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| **SEPA’s Regulatory Guidance on the authorisation of activities affecting Ponds**  **July 2021** | P:\COMMUNICATIONS\NEW FOLDER STRUCTURE\3. Brand Marketing\Brand\Logos\SEPA logo\SEPA Gaelic logo wEnglish.jpg |

**Purpose**

This document sets out SEPA’s position with respect to the regulation of activities associated with ponds.

Ponds are small bodies of water that are either artificially created or natural and can be fed from a variety of sources including groundwater and surface waters.

**Background**

The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (As Amended) (referred to as CAR) regulates activities associated with the water environment.

The activities covered by this position statement include the creation of new ponds, modification of existing ponds and associated activities such as engineering works, impoundments (e.g. dam or weir), abstraction, discharges and maintenance. These activities may require authorisation under CAR and the details for each are set out below (for further information and details on levels of authorisation please refer to relevant section of [CAR Practical Guide](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf)).

**Off-line ponds**

Off-line ponds can be natural or artificially created to store water (including surface run-off, groundwater, road drains or land drainage/field drains). These would include Sustainable Drainage Systems (SuDS) ponds.

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The sections below set out the authorisation requirements that may be necessary under each CAR regime when proposals involving off-line ponds are proposed.

**Impoundment**

* Where an off-line pond is created by constructing an impoundment SEPA will not require authorisation.
* SEPA will not require authorisation for dug ponds.

(dug ponds are those which do not hold back any surface water or ground water or that do not impact on any wetland.)

**Abstraction**

1. Abstraction to feed a pond

* All abstractions from the water environment (burn, river, ditch) to an offline pond require to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).

***Exception*** : if the pond is part of a flood storage system and water is diverted during flood events into pond then diversion of this water will be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf) as an abstraction in the engineering authorisation for construction of flood bypass channel but will not be subject to separate authorisation.

1. Abstraction from a pond

* All abstractions from an offline pond fed by the water environment (burn, river ditch) will already be authorised as per a) above, as such the subsequent abstraction from these ponds does not require authorisation.
* All abstractions from an offline pond fed by field drains require to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf) by registration.

**Engineering**

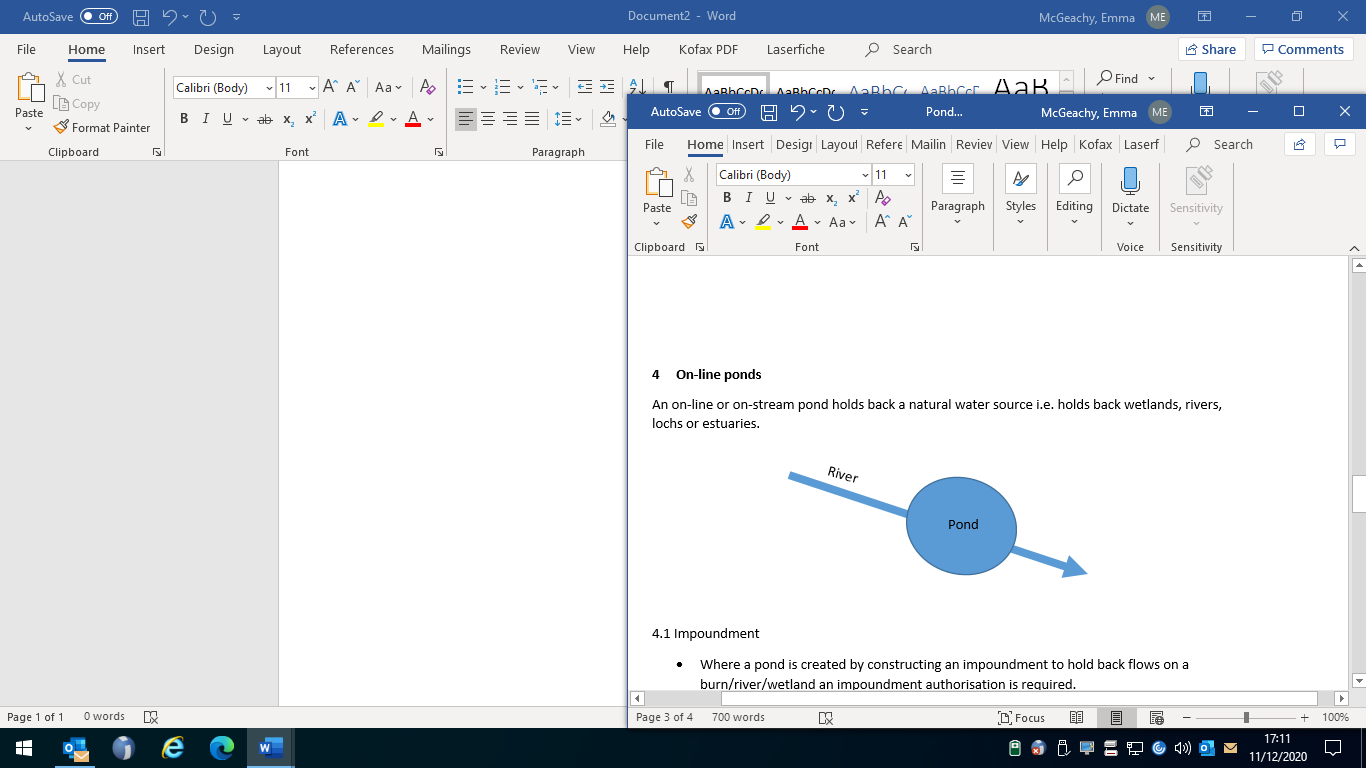
* Engineering works (such as sediment management, construction of structures etc.) affecting the water environment, including naturally formed ponds, requires to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).
* For information on authorising engineering works affecting Artificial Waterbodies please refer to [position statement](https://www.sepa.org.uk/media/150945/wat_ps_07_03.pdf).

