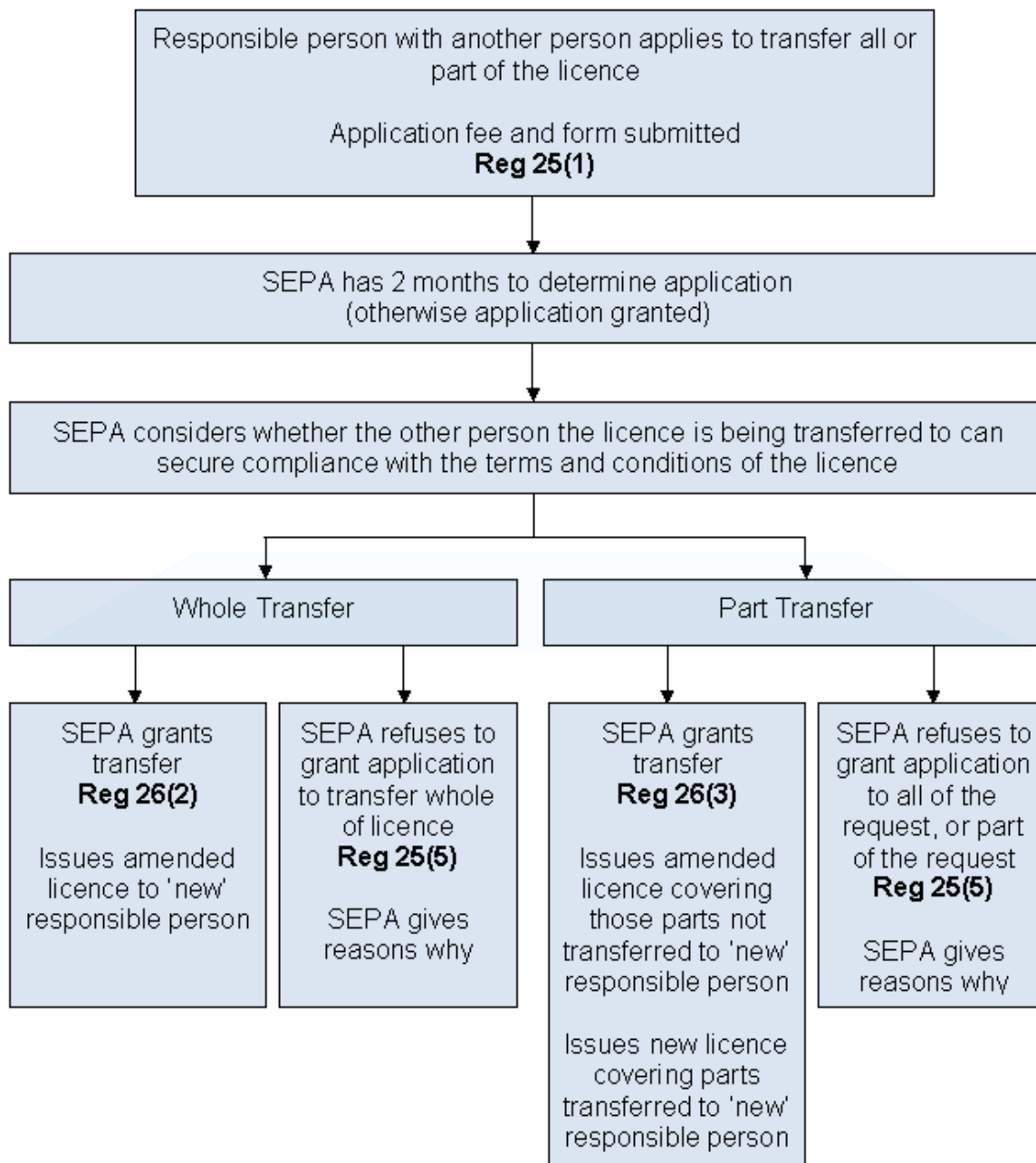
The situations under which SEPA would refuse to grant such an application are detailed in [WAT-RM-22: Managing Refusals and Appeals](#).

The process whereby an applicant can appeal SEPA's decision to refuse to transfer is detailed in WAT-RM-22. Where a transfer involves a CSO or EO on a sewer network, see the additional guidance in Section 13.

