

WATER USE GUIDANCE

CONSTRUCTION REGULATORY GUIDE

Version: v1.1
Released: Sept 2021

Every day SEPA works to protect and enhance Scotland's environment, helping communities and businesses thrive within the resources of our planet.

We call this **One Planet Prosperity**



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Update summary

Version	Description
v1.0	Document first issue Nov 2020
V1.1	Inclusion links to new licence application form N for construction run-off Updated definition of large and complex projects for time and materials charging.

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1. Purpose and Scope of this Guide:

This guide provides a high level summary of SEPA's guidance and regulatory controls that may apply to construction projects affecting the water environment.

The guide is for SEPA staff and developers/ contractors etc. working on the planning, construction and regulation of construction projects. This guide does not replace any other guidance but aims to bring the issues together and highlight key documents.

The key aims being:

- to promote early engagement between SEPA and external stakeholders;
- to improve awareness of the potential impacts from construction projects;
- to identify and promote early consideration of the authorisation requirements;
- to provide links to the key guidance documents;
- to encourage application and assessment of multiple water related activities at the same time;
- to reduce the risk of authorisations being refused or significantly delayed.

The [CAR Practical Guide](#) is SEPA's main reference document that specifies which activities are regulated to protect the water environment and at what level of authorisation. The CAR practical guide should always be referred to as the main source of information regarding the level of authorisation any activity is controlled by and for any additional detail. There are three levels of authorisation:

General Binding Rules: mandatory rules covering the lowest risk activities (No application required)

Registration: low risk activities which require basic assessment, conditions are specified to prevent direct and cumulative impacts (usual determination within 30 days)

Licence: higher risk activities which require detailed assessment and site specific conditions to prevent direct and cumulative impacts (usual determination within 4 months) (split into simple and complex license based on risk)

In addition to the content of this guide our approach to certain sectors is laid out in a series of [sector plans](#). Moving our regulation from individual sites to a sectoral approach supports the aim that all regulated businesses fully meet their compliance objectives and as many as possible go further. The plans applicable to this guide are:

- [Housing sector plan](#)
- [Strategic infrastructure transport and utilities sector plan](#)

Other SEPA Controls:

For any construction project additional SEPA legislative controls may also apply. These may include requirements for [waste management activities](#) and those such as operating mobile plant [see pollution prevention and-control Part B guidance](#). You are advised check other guidance and/or discuss these with SEPA directly as this guide solely relates to activities affecting the water environment.

In addition SEPA has a [Biodiversity Duty](#) to further the conservation of biodiversity when exercising its duties. This may require consultation with other authorities.

Other Authorities:

A construction project may also require additional permissions or advice from other authorities, such as local planning authorities, [NatureScot](#) (formerly Scottish Natural Heritage) see [NatureScot: construction good practice](#), local district salmon fishery boards, river and fishery trusts and [Fishery Management Scotland](#). A list of other agencies and their roles and responsibilities is summarised [here](#).



Photos above showing typical construction activities involving the water environment.

2. Potential Impacts and Activities Subject to Authorisation:

Construction projects if poorly planned and managed can result in significant water and riparian impacts during and after construction. The main potential water related impacts and those activities potentially subject to authorisation are:

- **Pollution impacts from:**
 - construction run-off ([table 1](#));
 - permanent surface water drainage systems ([table 2](#));
 - temporary or permanent sewage discharges ([table 3](#));
 - other discharges and pollution incidents such as: fuel and chemical storage/spillage; hydrostatic testing and novel situations etc. ([table 4](#));

- **River morphology and physical disturbance impacts from:**
 - river engineering works such as culverts, bank works, realignments etc. ([see table 5](#)) These include impacts such as:
 - adverse effects on the spawning and passage of fish;
 - adverse changes to natural river morphology (loss of instream and bankside habitat diversity, changes in sediment movements etc.);
 - pollution during the construction of river engineering works (e.g. siltation, cement, oil etc.)

- **Water resources impacts:**
 - Dewatering, abstractions and impoundments ([table 6](#));

- **Biodiversity and the spread of invasive non-native species (INNS):**
 - Application of herbicides close to watercourses or drains ([table 7](#))
 - Protection of water based wildlife species (otter passage, bankside nesting etc.) ([table 7](#))

Note SEPA does not regulate the issues of nuisance (noise, dust and odour) from water related construction activities these are largely controlled via the planning authority and environmental health. However SEPA can apply controls when associated with Waste Management and Pollution Prevention and Control (PPC) activities.

The disturbance and protection of wildlife species (often known as wildlife crime) is regulated by [NatureScot \(protected species legal framework\)](#) (formerly Scottish Natural Heritage) and enforced by wildlife crime units within the Police.

