

09/014/CP ALLARGUE ESTATE MICRO-HYDRO

CAR LICENCE ISSUED BY SEPA 18 DECEMBER 2009

Reference Number: CAR/L/1080484

SCOTTISH ENVIRONMENT PROTECTION AGENCY

WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003
WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND)
REGULATIONS 2005 ("THE REGULATIONS")

WATER USE LICENCE

Licence Number: CAR/L/1080484
Responsible Person: Rosemary Jean Winter Walker
Site or Location of Activity/Activities: Allargue Micro-Hydro
Allargue Estate
Cordaff
Strathdon

The Scottish Environment Protection Agency, in accordance with regulations 9 and 15 of the Regulations, hereby authorises the carrying on of the controlled activity or activities set out in Schedule 1 of this licence, at or near or in connection with the site or location set out above, subject to the requirements of the Regulations and to the conditions contained in the schedules attached to and forming part of this licence.

The person responsible for securing compliance with this licence and its conditions ("the responsible person") shall be Rosemary Jean Winter Walker, of Upland House, Saxham Street, Stowupland, Stowmarket, Suffolk, IP14 5DD.

This licence and its conditions shall, except where otherwise provided in any of those conditions, take effect on 18 December 2009.

Signed: 

Date: 18 December 2009

Authorised to sign on behalf of the
Scottish Environment Protection Agency

Right of Appeal

You are entitled to appeal to the Scottish Ministers, within three months of the date of this licence, if you have been granted a form of authorisation which is different from the form of authorisation which you believe ought to have been granted (under regulation 46(b) of the Regulations) or against any condition or conditions of this licence (under regulation 46(c) of the Regulations). The bringing of an appeal against a condition will not have the effect of suspending the operation of the condition. The procedures for the making of an appeal are set out in Schedule 9 of the Regulations.

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INTERPRETATION OF TERMS

For the purposes of this licence, and unless the context requires otherwise, the following definitions shall apply:

Generic

“the Act” means The Water Environment and Water Services (Scotland) Act 2003;

“controlled activity” means an activity to which the Regulations apply, in accordance with regulation 4(1) of the Regulations;

“incident” means any of the following situations:

- any accident which has had or could have an adverse impact on the water environment; or
- any malfunction, breakdown or failure of plant or techniques which has had or could have an adverse impact on the water environment; or
- any event, such as *force majeure* or action taken to save human life or limb, which results, or is likely to result, in a breach of any condition of this licence;

“pollution”, in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and “harm” has the same meaning as in the Act;

“SEPA” means the Scottish Environment Protection Agency;

“SEPA officer” means a person authorised by SEPA under regulation 27(4) of the Regulations;

“the Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2005;

“the water environment” means all surface water, groundwater and wetlands; and “surface water”, “groundwater” and “wetlands” have the same meanings as in the Act;

Abstractions

“abstraction” means the doing of anything whereby any water is removed or diverted by mechanical means, pipe or any engineering structure or works from any part of the water environment, whether temporarily or permanently, including anything whereby the water is so removed or diverted for the purpose of being transferred to another part of the water environment, and includes –

- (a) the construction or extension of any well, borehole, water intake or other work by which water may be abstracted, and
- (b) the installation or modification of any machinery or apparatus by which additional quantities of water may be abstracted by means of a well, borehole, water intake or other work;

Impounding works

“fish pass” means any fish pass, ladder, fish way, lift or other device which facilitates the free passage, upstream or downstream, of fish around, over or through the impounding works;

“height”, in relation to an impounding works, means the height as measured from the downstream toe of the impounding works to the crest or top of the spillway;

“impounding works” means in relation to surface water –

- (a) any dam, weir or other works by which water may be impounded;
- (b) any works diverting the flow of water in connection with the construction or alteration of any dam, weir or other works falling within (a) above;

“natural reasons” means any reason which is not related to (a) the operation of the impounding works or (b) the abstraction of water from surface water by the operator of the impounding works or (c) the abstraction of water from the river for a purpose for which the impounding works was constructed or is being used;

“normal operation” means the operation of the impounding works under normal operating rules and management agreements without incidents or major maintenance works.