Partial Transfer

If only some of the controlled activities authorised by the licence are to be transferred to another authorised person, an application to transfer part of the licence should be made.

There are template documents available for full and partial transfers.

Figure 5 Summary Chart: Transfer of Authorisations

9.1 Transfer of CAR activity onto a Sewer Network Licence

When a private CSO or EO is adopted by Scottish Water, a licence variation is required. There are 2 scenarios – When a private CSO or EO on an existing Scottish Water sewer network is adopted by Scottish Water, then this overflow needs to be incorporated into the sewer network licence (SNL). The procedure for this is as follows:

- Transfer of CSO/EO to ScW using existing CoPA or CAR authorisation number
- SEPA-initiated variation of existing SNL to incorporate the overflow and any appropriate conditions.
- A revocation of the original licence containing the activity transferred into the SNL, to be dated the day before the SNL variation take effect.

When a private CSO or EO is adopted by Scottish Water and no Scottish Water sewer network licence exists, then a new sewer network licence needs to be created. The procedure for this is as follows –

- Transfer of CSO/EO to ScW using existing CoPA or CAR authorisation number
- SEPA variation of CSO/EO licence which replaces all these conditions with SNL template conditions retaining existing CAR authorisation number

In addition, Section 14 describes the various modifications available in relation to SNLs.

10 Consolidation of More Than One Authorisation

CAR has introduced a simple process for consolidating more than one CAR authorisation into a single authorisation. This would apply where these controlled activities are being carried on by the same authorised person or operator. This new consolidated CAR authorisation must be subject to the same conditions as the authorisations being replaced. Until procedures and templates are available, please contact Water Legal who will advise you as to the correct procedure.

Where variations to the current authorisation conditions are required then the procedures in section 7, SEPA-Initiated Variations (Reg 22 and 23) and section 8, Operator-Initiated Variation (Reg 24) will need to be followed.

11 Surrender of Authorisation

CAR provides for the surrender of authorisation where it is intended to cease the authorised activity or it has ceased the authorised activity.

Different surrender procedures apply depending on whether the form of authorisation is a registration (granted under Reg 7) or a licence (granted under Reg 8).

The surrender of authorisations is set out within the following regulations of CAR:

- Reg.27. Surrender of authorisation
- Reg.28. Determination of application for surrender

11.1 Surrender of a Registered Activity

For the surrender of a registered activity the operator must:

where possible

- Inform SEPA of the intention to cease the authorised activity and the date on which it is intended to cease,

and in any event, must

- Confirm to SEPA within 7 days of the cessation of the activity

On receipt of written confirmation SEPA will send out confirmation acknowledging the notification to surrender the registration.

11.2 Surrender of a Licenced Activity

To surrender a licence or part of it, the authorised person must make an application to SEPA.

The application for the surrender of a licence must be made in writing and on the appropriate [CAR Licence Application Form](#) (Form I).

The application should provide:

- Details of applicant (usually the authorised person or someone on their behalf)
 - A description on the application of what is being surrendered (in whole or in part)
 - Any steps that have been taken to avoid adverse risk to the water environment form ceasing the activity should be specified
- NOTE: These steps are only really applicable to major schemes which may involve flow regulation etc. It will not usually be relevant to the ceasing of point source discharges or abstractions, except for open cast coal sites
- The proposed date for ceasing to carry on the controlled activity.

For Sewer Network Licences the following form is available:

- SW-FORM-B: Interim Application to Surrender a Sewer Network Licence Asset.

SEPA can require an application for surrender to be advertised. This is unlikely to happen often and it is likely that a decision to advertise will be based on a case-by-case basis. An example which may require advertising would be when the operation of an impoundment which assists in flood alleviation is being ceased.

SEPA can request the submission of further information or carry out investigations as it may reasonably require.