Each of the situations and activities described above often require design and /or working controls to prevent environmental harm. Depending on the scale and nature many of these activities may be subject to authorisation from SEPA.

3. Authorisation Requirements and Approach

A construction site or project may involve a variety of water related activities which may require one or more applications for authorisation and/or require compliance with general binding rules.

The authorisation requirements for a construction project will depend on:

- the area of the construction project: [see table 1](#) for further details;
- the nature and scale of the proposed activities: see tables 1-9 in [section 4](#);
- the project timing and timescales: see section 3.1 below.

3.1 A flexible approach to authorisation:

The application system for authorising water related activities is designed to be flexible and allows for activities to be authorised to fit in with the programme of works for the construction project.

Large construction projects often have multiple activities which will require authorisation. These activities could fall under any of the levels of authorisation general binding rule (GBR), registration or licence (simple or complex) as detailed in the [CAR practical guide](#). This may mean that a single authorisation will contain many activities at different levels of authorisation.

Registration and licence activities can be referenced within one authorisation document, however general binding rule activities do not require prior authorisation and these activities would not be listed within a license or registration.

SEPA's preference is for applications to follow these principles:

- **Apply for as many water related activities as possible at the same time;**
- **Ideally registration activities should be included in any licence application(s)**
- **Multiple applications can be made to coincide with phases of a project;**

This approach is strongly encouraged but it is accepted that in some cases it may be necessary to apply separately for certain activities such as where these activities need to take place in advance of the main construction works.

This approach helps to:

- deliver a joined-up, proportionate and efficient approach to regulation and the protection of the water environment;
- facilitate efficient permit administration and to provide cost savings for an applicant from multiple activity application discounts (see our [Charging Calculator](#));
- Create simpler authorisations that reduce the burden on the operator.

4. Summary of Regulatory Requirements:

The key regulatory requirements and guidance for water related activities for a construction project are summarised in tables 1- 8 below.

Check through each of the tables to see if and what regulatory controls will apply to your proposals. The exact controls which will apply and the degree of assessment required will be based on a combination of the scale of the project and the nature of individual elements of the proposal.

A basic checklist has been provided in [section 5](#) to help track and summarise the requirements

Table 1: Determining Scale of Project & Controls on Construction Run-off		
Criteria	Regulatory Requirements	Guidance
<p>1(a) Large and Complex Construction Projects: Projects that undertake one or more controlled activities (including the discharge of water run-off from a construction site to the water environment) and are:</p> <p>a) A project (or part of a project) that is a National Development, as identified in the National Planning Framework;</p> <p>b) An onshore electricity generating station, wind farm or power station with a capacity of greater than 50 megawatts; and / or</p> <p>c) A linear project greater than 25km in length.</p>	<p>Projects of this scale will be assessed by SEPA to see if they are large and complex. This assessment will establish the length and type of work which will be involved, how SEPA will consult and work with you and how application and subsistence charges will be levied.</p> <p>Large and complex construction projects are often large infrastructure projects.</p>	<p>Sect 3.4 Charging Scheme Guidance</p> <p>Large and complex activities arrangements for consultation, applications and fees will be put in place.</p> <p><i>The guidance listed in the row 1(b) below will apply to projects of this scale.</i></p>
<p>1(b) Construction area:</p> <ul style="list-style-type: none"> • Greater than 4ha; or • Greater than 5km of track or road; or • Greater than 500m or 1ha of ground with a slope greater than 25 degrees. 	<p>This is considered a large construction site.</p> <p>Licence application is required for all large construction sites to regulate the construction related surface water run-off.</p>	<p>Licence application will be required for construction related surface water run-off. See:</p> <ul style="list-style-type: none"> • WAT-SG-75: Sector Specific Guidance: Construction Sites • Pollution Control for Construction Site Licences

<p>Note the definition of area or length can include combinations of sections e.g. 3 independent sections of track 1km long plus 3km of road etc. being done as part of the same project or phase of a project.</p>	<p>(note where the project is considered a large construction site this will affect some pre-application and technical assessment processes for any engineering activities)</p>	<ul style="list-style-type: none"> • Licence application Form A and Form N • Application form A guidance • Sect 3.4 Charging Scheme Guidance
<p>1(c) Construction area: Less than or equal to 4ha; Less than or equal to 5km of track or road; Less than or equal to 500m or 1ha of ground with slope >25degrees etc.</p>	<p>The construction site related surface water run-off is subject to the rules in General Binding Rule (GBR) 10b <i>(NB currently under review)</i></p> <p>For these smaller construction sites no direct application for authorisation regarding the site run-off to SEPA is required. Rules within GBR10 set the generic controls required. Good practice to prevent pollution is strongly encouraged. This does not alter the requirement for the regulation of other activities taking place.</p>	<p>See CAR practical guide (pollution control regime) for details.</p> <p>For details regarding pollution prevention plans see WAT-SG-75: Sector Specific Guidance: Construction Sites.</p>

