

2017 ERS Consultation Response

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Changes

Note we had missed British Hydro Association from the published list on page 22. We have now added BHA to the table.

1 Objective

This document summarises the responses SEPA received on the Environmental Regulation (Scotland) Charging Scheme consultation; identifying key points and then outlining how SEPA intend taking these forward and why.

2 Background

2.1 Why Did SEPA Consult?

In 2015 SEPA consulted on a new charging scheme that combined several schemes together within a consistent methodology. In the consultation we outlined some aspects which would be phased in but also knew we would need to make other changes.

The four main types of change that we proposed were:

- Planned implementation of 2015 consultation proposals. The Scheme outlined in the 2015 Consultation represented such a major transformation in the way we calculated charges that we planned a staged implementation of certain parts of the Scheme for 2018.
- Changes resulting from consultation responses. Changes proposed in the 2015 consultation response to suggested improvements set out by respondees.
- Changes proposed by SEPA. We have identified some improvements to the scheme as a result of the experience of operating the scheme since 2016. We are also introducing changes that result from changes in statute or policy.
- Routine updating. We have updated the data upon which the scheme is constructed. These changes are not being consulted on as they are within the scope of the original Scheme.

For each area of change we held targeted sector events and in the consultation itself we asked specific questions to ensure we could understand the potential impacts and ways to improve the implementation.

2.2 How did we consult?

Historically for any consultation we realise that only a few organisations / operators will respond. For this reason we have proactively engaged with stakeholders at specific events and asked trade associations to raise awareness to improve the level of response. This also allows operators to contact SEPA if they have not received a letter or e-mail.

The consultation documentation was held on line and could be downloaded. The consultation asked several questions and these could be answered online or sent to us via e-mail or post.

We also had a consultation tool which allowed operators to access a unique account with the licence details and the current and predicted charges. We appreciate that calculating charges for a number of licences can be time consuming

and therefore provided this to ensure transparency. The consultation tool was available from the 28th August to the 10th November. During the consultation we had a dedicated e-mail address and we trained our call centre staff to provide a 24 hr/day telephone number to help with logging in requests as well as dealing with general queries and if required referring them on to the charging scheme team.

2.3 Responses to the Consultation

SEPA issued 5420 consultation letters to charge payers holders, to draw their attention to the consultation and tell them how to access information on the impact on their charges. We also passed details to trade associations and other representative bodies.

A total of 182 customers logged in to the web-based tool to check their charges, representing:

- 3171 (25%) licences;
- £~15M of subsistence income (equivalent of c47% of charges).

In addition to accessing the formal consultation on-line, almost 100 customers called or e-mailed our support line where staff helped them access their information, or accessed it on their behalf, and answered questions.

A total of 121 formal responses were submitted from a wide range of sectors. The following table provides a breakdown by high level sector.

High Level Sector	Consultation Responses	%
Energy	37	31%
Water and Wastewater Treatment and Supply	32	26%
Land Management	13	11%
Waste Management	13	11%
Food and Drink	11	9%
Manufacturing, Other Industry and Services	9	7%
All Sectors	5	4%
Radioactive Substances (Non-Nuclear)	1	1%

This response rate is lower than the 2015 consultation - though the changes this time round were more focussed on particular sectors. Details of submissions, queries and answers are expanded in the following sections and the annexes.

More details about which sectors accessed the consultation are in section 4. A full list of respondents who gave permission to have their details published are set out in section 5 (please note we only published the names where we had a completed form saying we could – where the form was absent or not complete we did not publish the respondents details).