Assessing risk to the environment of ceasing the licensed activity

Reg 27(5) states that before determining the application for surrender SEPA has to:

- Assess the risk to the water environment posed by the cessation of the activity
- Take account of the steps that have been taken and identify any steps needed to:
 - Avoid risks of adverse impacts to the water environment resulting from cessation of the activity
 - Leave the relevant part of the water environment affected by the authorised activity in a state which will permit compliance with any relevant requirements of legislation referred to in Part 1 of Schedule 4 of the CAR regulations, which covers *CAR*, *Groundwater Directive*, *WFD*, *WEWS Act* and the two cross-border river basin regulations

In general, it will be the surrender of deep boreholes, authorised impoundments and applications to remove engineering structures involved in flood control which will require assessment of the risk to the environment from ceasing the operation of the activity. The cessation of point source activities and abstractions will almost universally improve the condition of the environment.

SEPA has 2 months to give notice of its determination of the application to surrender.

The relevant Decision Document should be completed.

The situations under which SEPA would refuse to grant such an application is detailed in [WAT-RM-22: Managing Refusals and Appeals](#).

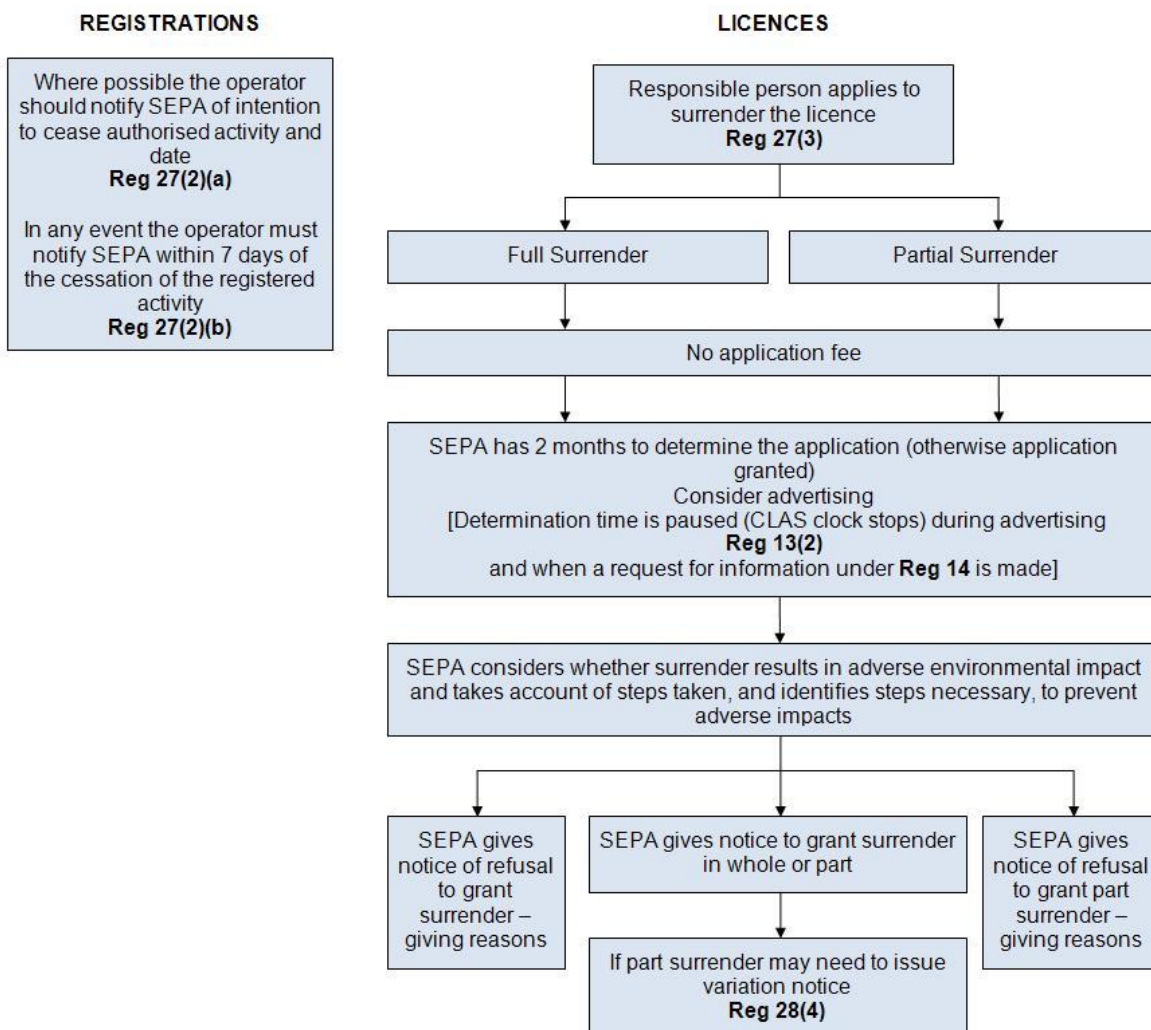
The process whereby an applicant can appeal SEPA's decision to refuse to surrender an authorisation is detailed in WAT-RM-22.