Table 2: Discharge from Permanent Surface Water Drainage Systems		
Criteria	Regulatory Requirements	Guidance
<p>2(a) Permanent surface water drainage systems which will discharge to the water environment and serve:</p> <ul style="list-style-type: none"> • Greater than 60ha of land used for residential purposes; or • More than 1km of motorway or trunk road (discharging to a single outfall); or • Industrial estates; or • More than 1000 car park spaces 	<p>Simple licence application will be required prior to any permanent surface water discharges taking place from the type of areas listed in the criteria.</p>	<ul style="list-style-type: none"> • CAR practical guide (pollution control regime) • WAT-RM-08: Sustainable urban drainage systems (SUDS) • Licence application Form A and Form B • Application form A guidance • Application form B guidance • Charging
<p>2(b) Permanent surface water drainage systems which will discharge to the water environment and serve:</p> <ul style="list-style-type: none"> • Less than or equal to 60ha of land used for residential purposes; or • Less than or equal to 1km of Motorway or trunk road; or • Industrial estates; or • Less than or equal to 1000 car park spaces. 	<p>The surface water discharge will be subject to the rules in GBR 10a (<i>NB currently under review</i>)</p>	<ul style="list-style-type: none"> • CAR practical guide (pollution control regime)

Table 3: Temporary or Permanent Sewage Discharges		
Criteria 1	Regulatory Requirements	Guidance
3. Discharge of treated sewage effluent from temporary or permanent buildings/ cabins etc. indirectly to groundwater via a soakaway or directly any river, loch, estuary or sea.	NB The level of authorisation and any application charge will depend on the scale of the sewage discharge in terms of population equivalent (p.e.) –for determining flows and loads see British water flows and loads document. See p.e. criteria in rows 3(a) and (b) below:	<ul style="list-style-type: none"> • CAR practical guide (pollution control regime) • British water code-of-practise-flows-and-loads
3(a) Discharge of sewage effluent where population equivalent (p.e.) is ≤ 15 .	Registration application will be required. There is a general preference to discharge such scale discharges to soakaway where the ground conditions are suitable.	<ul style="list-style-type: none"> • Application form: Registering a New Discharge • Septic tanks and private sewage treatment systems • Charging
3(b) Discharge of sewage effluent where Population Equivalent (p.e.) is > 15 .	Licence application will be required. >15 –100 p.e. Simple Licence >100 p.e. Complex Licence	<ul style="list-style-type: none"> • Licence application forms A and Form B • Application form A guidance • Application form B guidance • WAT RM 03: Regulation of Sewage discharges to surface water • WAT RM 04: Indirect discharges of sewage effluent to groundwater • Charging

Table 4: Other Discharges and Pollution Controls		
Criteria	Regulatory Requirements	Guidance
4(a) Any other discharges to the water environment (surface water and groundwaters) such as jetting, cleaning, concrete/cement wash water, hydrostatic testing of pipelines (excepting the discharge from dewatering activities which are covered in table 6 below)	<p>Depending on the nature and scale of the activity they could be subject to:</p> <ul style="list-style-type: none"> • GBR's (see GBRs: 11; 16; 21; 22; 26 and 28 which may apply) • registration; or • licence (simple or complex) <p>Novel situations should be discussed with SEPA prior to submitting any applications to determine the appropriate level of authorisation and suitable mitigation controls.</p> <p>General controls may also apply to prevent pollution occurring from certain activities.</p>	<p>As this section could involve a wide variety of novel discharges or situations it will be best to consult:</p> <ul style="list-style-type: none"> • the CAR practical guide (pollution control regime section) for details. • contact SEPA • the full list of SEPA's pollution control guidance • see also a variety of pollution control advice on the Netregs website: NetRegs - Guidance for Pollution Prevention (GPPs) • Charging