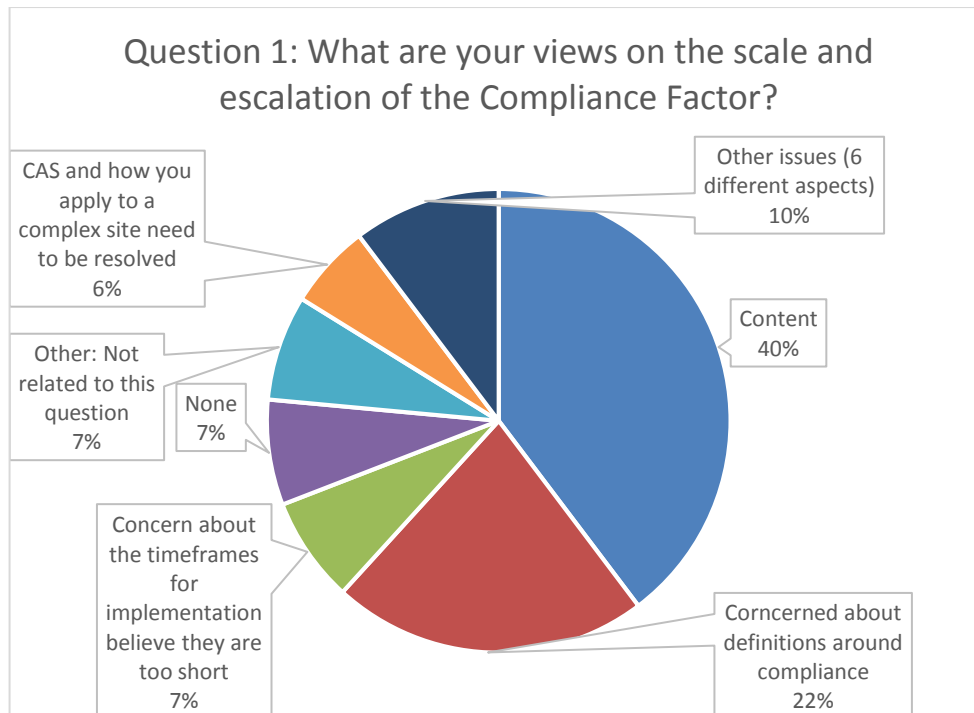
3 Overview of comments and our proposals

The following goes through the consultation responses and outlines how SEPA will implement within the charging scheme.

3.1 Question 1: What are your views on the scale and escalation of the Compliance Factor?

3.1.1 Consultation Responses

The 68 comments have been summarised on the pie chart and in the table below.



No. of Similar Responses	Summary comment
27	Content
15	Concerned about definitions around compliance
5	Concern about the timeframes for implementation believe they are too short
5	None
5	Other: Not related to this question
4	CAS and how you apply to a complex site need to be resolved
2	Against factor applying to total charge
1	Burdensome
1	Potential for double charging
1	Re-assessment timescales
1	Sufficient communication
1	Transparency of charges

3.1.2 SEPA Response

Overall the application of a compliance factor was broadly welcomed, however there was concern on the timescales and practicality on certain areas (this being exacerbated by the short timescales to fully understand the new scheme).

The CAS consultation was out at the same time and had similar comments on the implementation timescales ([link](#)). To ensure we gain the confidence of operators in the scheme, particularly when it is applied to charging it has been decided to delay implementation until at least 2021. This will allow operators and SEPA to get a better understanding and resolution of the issues identified both in the charging and CAS consultations.

3.2 Question 2. Do you have any suggested changes to the way the Compliance Factor is calculated?

3.2.1 Consultation Responses

The following table summarises the consultee and corresponding SEPA responses. The question was looking for views on what could be improved and allow SEPA to answer queries which we had not expressed either in the consultation or the workshops.