Partial Surrender

If only some of the controlled activities authorised by the licence are to cease, an application to surrender part of the licence should be made. An example of this would be if the abstraction activity is to cease but the impoundment activity is to remain licensed.

There are template documents available for full and partial surrender.

Figure 6 Summary Chart: Surrender of Authorisations



12 Suspension and Revocation of Authorisation

Regulation 29 of CAR gives SEPA the powers to serve a notice to suspend or revoke an authorisation in whole or part.

These are mainly to be used as part of enforcement action. The circumstances under which SEPA would do this and SEPA procedures are discussed in more detail on the [Enforcement webpage](#).

However there are a few non-enforcement circumstances where SEPA may wish to revoke an authorisation, such as where:

- Regulatory control for the activity passes entirely into the PPC regime or other legislation
- It is covered by another CAR licence

In these circumstances SEPA may serve a notice of revocation, schedule and accompanying letter revoking the controlled activity.

There are template documents available for suspending and revoking authorisations.

13 Regulation 18 Accelerated Determination

Regulation 18 allows accelerated determination for new applications or variations and suspensions which need to be implemented, in a shorter period of time by reason of “emergency”. “Emergency” is given a very specific meaning in Regulation 18(8).

Guidance is available in WAT-RM-49: CAR 2011 Emergency Provisions and Accelerated Determination.

14 Sewer Network Licences

A combined sewer network consists of all assets (usually Scottish Water's) upstream of the Sewage Treatment Works (STW) boundary. Primarily these are sewer pipes, combined sewer overflows and pumping station emergency overflows.

SEPA regulate these assets in a holistic manner, through Sewer Network Licences (SNLs). Due to the potential complexity of modifications to SNLs, details in relation to modifications to SNLs are specifically included in this section. The general principles of this document and the charging scheme guidance are used in relation to the different scenarios expected to be encountered for management of the SNLs.

The first inspection of a SNL is a verification inspection which has the intention of correcting errors and ensuring the licence is fit for purpose. The outcome of this verification inspection is normally a SEPA initiated variation to rectify these errors.

(Refer to [WAT-SG-87: Compliance Monitoring for Sewer Network Licences](#) - section 5.1).

Figure 7 (below) gives a flow chart for the different actions relevant to the modifications to a Sewer Network Licence; the text below expands the requirements of the flowchart. Currently, SNLs have only been issued to Scottish Water sewer networks; PFI/private assets will be included shortly.

14.1 Operator identifies an existing CSO/EO which is not specifically authorised by a SNL

Following initial licence verification, where an asset is identified as not being on a SNL, but was in existence when the SNL was issued, then the operator will need to apply for an administrative variation to the SNL for this asset and any associated information to be added.

14.2 Operator updates data for an existing CSO/EO authorised by a SNL

Where an operator adds new or updates existing data in relation to an existing CSO/EO on a SNL then a variation will be required.

- Administrative variation – where the updated variation demonstrates no change or a reduction of impact on the environment (e.g. increase in the storage provision).
- Standard or Substantial variation – where the updated variation demonstrates an increase of impact on the environment (e.g. the licensed pass forward flow is reduced).

14.3 Operator adopts/transfers a CSO/EO onto a SNL

Where the operator adopts or transfers a CSO/EO onto a SNL then the process described in section 9.1 needs to be followed.

14.4 Operator intends to construct and discharge from a new CSO/EO outfall

Since the construction of the new outfall is a dependent activity in relation to the SNL, it should be ensured that the SNL has been varied to include “Schedule 6 Conditions applying to authorised engineering works” (WAT-TEMP-67: Sewer Network Licence Variation Schedule – not yet available).