Table 5: Engineering Activities		
Criteria	Regulatory Requirements	Guidance
<p>5(a) Activities defined as engineering activities within the engineering regime section of the CAR Practical Guide such as new or modified bridges, culverts, bank reinforcement, channel modifications (diversions, realignment etc.)</p>	<p>NB The level of authorisation and any application charge will depend on the type and scale of the engineering activity. Control may apply at any of the three levels of authorisation:</p> <ul style="list-style-type: none"> • GBR's: 5,6,7,8,9,12,13,14 and 25 may apply • registration • licence (simple or complex) <p>Note if your construction project meets the criteria of a large construction site then any licensable (simple or complex) engineering activities are likely to be subject to additional assessment and design drawings as part of any application. You should discuss this directly with SEPA prior to submitting any applications.</p>	<ul style="list-style-type: none"> • CAR Practical Guide (engineering regime) • WAT-RM-02: Regulation of Engineering Activities • Fish protection guidance (currently under development) • Engineering checklists (currently under development) • Licence application form A and Form E • Application form E guidance • Application form: Engineering Registrations • Charging • List of engineering-guidance documents • Contact SEPA

Table 6: Dewatering Excavations, Other Abstractions and Impoundments		
Criteria	Regulatory Requirements	Guidance
6(a) Temporary dewatering of excavations either directly or indirectly.	<p>GBR's 3 and 15 apply to temporary dewatering abstractions during construction.</p> <p>Where the conditions of the GBR cannot be met a registration or licence application must be made.</p> <p>Note GBR 15 also covers the discharge of the abstracted water back to the water environment.</p>	<ul style="list-style-type: none"> • See the abstraction regime section of the CAR Practical Guide for details of the GBR rules.
6(b) Any other abstractions of water from inland surface or ground waters.	<p>The level of authorisation and application charge will depend on the type and scale of the abstraction activity.</p> <p>A construction project may require abstraction of water for a variety of one off or novel applications such a hydrostatic testing of pipelines etc. these should be discussed with SEPA prior to submitting any applications to determine the level of authorisation which SEPA will apply and any mitigation required.</p>	<ul style="list-style-type: none"> • See the abstraction regime section of the CAR Practical Guide for details of the GBR rules and other details. • Water abstractions - web page • Licence application Form A and Form D • Application form: Abstraction Registrations • Charging • Contact SEPA

<p>6 (c) Any new or modified impoundments.</p>	<p>The level of authorisation and application charge will depend on the type and scale of the impoundment activity.</p> <p>A construction project may involve construction or modification of new or temporary impoundments. Due to the variety of situations these should be discussed with SEPA prior to submitting any applications to determine the level of authorisation which SEPA will apply and any mitigation required.</p>	<ul style="list-style-type: none"> • See the Impoundment regime section of the CAR Practical Guide for details on the levels of authorisation, GBR rules and other details • Impoundment web page • For works associated with flood defence works see WAT-SG-47
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Table 7: Use of Herbicides / Biosecurity and Invasive Non Native Species		
Criteria	Regulatory Requirements	Guidance
<p>7(a) Application herbicides during construction or post completion.</p>	<ul style="list-style-type: none"> • GBR 23 will apply except where: • Application is within 1m of a watercourse, as measured from the top of the bank, to control species which are not invasive species – in this case a registration application will be required; • Any application of herbicide directly onto/into a watercourse will require application for a simple licence; 	<ul style="list-style-type: none"> • See CAR Practical Guide for detail • see Annex 1 WAT-SG-18 • Registration application form for using a herbicide • Licence application Form A • Licence application form M • Application form A guidance • Charging

	<ul style="list-style-type: none"> The application is within 250m of any abstraction used for human consumption in which case a simple licence application will be required. <p>See GBR 23 for full requirements.</p>	
<p>7(b) Use of any other pesticides which are not herbicides (i.e. insecticides, fungicides, preservatives etc.) near water.</p>	<p>You should discuss the use of any other pesticide which isn't a herbicide near water with SEPA to determine if any form of regulatory controls need to be applied for.</p>	<ul style="list-style-type: none"> Contact SEPA to discuss
<p>7(c) Biosecurity precautions need to be taken during all construction activities to prevent the spread of non-native and invasive non-native species.</p>	<p>Measures should be taken to prevent the introduction of non-native and non-native invasive species.</p> <p>The main regulatory requirements are under Section 14 of the Wildlife and Countryside Act 1981.</p> <p>SEPA also has a Biodiversity Duty to further the conservation of biodiversity in exercising its duties.</p>	<ul style="list-style-type: none"> SEPA Biodiversity Web Page Biodiversity/invasive-non-native-species/ Construction guidance on biosecurity and management of invasive non-native-species-construction-sites Scottish Government Non-Native Species Code of Practice

Table 8: Other activities which may require regulation in other legislation

If the project may involve the use of mobile crushers/cement batchers etc. see SEPA's guidance on the pollution prevention and control regulations with particular relevance to Part B processes listed under section 3 of the PPC regulations. See the [pollution-prevention-and-control page on SEPA's website](#).