Any reference to a numbered Condition, group of Conditions, Schedule, Table, Appendix, Figure or Paragraph is a reference to the condition, group of conditions, schedule, table, appendix, figure or paragraph bearing that number in this licence.

Except where specified otherwise in this licence:

- “day” means any period of 24 consecutive hours;
- “week” means any period of 7 consecutive days;
- “month” means a calendar month;
- “quarter” means a calendar quarter;
- “year” means any period of 12 consecutive months;

and any derived words (e.g. “monthly”, “quarterly”) shall be interpreted accordingly.

Except where specified otherwise in this licence, any reference to an enactment or statutory instrument includes a reference to it as amended (whether before or after the date of this licence) and to any other enactment, which may, after the date of this licence, directly or indirectly replace it, with or without amendment.

SCHEDULE 1: CONTROLLED ACTIVITIES**1.1 Authorisation of Controlled Activities**

1.1.1 The controlled activities set out in the fourth column of Table 1.1 below ("the Authorised Activities") are authorised by this licence at the locations as provided in Condition 1.2.1, subject to the general conditions contained in Schedule 2. The construction and operation of any impounding works is authorised subject also to the particular conditions in Schedule 3. Any abstraction, and any return of abstracted water to the water environment, is authorised subject also to the particular conditions in Schedule 4.

1.1.2 The Authorised Activities are for the primary purpose of hydro-electric power generation.

1.2 Locations of Authorised Activities

1.2.1 Each of the Authorised Activities may be carried on only in relation to the associated waters given for it in the third column of Table 1.1 and only at the national grid reference (NGR) given for it in the first column of that table, which location is referred to throughout this licence by the respective name or reference in the second column of that table.

Table 1.1 Authorised Activities

NGR	Name/Reference	Associated Waters	Activity
NJ 2655 0996	Milltown Burn weir	Milltown Burn	Construction and operation of an impounding works
NJ 2655 0996	Milltown Burn intake	Milltown Burn	Abstraction
NJ 2633 0936	Allargue tailrace	River Don	Return of abstracted water

SCHEDULE 2: GENERAL CONDITIONS

2.1 Responsible Person

- 2.1.1 The responsible person to whom this licence is issued shall secure compliance with the conditions contained in this licence.

2.2 Commencement of Authorised Activities

- 2.2.1 No construction works shall be commenced until SEPA has approved the required design drawings and method statement for that works in terms of Conditions 3.1.3 and 4.1.3.
- 2.2.2 No water shall be abstracted until SEPA has confirmed in writing that it has received notification in accordance with Condition 2.9.2 that the monitoring and measuring equipment has been successfully commissioned.
- 2.2.3 The responsible person shall notify SEPA in writing, using the contact details for notifications given in the explanatory notes attached to this licence, of the proposed commencement of the first of the Authorised Abstractions, no less than 2 weeks prior to said commencement, and of the actual date of commencement thereof, no more than 24 hours after said date.

2.3 Operation of the Authorised Activities

- 2.3.1 The Authorised Activities shall be carried on in accordance with the operating practice submitted with the application for this licence, unless that would involve a breach of any condition of this licence, in which case the licence condition shall take precedence.
- 2.3.2 Any changes to the submitted operating practice shall be notified to SEPA before implementation, using the contact details for notifications given in the explanatory notes attached to this licence.

2.4 Environmental Harm

- 2.4.1 Other than as specifically permitted or limited by any condition of this licence, none of the Authorised Activities shall have a significant adverse impact on, or cause pollution of, the water environment.

