

**MEMORANDUM OF UNDERSTANDING between the SCOTTISH ENVIRONMENT  
PROTECTION AGENCY and the FOOD STANDARDS AGENCY**

**1. BACKGROUND**

1.1 Section 42 of the Environment Act 1995 ("the 1995 Act") (as amended by Chapter 28 Schedule 5 of the Food Standards Act 1999) requires that the approval of the (charging scheme in respect of environmental licences under the Radioactive Substances Act 1993 ("the 1993 Act") by the Minister shall have regard to the desirability of ensuring that the amounts recovered by the Scottish Environment Protection Agency in charges are the amounts which, taking one year with another, need to be recovered by the Agency to meet the such of the costs and expenses:

(a) of the Agency ("SEPA"); and

(b) of the Food Standards Agency ("FSA")

("the Agencies")

in carrying out their functions under the 1993 Act as the Minister considers appropriate under section 42(3) of the 1995 Act.

1.2 The charges payable in respect of environmental licences under the 1993 Act are set out in The Radioactive Substances Act 1993 Fees and Charges (Scotland) Scheme 2002 ("the Scheme") and any subsequent scheme made in respect of the 1993 Act under section 42 of the 1995 Act.

1.3 This Memorandum of Understanding (MoU) describes the arrangements and obligations between SEPA and the FSA in respect of the implementation of the Scheme as regards invoicing, recovery and application of fees under the Scheme. It will apply from 1 April 2002.

**2. ROLES AND RESPONSIBILITIES**

2.1 As the agency responsible for the Scheme under section 42, SEPA will be responsible for the administration of the Scheme on behalf of the FSA. It will issue invoices to operators, receive payments in, apply payments to appropriate agency and is responsible, for debt recovery under the Scheme.

**3. CALCULATION OF FSA CHARGES**

3.1 All costs and expenses incurred by the FSA in carrying out its functions in respect of the 1993 Act and and appropriate for attribution under the Scheme under paragraph 4(2) of the Scheme will be calculated by FSA and submitted to SEPA in writing for inclusion in its billing.

3.1 Arrangements shall be agreed by the Agencies to ensure that SEPA is supplied with reference numbers in respect of charges of the FSA to allow the unique identification of each operator required to be invoiced under the Scheme and the nature of the chargeable activity .

3.2 Under the charging arrangements the invoicing of operators in respect of establishments/installations under their control will take place at the end of each financial

quarter (the four financial quarters are : April - June; July - September; October - December; January - March). The objective will be to issue invoices no later than *30 working days* after the end of the quarter to which the charges relate. The FSA will, within 20 working days of the end of each quarter, advise SEPA by means of an itemised statement or statements of its costs for inclusion on invoices to operators. If the appropriate information is not received by SEPA by the end of the 20<sup>th</sup> working day after the quarter end, SEPA will issue the invoice for its own costs and will include the FSA's costs on the invoice for the following quarter.

3.3 The charges of the FSA and SEPA will be shown separately on invoices, but will, taken together, constitute the charge under the Scheme in accordance with paragraph 4(2) of the Scheme. SEPA and FSA agree that no recoverable debt will exist between them until SEPA has recovered the amounts due from operators.

3.4 Statements from the FSA to SEPA shall be sent to Scottish Environment Protection Agency, Finance Income Section, Corporate Office, Erskine Court, The Castle Business Park, Stirling, FK9 4TR.

#### **4. PAYMENTS TO THE FSA BY SEPA**

4.1 SEPA will, within 10 working days of the end of March, June, September and December, notify the FSA of the sums recovered from operators in relation to the charges invoiced under the Scheme and due to the FSA. On receipt of an invoice from the FSA for the agreed amount, SEPA will, within 10 working days, remit sums due to the FSA.

4.2 Payments will be made to the FSA by BACS or cheque. SEPA will, at the same time, send to the FSA an itemised list giving the original reference number from the itemised statement on which the charge was listed, the original FSA charge and the amount remitted to SEPA in respect of each.

4.2 The Agency will provide to the FSA a quarterly list of outstanding debts in respect of the Scheme and will give details of progress on debt recovery.

#### **5. DEBT RECOVERY**

5.1 The Agency will pursue outstanding debts in accordance with its debt recovery procedures.

5.2 When legal action for the recovery of a debt is required, except as described in para 5.4, SEPA shall decide whether to take such action and how such action shall be conducted. SEPA has the right, subject to paragraph 5.4, below to take no proceedings.

5.3 SEPA will bear such legal costs as it incurs in any debt recovery proceedings but will retain any costs awarded or recovered in relation to those costs. Any statutory interest received will be shared between SEPA and FSA in the same proportion to the debt owed to SEPA and FSA as set out in the relevant invoice.

5.4 In the event of legal proceedings (a) being required for the recovery of FSA costs only, or (b) in cases where FSA costs only are the subject of dispute, SEPA will, obtain the FSA's agreement on (a) whether it should start proceedings or (b) whether such

5.54 SEPA and the FSA shall release officers involved in the regulatory process to attend any subsequent court hearings as necessary (if required) to provide any relevant evidence to the court

5.6 In the event that a debt is not recovered through legal proceedings there will be no liability from SEPA to the FSA in respect of that debt. If part only of a debt is recovered the amount received will be shared in the same proportion as the original charges or as may otherwise be agreed.

## 6. VARIATIONS TO THE MoU


6.1 This MoU may be varied with the consent of both agencies by one agency giving the other not less than three months notice in writing of its intentions, or such shorter period as may be agreed by both agencies.

6.2 The MoU will be reviewed if and when there are significant changes to the Scheme.

6.3 The MoU may be terminated by either agency giving the other six months notice in writing.

6.4 In the event of termination or variation under paragraphs 6.1 or 6.3 above, any legal proceedings which fall to be commenced in relation to invoices already sent to operators of which are under way at the time of termination shall be concluded in accordance with the provisions of paragraph 5 of this MoU and costs shall be payable and recoverable as provided in that paragraph.

Signed By :

.....Date.....15 March 02.....  
M. Patricia Henton  
Chief Executive, Scottish Environment Protection Agency

.....Date.....25 March 2002.....  
George Paterson  
Director, Food Standards Agency Scotland