

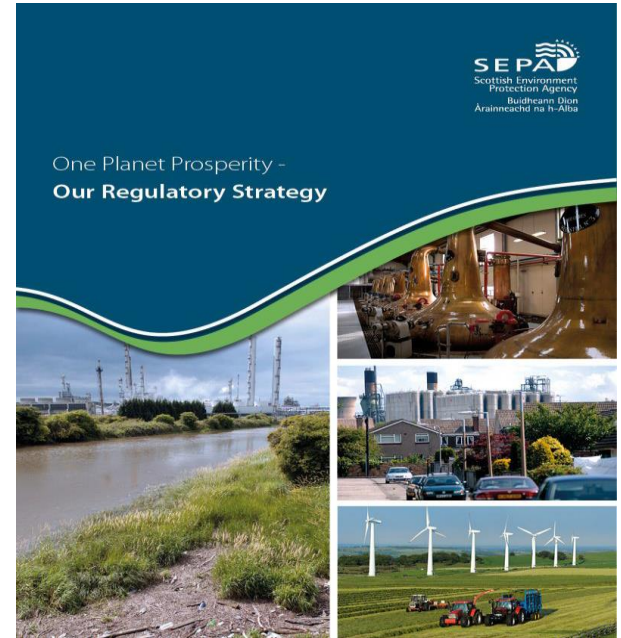
Duty of Care

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Setting the Scene

1- Strategic direction

- A New Regulatory Strategy: One Planet Prosperity
- A new Statutory Purpose: “to compliance and beyond”





Protect and improve the
environment

SEPA's Statutory Purpose

“ENVIRONMENTAL SUCCESS”



Help create health and
well-being benefits

“SOCIAL SUCCESS”



Help create sustainable
economic growth

“ECONOMIC SUCCESS”

Setting the scene

2- Waste to Resources Strategy



IMPORTANT DEFINITIONS

- **Waste:** Any substance or object which the holder discards or intends or is required to discard”.

(Waste Framework Directive 2008)

- **Reuse:** Any operation by which products or components **that are not waste** are used again for the same purpose for which they were conceived.*

(Waste Framework Directive 2008)

*It is important to note that:

- i) European case law has ruled that reuse must be a certainty, not a mere possibility, for an item to be classed as non-waste. (Shell C-241/12 and C-242/12)
- ii) Preparation for reuse is a waste activity

Definitions Continued

- **Recycle:** Any recovery operation by which **waste** materials are reprocessed into products, materials or substances whether for the original or other purposes.
- **Recovery:** Any operation the principal result of which is **waste** serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.

Definitions Continued

- **Treatment:** Recovery or disposal operations, including preparation prior to recovery or disposal

(Waste Framework Directive 2008)

- **Disposal:** Any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy.

(Waste Framework Directive 2008)

Who's Responsibility?

Whilst SEPA is currently producing two new pieces of guidance, [The Regulation of Offshore Oil and Gas Waste](#) and [The Regulation of Re-use](#), which should go live very soon, it is important to note that the responsibility for the correct assessment as to whether something is or isn't waste, and if it is whether it is Hazardous or Non-hazardous, lies with the producer – not the Regulator.

However SEPA will continue to provide local specific guidance and obviously the earlier this is

Environment Protection Act 1990

Section 34: Duty of Care

What are your Obligations as a Waste Producer?

You must comply with the duties in Section 34 whilst the waste is in your possession and when you transfer the waste to somebody else. Where you use a waste broker or dealer you both have responsibilities under Section 34. Using a waste broker does not lessen or remove any of these responsibilities from you in your role as a waste producer. (Duty of Care – A Code of Practice)

Whose responsibility?



Who has failed in their Duty of Care Here?



Duty of Care Continued

In essence your obligations under Section 34 continues, to a greater or lesser degree, until the waste is either finally disposed of or ceases to be classified as waste.

If you transfer waste to someone else, you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely AND LEGALLY.

Additional Duty in Scotland

- Waste (Scotland) Regulations 2012
 - Legal requirement for high quality recycling in s34 (2L) of the Environmental Protection Act 1990:
 - “it shall be the duty of any person who produces or manages controlled waste... to take all reasonable steps to... ensure that the waste is managed in a manner that promotes high quality recycling”

Challenges

- Lack of awareness across the sector
- Know your waste
 - Types: hazardous or not?
 - Amounts

Challenges

Know where your waste is going

- Registered waste carrier
- Suitably authorised sites
- Responsibility from point of arising to final treatment/disposal
- Transfrontier Shipment of Waste if leaving UK territory

SEPA BEIS Interaction

- Installation decommissioning details (incl plans) are reported in the Installation Decommissioning Programme, submitted to ODU by the Installation Operator
- A draft of the Decommissioning Programme is issued to SEPA for comment as part of the Stakeholder Engagement.
- SEPA will critically analyse the shore based waste disposal/ re-use supply chain options to ensure that the Duty of Care obligations will be fully complied with.