2.5 Incidents

- 2.5.1 In the event of an incident, SEPA shall be notified without delay and in any case by the next working day after identification of the incident, using the contact details for notifications given in the explanatory notes attached to this licence. This notification shall include: the time and duration of the incident, a description of the cause of the incident, any effect on the environment as a result of the incident and any measures taken to minimise or mitigate the effect and prevent a recurrence.
- 2.5.2 Where requested by SEPA, a written report shall be made in accordance with Condition 2.7.1 following any incident.

2.6 Records

- 2.6.1 A copy of this licence and, subject to Condition 2.6.2, of every record made in compliance with a condition of this licence shall be kept such that they are readily accessible for examination by all relevant persons and shall be made available to a SEPA officer on request.
- 2.6.2 Unless otherwise specified in a condition of this licence, every record made in compliance with a condition of this licence shall be preserved for not less than five years from the date of its being made. Every such record shall be kept as set out in Condition 2.6.1 for not less than one year from the date of its being made and thereafter preserved at a location previously notified to SEPA in writing, if that location is not the above site.
- 2.6.3 All records shall be legible, and any amendment made to any record made in compliance with a condition of this licence shall be made in such a way as to leave the original entry clear and legible. The reason for each amendment shall be explained in the said record.

2.7 Reporting

- 2.7.1 Where any condition of this licence requires information to be reported, a written report shall be forwarded, in a format agreed with SEPA, to SEPA at the address given for reports in the explanatory notes attached to this licence, by the date(s) or within the period or at the frequency specified in Table 2.1 and, where appropriate, the first report shall be due on the date specified in that table. All such reports shall include the reference number of this licence and the name of the responsible person.

Table 2.1 Reporting Requirements

Summary of information to be reported	Condition	Date by / period within / frequency at which to be reported	Date first report due
Incident report	2.5.2	Within 14 days of the request by SEPA	N/A
Impounding works monitoring data as specified in the Approved Monitoring Plan	3.5.1	Annually, by 31 January for the previous calendar year	As specified in the Approved Monitoring Plan
Abstraction monitoring data as specified in the Approved Monitoring Plan	4.7.1	Annually, by 31 January for the previous calendar year	As specified in the Approved Monitoring Plan

2.8 Monitoring Plan

- 2.8.1 Prior to commencement of any abstraction of water, a plan for monitoring the operation of the Authorised Activities shall be submitted to SEPA for approval at the address given for notifications in the explanatory notes attached to this licence.
- 2.8.2 The said monitoring plan shall include proposals on the monitoring locations, equipment, methods and data-recording procedures to be used to demonstrate compliance with Conditions 3.4, 4.3 and 4.4, as well as proposed dates for installation and commissioning of the proposed equipment and for the first reporting of abstraction and impounding works monitoring data.
- 2.8.3 Following adjustment, if necessary, and approval by SEPA of the said monitoring plan, it shall be implemented, and shall be revised periodically, at SEPA's request only, and re-submitted to SEPA for approval as above.

2.9 Installation and Maintenance of Measuring and Monitoring Equipment

- 2.9.1 Measuring and monitoring equipment shall be installed and commissioned as specified in the most recent monitoring plan submitted in accordance with Condition 2.8.1 and approved in accordance with Condition 2.8.3 ("the Approved Monitoring Plan"), by the respective dates for installation and commissioning set out in the said plan.
- 2.9.2 The responsible person shall notify SEPA, using the contact details for notifications given in the explanatory notes attached to this licence, when the measuring and monitoring equipment has been successfully commissioned.
- 2.9.3 All monitoring and measuring equipment shall be maintained in accordance with the manufacturer's instructions or to any relevant current certification standard, and in all cases so as to ensure that the said equipment is in good working order at all times.
- 2.9.4 All monitoring and measuring equipment shall be calibrated regularly and in accordance with the recommendations of the manufacturer or to any relevant current certification standard. Evidence of such calibration shall be recorded.