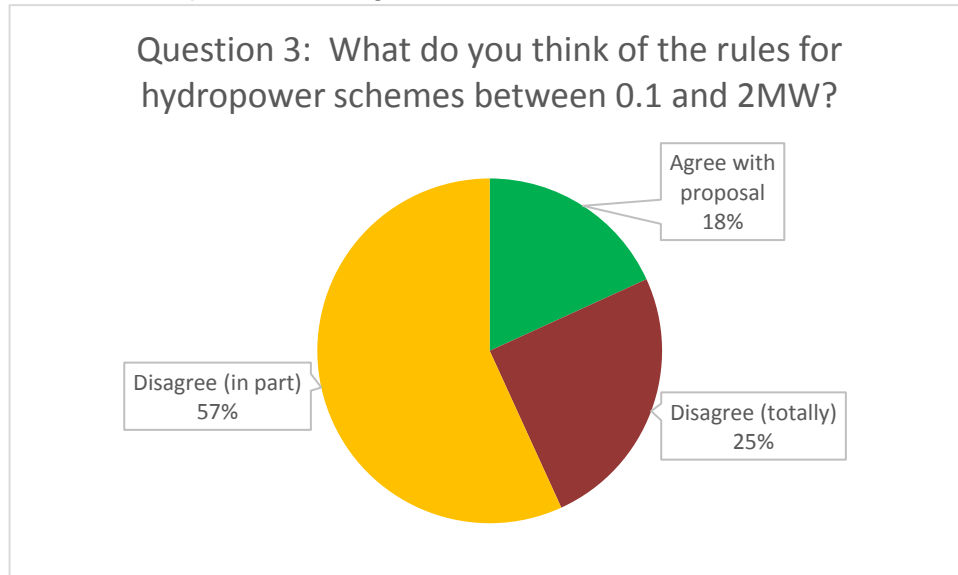
No. of Similar Responses	Consultee Summary Responses	SEPA Response
7	Higher weightings for worst sites	Once we have experience of the new compliance scheme and gathered further information of the level of work (and hence appropriate charge) we will review the level. We believe this is a suitable starting point.
5	Content	
5	The factor should be cost reflective.	A review would always be planned to check whether the additional charges are reflective of the costs. See the comments on having a higher weighting.
5	Definitions around compliance and guidance will need to be clearer.	This is seen as primarily a matter for the compliance scheme. The delayed implementation should help in improving clarity.
4	Implementation timescale	Covered under section 3.1.
3	Don't implement	Overall the response was positive of implementing a compliance scheme and we will do this.
3	Reduction for most compliant sites	<p>We believe that the charge should be based on compliant sites since this is the non-negotiable level of performance for a site.</p> <p>However it should be noted that once we have some experience of applying the compliance factor we will look at how either a) overall charges are reduced for compliant sites, or b) what robust alternatives exist.</p>
2	Re-assessment timescales, so from the point an issue was identified to when it was resolved and how quickly this could be assessed and how is this done.	This is a specific compliance scheme issue and will be looked over the implementation and first few years of use.

No. of Similar Responses	Consultee Summary Responses	SEPA Response
2	Risk based, reflecting that larger activities can significantly impact the environment whereas small ones don't.	The way charges are built up there is an element of risk built in and we would not intend to refine further until we have some practical experience.
1	None	
1	Double charging issue (around SEPA's new enforcement powers)	This will be part of the implementation since we will have some practical experience of using the new enforcement powers. It is anticipated that there will be little overlap but we will need to be mindful of the potential.
1	Burdensome	The work should not be much above the normal compliance assessment work and ultimately ties better into the costs SEPA has to take on for non-compliant sites.
1	Actual consumption	

3.3 Question 3: What do you think of the rules for hydropower schemes between 0.1 and 2MW?

3.3.1 Consultation Responses

The following chart gives an overview with the subsequent table giving further detail under each top level heading.