**Discharge**

* Discharges to the water environment from artificially created ponds such as SuDS ponds will require to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).

**On-line ponds**

An on-line or on-stream pond holds back a natural water source i.e. holds back wetlands, rivers, lochs or estuaries.



The sections below set out the authorisation requirements that may be necessary under each CAR regime when proposals involving on-line ponds are proposed.

**Impoundment**

* Where a pond is created by constructing an impoundment to hold back flows on a burn/river/wetland an impoundment [authorisation](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf) is required.

The impoundment authorisation may also contain conditions including;

* requiring fish passage to be provided and maintained;
* engineering aspects involved in construction or alteration of a dam, weir or other impounding works;
* maintenance of silt behind the impoundment.

**Abstraction**

* All abstraction from an online pond require to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).

**Engineering**

* Where an online pond is to be created by the construction of an impoundment any associated engineering works should be included within the impoundment authorisation.
* Where an online pond is to be created but there is no impoundment structure. (e.g. where the watercourse is to be widened) then this will require [authorisation](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).
* Where there is engineering works planned in an existing online pond then this will require [authorisation](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).

***Exception:*** maintenance activities do not require authorisation provided they meet certain criteria.

**Discharge**

* Any discharge into an on-line pond will need to be [authorised](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf).

**Fees**

Authorisation applications normally have an application fee, see [SEPA’s charging scheme guidance](https://www.sepa.org.uk/regulations/authorisations-and-permits/charging-schemes/charging-schemes-and-summary-charging-booklets/). Where SEPA deems that the activity is an ‘environmental service’ e.g. where the pond is being created purely for biodiversity/habitat improvement and there is no associated commercial aspect then there will be no application fee however an authorisation will still have to be applied for or GBR followed. SEPA has a presumption against authorising new online impoundments unless there is suitable justification.

Ponds which have the primary purpose of treating pollution (e.g SuDS Ponds), including diffuse sources, will not qualify for environmental service unless there is also a significant biodiversity aspect.

For information on accessing this document in an alternative format or language please contact SEPA by email at [equalities@sepa.org.uk](mailto:equalities@sepa.org.uk)

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<http://contactscotland-bsl.org/>

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