2.10 Plant and Equipment Control

- 2.10.1 Any vehicle, plant or other equipment used in connection with any of the Authorised Activities shall only be operated in surface water where it is not reasonably practicable for it to be operated on dry land.
- 2.10.2 Any such vehicle, plant or other equipment used in or near surface water shall be maintained or bunded so as to prevent spillage of any oil, fuel or other matter liable to cause pollution.
- 2.10.3 The refuelling of any such vehicle, plant or other equipment shall be undertaken at least 10 metres away from any surface water or any groundwater abstraction point.

2.10.4 The washing of any such vehicle, plant or other equipment shall be undertaken at least 10 metres away from any surface water, and waste water from such washing shall be prevented from entering any surface water.

2.10.5 Any static plant or equipment used temporarily within 10 metres of any surface water or any groundwater abstraction point shall be positioned on a suitably sized and maintained impervious drip tray with a capacity equal to 110% of the capacity of the fuel tank which is supplying the said plant or equipment.

2.11 Sediment Management

2.11.1 Sediment removal shall, if required, be carried out only at or immediately upstream of the location of any of the Authorised Activities.

2.11.2 The volume of sediment removed shall be the minimum necessary to maintain the efficient operation of the Authorised Activities.

2.11.3 All reasonable steps shall be taken to avoid increased erosion of sediment within the bed or banks of the affected surface water, both within the worked stretch and downstream of it, as a result of any sediment management.

2.11.4 Sediment management shall not result in the heightening of either bank of the affected surface water.

2.11.5 The bed of the channel adjacent to each bank of the affected surface water shall at all times be left undisturbed.

2.11.6 All reasonable steps shall be taken to prevent the transport of sediments or other matter disturbed by sediment management into waters beyond the worked stretch.

2.11.7 No sediment management shall be undertaken during the period in which fish are likely to be spawning in the affected surface water between October and May in any year without SEPA's prior written approval.

SCHEDULE 3: CONDITIONS APPLYING TO THE IMPOUNDING WORKS**3.1 Design and Construction of Impounding Works**

- 3.1.1 No less than two months prior to the proposed date of commencement of construction of any impounding works, a set of design drawings shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the design of each said works.
- 3.1.2 No less than one month prior to the proposed date of commencement of construction of any impounding works, a method statement shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the method of construction of each said works.
- 3.1.3 Following adjustment, if necessary, and written approval by SEPA of each said set of design drawings and method statement, construction of each said works shall be carried out in accordance with the approved design drawings and method statement.
- 3.1.4 No changes shall be made to any approved design drawings or method statement without SEPA's prior written approval.
- 3.1.5 Construction works shall not take place between October and May in any year.

3.2 Limits on Impounding Works

- 3.2.1 Each impounding works authorised by this licence (an "Authorised Impounding Works") shall not exceed the height given for it in Table 3.1.

Table 3.1 Maximum Height of Impounding Works

NGR	Name/Reference	Maximum height (metres)
NJ 2655 0996	Milltown Burn weir	1.2

3.3 Maintenance of Impounding Works

- 3.3.1 The structural integrity of each Authorised Impounding Works shall be maintained so as to ensure compliance with the conditions of this licence.

3.4 Fish Passes

- 3.4.1 A fish pass shall be provided at each location specified in the first and second columns of Table 3.2 of the type specified for that location in the third column of that table.

Table 3.2 Fish Passes

NGR	Name/Reference	Type
NJ 2655 0996	Milltown Burn weir	Fish channel

3.4.2 Any said fish pass shall be maintained and operated so as to facilitate the free passage of fish at all times except during maintenance works and any period when, for natural reasons, the flow in the affected surface water at the point where the impounding works is located is so low that fish would not reasonably be expected to seek passage.

3.4.3 If maintenance works lasting longer than 48 hours are required on any fish pass, SEPA shall be notified as soon as reasonably practicable at the address for notifications given in the explanatory notes attached to this licence.

3.5 Monitoring, Recording and Reporting of Impounding Works Data

3.5.1 Each Authorised Impounding Works shall be monitored in accordance with the Approved Monitoring Plan, and the resulting data shall be recorded in accordance with the Approved Monitoring Plan and reported to SEPA in accordance with Condition 2.7.1.