Description	No of Similar comments	Further Comments
Agree with proposal	5	Seems sensible
	2	Identifies SEPA should remove cross subsidising within the sector.
	1	Some concern about redistributing charges but agree with principle.
Disagree with totally	5	Consider that the benefits of hydro schemes should mean there should be no charges.
	2	Thought that once application dealt with then no charges
	2	SEPA should not implement given the impacts from changes by government - this is just an indirect tax. SEPA / Government should find alternatives.
	1	SEPA should look other ways of funding
	1	From operator of below 0.1 MW. Charges would significantly impact on the finances of the scheme
Disagree in part	24	Questions the scale of costs and whether proportionate to the amount of work in regulating them. Some specific comments particularly on the indirect charges
	1	There should be a rule to match FIT bandings of 0.1 - 0.5 MW. There is too big a gap between 0.1 and 2 MW

3.3.2 SEPA Response

There was a number of good points raised by the consultation responses which have allowed us to review how we implement the charges for 0.1 – 2 MW schemes. We still believe that these schemes should be charged and that we need to ensure that the allocation of charges is fair and cross subsidising is removed. However we need to consider the following aspects:

- Assessing further whether the amount of work (therefore charges) which is required for the smaller schemes once they are up and running is consistent with the methodology we have used to distribute these charges.
- There has been a significant number of new schemes developed in the last few years and therefore we do not have much robust abstraction data.
- Reviewing the economically impact to the sector. SEPA has to meet the Regulatory Reform Act requirements to review economic sustainability. It is clear that the feed in tariff has generated a large increase in sites which would not be economically viable otherwise. What is less clear is whether the charges SEPA would impose would impact on them and how we consider this.

For the above reasons we intend:

- Putting in a flat fee for 0.1 – 0.5 MW schemes until the review is completed.
- Fixing until 2020/21 the % abstraction rates for the 0.5 – 2 MW schemes so that they are calculated in a consistent way. However the length affected factor will be still used.
- In addition we will remove the 25% for the new activities assuming this will be found through efficiencies in the process. This will be part of the 2020 review.
- Undertake a more detailed review of work for the abstraction sector. This to be undertaken over the next 2 years.

3.4 Question 4: Should we continue with the exemption from charges for small hydropower schemes that generate less than 0.1MW after 2020/21?

3.4.1 Consultation Responses

There were 39 respondees who had comments to this question.

31 (79%) considered that the exemption should continue. The main comments were: that at this scale the economics are marginal, all hydro schemes should be exempt since they are carbon neutral and they inherently have less impact once they are operational since they generally do not have impoundments and there are greater restrictions on them.

8 (21%) believed SEPA should charge for the activities below 0.1 MW. In general the issues were: cross-subsidising, the amount of time that these sites can take up and the potential impact they have on the environment. A suggestion made was to assess the actual time taken for SEPA to regulate these sites and then make a judgement on whether they should be included.

3.4.2 SEPA Response

We do not intend charging for hydro schemes below 0.1 MW. As part of the hydro sector review for question 3 we will look at checking through this position.

3.5 Question 5: Do you agree with the scale of the proposed charges for non-active permits, if not why not?

3.5.1 Consultation Responses

This aspect developed a number of responses with some good suggestions which need to be considered over the longer term.

Description	No of Similar comments	Further Comments
Agree	12	Yes
	3	Scale is the issue - potentially should be a set fee
	3	Should be based on costs
	1	Scale for large sites seems to be too much
	1	should not apply to sites during construction
	1	Should extend to mobile plant
Disagree	8	Costs are disproportionate
	7	Hydro sites which are mothballed should be exempt
	7	No
	1	Should be like SORN

3.5.2 SEPA Response

A number of responses focussed on charges during construction for say a hydro scheme. The full charge is in place as soon as construction starts since SEPA has to do a lot of work (this is supported by experience). Prior to construction no charge will be made for the first 5 years and will be reviewed thereafter, this does not mean that charges would be automatically applied after 5 years but where justified they would.

A number of comments where that costs were disproportionate. The 20% figure is our initial estimate however we have decided that we will use 15% and review in 2020 whether this is too low or high. The key thing to remember is that overall SEPA do not increase the amount coming in for a sector.

3.6 Question 6: Does the scale of the charges for 'not routinely monitored activities' - have any adverse or beneficial consequences? ("Applicable to small sewage discharges")

3.6.1 Consultation Responses

There was a split on whether charges should be levied and whether they were fair.

