

# ANNEX C - CONSULTATION ON PROPOSALS FOR AN INTEGRATED FRAMEWORK OF ENVIRONMENTAL REGULATION



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Micro Hydro Association

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

King-Smith

Forename

Gavin

### 2. Postal Address

Postcode	Phone	Email administrator@microhydroassociation.org

### 3. Permissions - I am responding as...

Individual  / Group/Organisation   
*Please tick as appropriate*

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes

Please return this information form with your comments by 4 August 2012.

Your comments with this form may be sent by post, e-mail or fax to:-

Postal address: Environmental Quality Division  
Scottish Government  
Area 1-H North  
Victoria Quay  
Edinburgh EH6 6QQ

E-mail: [EQCAT@scotland.gsi.gov.uk](mailto:EQCAT@scotland.gsi.gov.uk)

Fax: 0131-244 0211

### Consultation Questions

**Q1 *Do you foresee any difficulties in adopting the single permissioning framework set out above?***

#### Comments

The framework is good but there is need for consultation on how micro hydro schemes will be classified within this framework since there are specific issues relating to taking a proportionate approach for very small scale schemes with non-significant effect on the environment/ecology.

**Q2 *Do you agree that SEPA should adopt this proportionate approach to determining where an activity sits in the new permissioning hierarchy?***

#### Comments

Qualified yes - see caveat in response to question 1 - consultation will be necessary on how micro hydro schemes will be assessed in terms of sector/activity hazard.  
Also, with regard to published guidelines and variations thereto, If SEPA can change the regulations in the way suggested, which is reasonable, there will need to be timescales attached to allow developers and operators time to absorb the changes. The changes should also be subject to consultation with those affected.

**Q3 *Are there any problems in the current procedures for the 4 Main Regimes which could be addressed in the new single regulatory procedure?***

#### Comments

There are problems for the Water regime as it applies to micro hydropower in the way permissions are determined. These mainly relate to the disproportionate application of guidelines as fixed standards which leads to disproportionate information requirements and examination of applications for schemes where the risk of hazard is vanishingly small.

Consumptive and non-consumptive abstractions are currently treated in the same way and so the potential effect of micro hydropower (non-consumptive) on the river environment is being over-estimated.

No problems are foreseen with the proposed improvements to enforcement procedures.

**Q4 Are there any issues which you think SEPA should take into account when developing its approach to joined-up permits?**

Comments

Where a micro hydro scheme cannot be covered by General Binding Conditions or Registration, having a single permit to construct and operate the scheme would be advantageous.

**Q5 Do you agree that there is merit in introducing corporate or accredited permits for environmental activities? If not, why not?**

Comments

Could this approach be applied by the an organisation such as the Micro Hydro Association if it formalised its constitution and prepared a standard approach and reported on performance etc.?

Or could this be applied to a development or operating company taking responsibility for a number of hydro schemes?

**Q6 Do you agree that SEPA should have the power to use fixed and discretionary direct financial penalties to address less significant offences? Do you think the amounts of £500 and £1,000 for fixed penalties and the cap of £40,000 for a discretionary penalty are set at the right level?**

Comments

Any financial penalty should be proportionate to the potential level of damage actually or potentially caused by an offence. The proposed fixed penalties would be too high in some cases (e.g. unintended blockage of a hands-off flow by debris) and the cap too low in others (e.g. dam or pipe burst through faulty design or construction on a multi MW scheme causing significant environmental damage)

**Q7 Do you agree that SEPA should be given the power to accept enforcement undertakings in a greater range of circumstances? Do you agree that they should be limited to ensuring environmental restoration?**

Comments

Limit to ensuring environmental restoration where significant damage from intentional offence is proven.

**Q8 Do you agree that SEPA should be able to require non-compliant operators to publicise the damage they have caused the action they are taking to put things right? Should this power also be available to the courts?**

Comments

No – if a penalty is due that should suffice. SEPA will in any case be likely to want to publicise their enforcement work as they do now in their news letter

**Q9 Do you think that the direct measures set out above should be applied to the 4 Main Regimes and to the other regimes set out in paragraph 3.5.21? Would it be useful for the direct measures to be available to SEPA in relation to other regulatory regimes for which it has responsibility?**

Comments  
No comment

**Q10 Is there a need for any additional safeguards?**

Comments  
The proposed safeguards appear sufficient.

**Q11 Do you agree that the existing powers relating to remediation and compensation orders should be extended as set out above? Do you think that we should require the courts to have regard to financial benefit when setting fines?**

Comments  
No comment

**Q12 Do you agree that SEPA should be able to recover the costs which it incurs in investigating and enforcing environmental legislation, up to the point at which it imposes a direct measure or refers a case to the Procurator Fiscal for prosecution?**

Comments  
No comment

**Q13 Do you agree that the new integrated permissioning framework, supported by a more strategic, flexible enforcement toolkit and a targeted approach to regulation, will provide more effective protection of the environment and human health?**

Comments  
Yes, as long as it is proportionate to the scale of the specific regulated activity and its actual or potential effect on the environment.