14.5 Operator permanently ceases discharging from a CSO/EO authorised by a SNL

Where the operator ceases discharging from one or more CSO/EO, then the operator will need to apply for a “partial surrender” for the ceased discharges. Since the permanent cessation of a discharge from the CSO/EO will reduce the impact on the environment, there is no charge associated with this application. The SNL will be updated by removing the specified asset and associated activity. In addition, the physical removal of the outfall is authorised by the engineering conditions in schedule 6. Therefore it should be ensured that the SNL has been varied to include “Schedule 6

Conditions applying to authorised engineering works” (WAT-TEMP-67: Sewer Network Licence Variation Schedule).

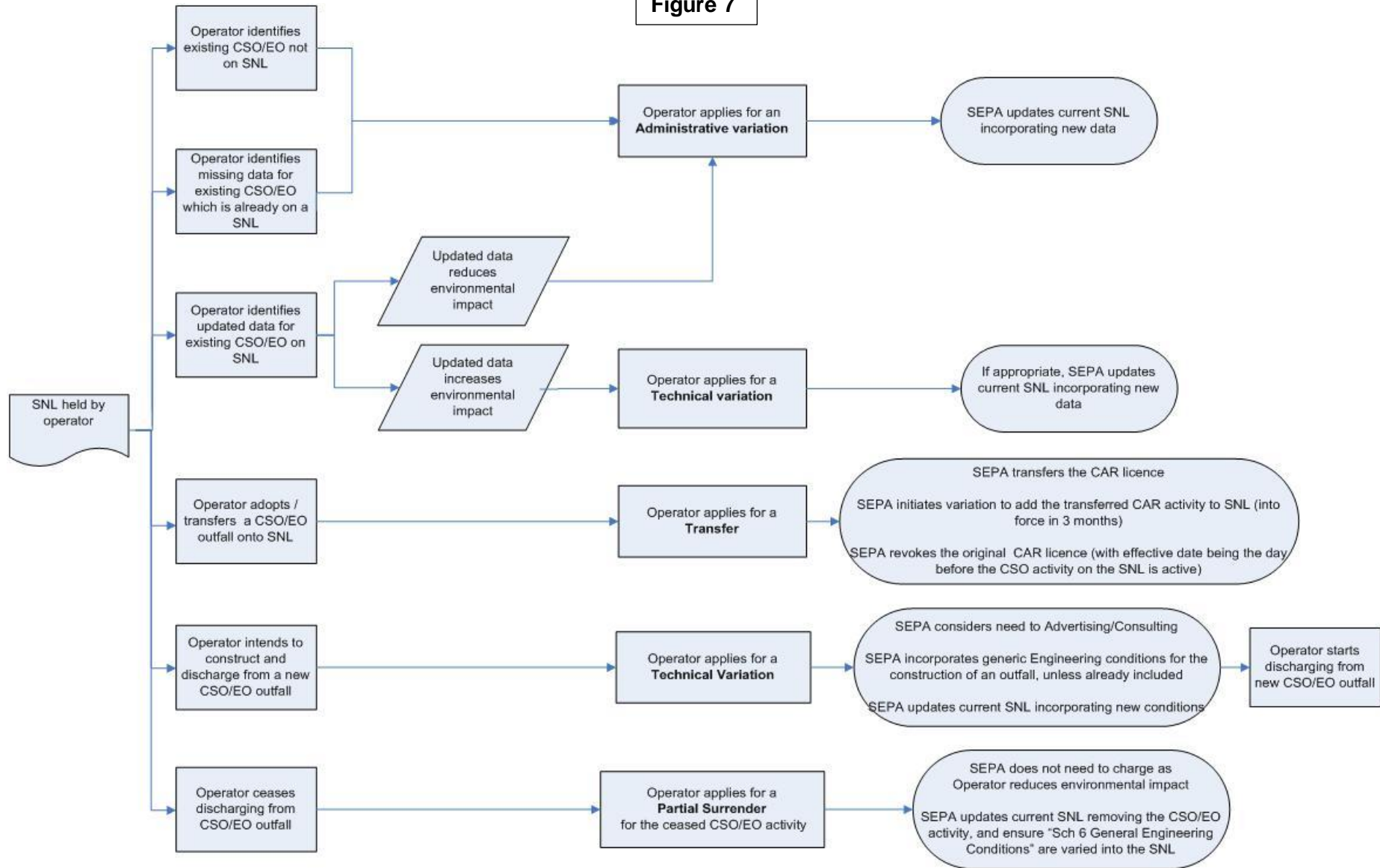
14.6 Scottish Water Quality and Standards