Description	No of Similar comments	Further Comments
No adverse impacts	10	Beneficial
	2	Costs for <50 PE should still apply
	2	Costs seem high / the distribution of the costs should be explained
Adverse impacts	24	Object to these charges.
	2	disagree
	1	Concern on scale and transitional arrangements
	1	costs too high
	1	application charge should cover subsequent costs
	1	tax on rural communities - charge should be minimised
	1	Government grant should cover
	1	Questions whether should cover coastal discharges
Misunderstood question	9	The question was specifically about sewage treatment discharges, this was not fully understood by some correspondents.

3.6.2 SEPA Response

We appreciate that the proposal has raised concerns but we consider that some level of charge should be levied. There were concerns charges are inconsistent with a site that was connected to the sewage network, however Scottish Water is charged for licences in the same way. Scottish Water will be charged at about the same level of charge to operate similarly small sites.

The intention is to introduce the new charge but at a lower level and review this in 2020.

3.7 Question 7: Do you have any changes that you would like to see in the methodology proposed for calculating Environmental charges for abstractions?

3.7.1 Consultation Responses

There was a considerable level of comment on this question.

Description	No of Similar comments	Further Comments
Non-irrigation comments	8	Disagree with the method - it does not seem appropriate for hydro schemes that have been just licenced which have mitigation aspects built in.
	6	Agree the move to actuals
	3	Sensible but guidance on flow metering is required
	2	Agree use of actuals and the smoothing out of the consumptive factor curve.
	2	Agree with the smoothing the curve however need to be clear on what flow metering is required.
	2	Fair - moving to 100% actuals
	2	Abstractions close to the mouth of the river should have a reduced fee
	1	Penalises hydro sector with the large water volumes abstracted.
	1	Charges should apply to consumptive use only
	1	Charging should take account of the overall environmental benefits from hydro schemes.
	1	Consider all should be covered by application fee
	1	Unfairly penalises hydro schemes since they have large abstractions.
	1	Don't agree with actuals
Irrigation - associated responses	3	Disagree with the high level of costs
	2	Disagree with the reduction in threshold which causes the increases.
	1	Factor related to depleted reach is too much.

3.7.2 SEPA Response

Based on the consultation responses and the feedback we got in stakeholder events the key issue was the change in thresholds before moving to full actuals based charging. This had the potential to increase charges before they would decrease. This is not what was intended so we will:

- Keep the threshold at 2000 m³/day until 2020 (so review at 2020 in time for 2021 implementation),
- Implement the use of split of permitted and actuals with the 2000 m³/day and review in 2020 whether it is justified moving to full actuals.

3.8 Question 8: What adverse or beneficial consequences do you consider will result from the application of the new methodology? “On Abstraction”

3.8.1 Consultation Responses

No of Similar comments	Comments
16	Concern on the impact of hydro schemes and there financial viability and therefore the support to the rural economies where they are based.
6	Encourages water efficiency
2	Good to remove step change in length affected calculation
2	Concerned that it will be applied to hydro schemes below 0.1 MW
2	Potential to help some small abstractors since moving to actuals
2	Good to move to actuals but potentially an open door for less scrupulous
1	Harder for hydro operators to budget and potentially they will underutilise the generation of electricity
1	This is a tax
1	Fear that it will penalise the use of recirculation at hatcheries
1	If moves to actual the licence may become redundant
1	Potentially breakdown the trust between SEPA and the operator
1	Costs of flow meters are a concern
1	Welcome
1	Higher costs overall
1	No benefit

3.8.2 SEPA Response

The overall concern was the impact on the small hydro schemes (0.1 – 2 MW). Under section 3.3.2 we have outlined how we intend taking this forward.

The use of actuals was welcomed but some considered that it could open the door to less scrupulous operators. This has to be considered for all regimes where we rely on data returns.

The main benefit was identified as potentially increased water efficiency.

3.9 Question 9: Do you have any changes that you would like to see in the (“Waste”) methodology proposed for calculating waste management charges?