Ensure you are compliant with [waste management](#) legislation, including duty of care controls.

Other agencies also provide advice on good practice for the construction industry

- [NatureScot: Construction good practice planning and development](#)
- See [Other Agencies - Responsibilities](#)

5. Checklist:

Below is a simple checklist that could be used and adapted to aid keeping track of which water related activities/issues will need to be investigated and the level of authorisation that is likely to apply for any project or phase of a project.

Summary Checklist			
Project Name:			
Project Phase:			
Anticipated Duration and Project Dates			
Project Criteria	Y/N	Relevant Table	Comments /Notes
Project size/ (Phase Size)			
Large and complex Projects		Table 1 Applies in all cases	
>4ha; or>5km; or >0.5km >25degree slope			
<=4ha			
Water Related Activities			
Construction phase Surface water		Table 1	
Permanent Surface water discharge		Table 2	
Sewage discharge		Table 3	
Other Discharge		Table 4	
Engineering Activities		Table 5	
Dewatering		Table 6	
Any other abstraction		Table 6	
Impoundments		Table 6	
Herbicide application		Table 7	
Any other activity		Table 8	
Other issues to note or follow up			

6. Additional and Supplementary Guidance:

This section provides links to additional and supplementary guidance:

6.1 All Regulated Activities:

- [CAR practical guide](#) provides guidance on regulatory activity definition and the level of authorisation required.
- [Authorisations and permits](#) guidance on making an application for authorisation.
- [Charging Schemes and summary charging-booklets](#)
- [Charging-scheme-calculator](#).
- [Sectors](#) information on SEPA's sector approach and sector plans:
 - [Strategic Infrastructure Transport and Utilities Sector Plan](#)
 - [Housing Sector Plan](#)
- [SEPA Water Regulation Main Web Page](#)
- [WAT-SG-93: Guidance for transport infrastructure projects](#)
- [Other Agencies - responsibilities](#)

External Links:

- CIRIA <https://www.ciria.org/> contains many detailed construction related guidance documents.
- [CIRIA: Control of water pollution from construction sites. Guidance for consultants and contractors \(C532\)](#)
- [CIRIA: Control of water pollution from linear construction projects. Site guide](#)
- [NatureScot: Construction good practice planning and development \(www.nature.scot\)](#)
- [NetRegs -Environmental guidance for business in Northern Ireland & Scotland \(www.netregs.org.uk\)](#)
- [NetRegs - Guidance for Pollution Prevention \(GPPs\)](#)

6.2 Pollution Control Activities:

- [List of SEPA Pollution Control Guidance Documents](#)
- [WAT-SG-75: Sector Specific Guidance: Construction Sites.](#)
- [WAT-RM-08: Sustainable urban drainage systems \(SUDS\)](#)
- [British water code-of-practise-flows-and-loads document 4 Sizing Criteria, Treatment Capacity for Sewage Treatment Systems \(www.britishwater.co.uk\)](#)

6.3 River Engineering Activities:

- [List of all SEPA Engineering Guidance Documents](#)

SEPA have good practice guides on various river engineering topics:

- [Sustainable Riverbank Protection Guidance](#)
- [WAT-SG-23 Good Practice Guide – Bank Protection](#)
- [WAT-SG-25: Good Practice Guide - River Crossings](#)
- [WAT-SG-26: Good Practice Guide - Sediment Management](#)
- [WAT-SG-28: Good Practice Guide - Intakes and Outfalls](#)
- [WAT-SG-29: Good Practice Guide – Construction Methods](#)
- [WAT-SG-44: Good Practice Guide – Riparian Vegetation Management](#)
- [Ponds, Pools and Lochans: Guidance on good practice in the management and creation of small waterbodies in Scotland](#)
- [Managing River Habitats for Fisheries](#)

Other supporting documents largely aimed for SEPA internal use are listed below

- [WAT-SG-31: SEPA Special Requirements for Civil Engineering Contracts for the Prevention of Pollution](#)
- [WAT-SG-32: SEPA Guidance on the Special Requirement for Civil Engineering Contracts](#)
- [WAT-SG-21 Environmental Standards for River Morphology](#)

6.4 Dewatering Other Abstraction and Impoundment Activities:

- [SEPA Water Abstractions Web Page](#)
- [SEPA Impoundment Web Page](#)

6.5 Biodiversity /Invasive Non-Natives /Herbicides:

- [SEPA Biodiversity Web Page](#)
- [Construction guidance on biosecurity and management of invasive non-native-species-construction-sites](#)
- [Scottish Government Non-Native Species Code of Practice](#)
- [WAT-SG-18 - Control of Plants in or near to water](#)

END

Sept 2021