Where Scottish Water is modifying a SNL due to improvements agreed under the Quality and Standards programme, these improvements are to be considered as environmental improvements and charged accordingly.

Figure 7 Flowchart of different actions relevant to the modification of a Sewer Network Licence

(see next page for Figure 7)

Figure 7



Annex 1: Reasons for Review

River Basin Management Plan (RBMP)

One of the main reasons for SEPA to conduct reviews of authorisations will be instigated by the RBMP process. The RBMP is a rolling 6 year cycle planning and objective setting process. Each RBMP will describe the state of environment, set the environmental objectives for a water body and describe the programs of measures, POMs to be taken (i.e. actions and improvements) to ensure that the relevant objective, as set out in the RBMP, are met. Reviews and subsequent variation of authorisations will be one of the main types of POMs set out in the RBMP.

During each RBMP SEPA will carry out reviews on all authorisations which are within 'At Risk' of not meeting good status or 'good environmental potential' water bodies. These water bodies are identified through SEPA characterisation process.

Further details on this process are set out on the [River Basin Planning](#) pages of the SEPA website.

Scottish Water: Quality and Standards (Q&S)

Scottish Water's quality and standards process (Q&S) identifies and plans investment in water and sewerage infrastructure. This process will necessitate the review and variation of many authorisations. The number which are reviewed and varied will depend both upon the objectives that have been set for the waterbody, the indicative authorisation conditions/discharge limits and the solutions proposed at the design and detailed planning stage by Scottish Water (who are charged with implementing the Q&S process).

When setting Q&S investment priorities cognisance will be taken of the RBMP environmental objectives for water bodies. Equally the RBMP process has to take account of the investment and time frames which have been agreed through the Q&S process.

To ensure that the Q&S process and RBMP process work complimentary to one another they are likely to be brought into greater alignment in the future to ensure that timescales and objective setting processes are consistent and complimentary.

Other Legislative Requirements for Reviews

Urban Waste Water Treatment Directive (UWWTD)

Authorisations which have to comply with the [Urban Waste Water Treatment \(Scotland\) Regulations 1994](#), which implements the EC directive (91/271/EEC) concerning the collection, treatment and discharge of urban waste water and the treatment and discharge of waste water from certain industrial sectors must 'be reviewed and if necessary adapted (varied) at regular intervals' via the requirements in Article 12(4) of the Directive. There is however no time period set for this.

SEPA will determine when and how many authorisations should be reviewed through the business planning process.

Groundwater Directive (GWD)

These primarily involve authorisations for the disposal of waste sheep dips and waste agrochemicals onto land.

The process and guidance for carrying out GW authorisation reviews is laid out in WAT-SG-14: Disposal to Land - Waste Sheep Dip/Pesticide Washings Authorisation Review.

EQS Directive

WFD Priority & Hazardous Substances OSPAR

SEPA may from time to time be required to carry out reviews to assess whether certain authorisations require to introduce, vary or remove limits for any substances listed in the EQS, under the WFD priority and hazardous substances list or to fulfil requirements of the OSPAR convention.

Refer to [SEPA Policy 61: Control of Priority and Dangerous Substances and Specific Pollutants In The Water Environment](#).

Further details on carrying out reviews on authorisations which include such substances are set out in WAT-SG-79: Priority Hazardous Substances Licence Reviews - Guidance.

❑ **Natura 2000 and SSSIs**

Under the *Conservation (Natural Habitats, &c.) Regulations 1994*, which implement the Habitats Directive (1992) and the Birds Directive (1979) there is a requirement under Reg 50 and 51 of the Habitat Regulations to review any existing authorisations where new designations are made and a requirement to carry out assessment on the potential effects on a protected area if an authorisation is being reviewed. This is to ensure that there will be no damage to special areas of conservation (SAC) and special protected areas (SPA).