3.9.1 Consultation Responses

No of similar responses	Comment
9	Generally welcomes change and that SEPA listening to 2015 responses.
5	Potential to increase burden on waste industry or those using the waste industry to dispose of materials.
3	Welcomed but need improved guidance
1	Generally welcomed but concerned of administrative overhead
1	Comparison with EA charges
1	Incorporate reservoirs
1	Minimise charges
1	Other aspects

3.9.2 SEPA Response

We intend implementing the changes and will further develop the guidance to support the role out. We will keep the guidance document live so that we can ensure that it is clear and easy to follow.

3.10 Question 10: What adverse or beneficial consequences do you consider will result from the application of the new methodology (for waste)?

3.10.1 Consultation Responses

No of similar responses	Comment
13	Welcome the changes being proposed
3	Some concerns about costs and where they will impact

3.10.2 SEPA Response

As for question 9.

3.11 Question 11: What are your views on the options proposed for BATC reviews and which is your preferred option?

3.11.1 Consultation Responses

Description	No of similar responses	Comment
Option 1 preferred	6	
Option 2 Preferred	6	
Other	15	Should be covered by subsistence fee mainly or if major review by a variation fee / hourly charge

3.11.2 SEPA Response

The majority of respondents considered that the charge should be covered by the subsistence fee. The advantages being this spreads the costs across a longer time frame, reflects that work maybe over several years and not just a one off short period and the work of SEPA can be over extended periods when looking at pre and post implementation.

Therefore it is proposed to implement the BAT review charge within the subsistence fee, to do this we will need to review the charges next year specifically on this point.

3.12 Question 12: What are your views on the proposed changes for para 47 exemptions below 20 tonnes?

3.12.1 Consultation Responses

Description	No of similar responses	Comment
Support	14	Comments were generally that this would support small scale recycling
Disagree	1	

3.12.2 SEPA Response

93% of respondents were supportive of the change and considered it would help in the small scale recycling of waste electrical equipment. We intend to implement the change since no specific issue was identified.

3.13 Question 13: What are the benefits / disadvantages of: a) making it a condition of all permits under the scheme that charges shall be paid, b) charging interest on the late payment of charges?

3.13.1 Consultation Responses

Description	No of similar responses	Comment
Support	30	Generally supportive - key is that where disagreements on invoice (particularly as they may be more complicated) they should be resolved, guidance needs to be explicit. The level of interest though seems high.
Against	13	Against- particularly hits small operators, needs to be clear guidance and approach enforcement if comes in and payment plans

3.13.2 SEPA Response

30 out of 43 respondents were supportive of making payments a condition of the permit. Within that both those in support and against the proposals common themes were: guidance is required and that where issues around the invoice were being resolved then they would not be considered to be breaking the condition.

There were also concerns about the level of interest.

We intend to implement the change, we recognised the need for clear guidance and making sure issues around the invoice are resolved so that we believe there is money owing to SEPA.

The interest rate quoted is consistent with that used elsewhere and we will use this.

3.14 Question 14: Do you agree to the principle of SEPA returning and charging for the time spent on poor quality applications?

3.14.1 Consultation Responses

The responses to the consultation on whether SEPA should charge for time spent on poor quality applications were largely favourable with 24% of respondents supporting the principal of charging. This was against 14% who did not support the principal of charging and 62% who did not have an opinion either way. Therefore, the consultation responses indicated general support for charging for poor quality applications.

3.14.2 SEPA Response

The SEPA Permitting Service has recognised that there is proactive work which can be undertaken to reduce the likelihood of receiving poor quality applications in the first place (improving application systems, processes and guidance for applicants and SEPA staff) ,without resorting to more punitive measures. Although not considered suitable for use at this time, charging for poor quality applications may be a suitable tool to be used in specific circumstances where all other measures have failed.