A new designation or changes to a SSSI may require SEPA to carry out a review on any authorisations which may be damaging or pose a risk to damaging a proposed, modified or existing SSSI. NatureScot would inform SEPA directly when this situation may arise.

The issues to be considered while carrying out a review are set out in WAT-SG-90.

Pollution Reduction Plans

In cases where certain European designations were failing to be met or at risk of failing, i.e. such as EC designated bathing water beaches, shellfish growing waters, freshwater fisheries etc then SEPA must prepare pollution reduction plans to address the issues. This could involve the review of all or certain CAR authorisations within a defined area.

Scottish Government Directions / New Designations

Reviews of authorisations can also be instigated as a result of:

- Scottish Government directions (such as a national security issue)
- New legislative requirements
- New designations (e.g. shellfish waters, bathing waters)

PPC/CAR Interactions

A review of a permit under the Pollution Prevention and Control regime, PPC, (which contains controlled activities such as discharges) may be required as a result of the RBMP process.

For PPC sites which contain controlled activities but are regulated under both the Pollution Prevention and Control Regime, PPC, and the 2011 Regulations, a review of the CAR authorisation may be triggered by a review of a PPC permit required due to statutory timescales, BAT etc.

It is important that the objectives of the WFD are taken into account for any review of PPC permits containing controlled activities. Reviews generated by the RBMP process and PPC issues will be co-ordinated wherever possible.

Significant Changes in Available Techniques to Control Water Use

If a technique to help protect the water environment or enable better monitoring and compliance with the authorisation which had been deemed to be technically and economically infeasible or was unavailable then becomes widely available and feasible to install then SEPA may make a decision to instigate reviews and variations of authorisations to require such new techniques to be used.

Such advances in techniques may enable a water body to be restored to good status or other environmental objective, where previously it was economically or technically infeasible in the past.

Carrying out any such reviews will generally be co-ordinated with the RBMP process.

Complaints and Environmental Harm

SEPA's monitoring results (from sampling, audit and/or inspection) and/or external complaints may be significant enough for SEPA to make a decision to review the authorisation of a controlled activity.

A review may be carried out because:

- One or several conditions are overly protective of the environment

- Despite compliance with the authorisation it becomes clear that one or several conditions are not currently protecting the water environment
- Better operational /monitoring controls are required this could result in adding, modifying or removing conditions
- A significant event.(or series of events) causing environmental harm has highlighted deficiencies in the conditions of the authorisation

References

Guidance / Policy

- WAT-RM-10: Use of Enforcement Notices
- WAT-RM-20: Advertising and Consultation
- WAT-RM-22: Managing Refusals and Appeals
- WAT-RM-41: Derogation Determination – Improvements to the Water Environment
- WAT-RM-49: CAR 2011 Emergency Provisions and Accelerated Determination
- WAT-RM-22: Managing Refusals and Appeals
- WAT-SG-14: Disposal to Land - Waste Sheep Dip/Pesticide Washings Authorisation Review
- WAT-SG-79: Priority Hazardous Substances Licence Reviews - Guidance
- WAT-SG-87: Compliance Monitoring for Sewer Network Licence
- WAT-SG-90: Application of environmental standards in assessing risks to river and loch Natura 2000 interest
- SEPA Policy 61: Control of Priority and Dangerous Substances and Specific Pollutants In The Water Environment.

Other

- [CAR Application Forms](http://www.sepa.org.uk) (www.sepa.org.uk)
- [River Basin Planning](http://www.sepa.org.uk) pages of the SEPA website (www.sepa.org.uk)
- [Urban Waste Water Treatment \(Scotland\) Regulations 1994](http://www.legislation.gov.uk) SSI No. 2842 (www.legislation.gov.uk)
- [Environmental Regulation \(Scotland\) Charging Scheme](http://www.sepa.org.uk)
- [Water Regulations](http://www.sepa.org.uk/water/) SEPA website (www.sepa.org.uk/water/)