The SEPA Permitting Service will focus on the more proactive improvements in the short term and consider the appropriateness of charging for poor quality applications from the 1 April 2019 or when guidance becomes available. There is a provision to charge a portion of the application fee if it has to be returned.

3.15 Question 15: We would welcome responses on the further development of the Charging Scheme over the period to 2020/21.

3.15.1 Consultation Responses

Number	Comment
12	Abstraction charges should be reviewed
10	Welcome being involved
3	Early invoicing to help budgeting during phasing in period
3	Clearer link with activity and charge
2	More equitable water charges

3.15.2 SEPA Response

Most of the comments were reflected elsewhere in the responses. Two points were highlighted:

- 1) Keen to be involved in any changes.
- 2) Whether with the complexity of the transitional arrangements and the new changes that an early invoice could be sent to allow operators to set up payments more efficiently.

On 1) being involved in future proposals; throughout the development of the SEPA charging schemes we have looked to work with industry as much as possible. We intend to continue doing this in the future since this has helped us develop better ways of working.

On 2) early sight of the charge – we cannot commit to this for 2018. We will look at options for the future years however this depends on the impact on any interim reviews which may impact on charges (e.g. the hydro scheme review) and the development of new SEPA electronic system may be the best way to allow this.

3.16 Question 16: Do you have any further comments on the proposed Environmental Regulation (Scotland) Charging Scheme 20018?

3.16.1 Consultation Responses

Number	Comment
6	Clearer link with activity and charge
3	Other – covered elsewhere
2	CAS Issues
1	Balancing SME activities versus large organisations
1	BAT review charges
1	Consultation process
1	Early invoicing to help budgeting during phasing in period
1	Reduce charges for compliant operators

3.16.2 SEPA Response

No new issues were identified under this heading.

4 Who Accessed Online Charges

The following shows the number of licence holders who logged in, and what % of total licence holders this represents for the sector and the number of licences held.

SECTOR	Licence Holder Logged In	% of Total Licence Holders in Sector	% of Licences Viewed in Sector
Incineration and Co Incineration	5	14.7%	14.3%
Public (Water and Wastewater)	6	14.6%	95.5%
Food and Drink Manufacturing and Processing	4	10.8%	10.6%
Landfill	17	10.3%	19.3%
Renewable Energy	36	7.4%	13.4%
Storage and Treatment of Waste	31	5.2%	13.3%
Chemicals	2	4.7%	4.3%
Non-Nuclear	6	2.3%	3.3%
Agriculture	1	2.1%	1.0%
(Empty)	48	2.0%	14.1%
Minerals	5	1.7%	0.9%
Other Non-Nuclear	1	1.6%	1.1%
Private (Water and Wastewater)	17	1.3%	1.4%
Coating	1	1.1%	1.9%
Non Renewable Energy	2	1.0%	0.3%

5 List of Respondents

The following list the companies / organisations that responded and gave permission to have details published. Where the form was absent or not complete we did not publish the respondent's details.

Alba Energy
Allt Power Ltd
Belmond Trading
Binn Group Ltd
British Hydro Association
British Trout Association
Chartered Institute of Wastes Management (CIWM) Scotland Centre
Chemical Industries Association
Christopher Wybrew
Confederation of Paper Industries
DHG Hydro Ltd
Dulas Hydro Generaton Limited
EDF Energy
Energy UK
FCC Environment
Glen Hydro
Highland Eco-Design Ltd
Innogy Renewables UK Ltd
Kingussie Community Development Company
Marine Harvest Scotland
Meavag Fish Farm
Mineral Products Association Scotland
Moray Council
Moray Estates Development Company Ltd.
NFU Scotland
PD Hook Rearing and Breeding Ltd, and Hook2sisters Ltd.
Renewable Energy Association
Scottish Environmental Services Association
Scottish Renewables
Scottish Sea Farms Ltd
Scottish Water
South Ayrshire Council
SSE
TLS Hydro
UK Petroleum Industry Association (UKPIA)
Viridor
W. H. Malcolm Ltd.