SCHEDULE 4: CONDITIONS APPLYING TO THE ABSTRACTION**4.1 Design and Construction of Abstraction Facilities**

- 4.1.1 No less than two months prior to the proposed date of commencement of construction of any structure by which water may be abstracted from the water environment (an "intake") or returned to the water environment (a "return structure") as specified in Table 1.1, a set of design drawings shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the design of each said structure.
- 4.1.2 No less than one month prior to the proposed date of commencement of construction of any intake or return structure, as specified in Table 1.1, a method statement shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the method of construction of each said structure.
- 4.1.3 Following adjustment, if necessary, and written approval by SEPA of each said set of design drawings and method statement, construction of the related structure shall be carried out in accordance with the approved design drawings and method statement.
- 4.1.4 No changes shall be made to any approved design drawings or method statement without SEPA's prior written approval.
- 4.1.5 Construction works shall not take place between October and May in any year.

4.2 Means of Abstraction

- 4.2.1 Each abstraction of water authorised by this licence (an "Authorised Abstraction") shall be made by gravity-fed pipe.

4.3 Rates of Abstraction

- 4.3.1 Each Authorised Abstraction specified in the first and second columns of Table 4.1 shall be carried on so as not to exceed either the rate or the daily volume given for that abstraction in the third and fourth columns, respectively, of that table.

Table 4.1 Rates of Abstraction

NGR	Name/Reference	Maximum rate (m³/second)	Maximum daily volume (m³)
NJ 2655 0996	Milltown Burn intake	0.1	8640

4.4 Hands Off Flow

- 4.4.1 For each intake specified in the first and second columns of Table 4.2, no water shall be abstracted whenever, during the period in any year given for that intake in the third column of that table, the flow upstream of the intake is at or below the rate given for that intake in the fourth column of that table.

Table 4.2 Hands Off Flow

NGR	Name/Reference	Period	Flow (m ³ /second)
NJ 2655 0996	Milltown Burn intake	All year	0.02

4.5 Fish Screens

- 4.5.1 Fish screens effective for preventing the passage of salmon and sea trout (including smolt, in the case of intakes) shall be provided at each location specified in the first and second columns of Table 4.3 for the period in any year given for that location in the third column of that table.

Table 4.3 Fish Screens

NGR	Name/Reference	Period
NJ 2655 0996	Milltown Burn intake	All year
NJ 2633 0936	Allargue tailrace	All year

4.6 Return of Abstracted Water

- 4.6.1 All abstracted water shall be returned to the water environment at the locations specified for such returns in Table 1.1.
- 4.6.2 The return of abstracted water shall not cause a significant visible impact on the surface waters due to the presence of oil.
- 4.6.3 The return of abstracted water shall not cause significant scouring of the bed or banks of the river.

4.7 Monitoring, Recording and Reporting of Abstraction Data

- 4.7.1 Each Authorised Abstraction shall be monitored in accordance with the Approved Monitoring Plan during the period in any year for which it is authorised, and the resulting data shall be recorded in accordance with the Approved Monitoring Plan and reported to SEPA in accordance with Condition 2.7.1

EXPLANATORY NOTES

(These explanatory notes do not form part of the licence)

1. THE WATER FRAMEWORK DIRECTIVE

The Water Framework Directive (WFD) is a wide-ranging piece of European environmental legislation which became law in Scotland at the end of 2003 through the Water Environment and Water Services (Scotland) Act 2003 and in April 2006 through the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (the "Controlled Activities Regulations").

The WFD establishes a legal framework for the protection, improvement and sustainable use of the water environment across Europe by requiring member states to:

- Prevent deterioration and enhance status of aquatic ecosystems, including groundwater;
- Promote sustainable water use;
- Reduce pollution; and
- Contribute to the mitigation of floods and droughts.

The Controlled Activities Regulations establish the regulatory framework for achieving some of the aims of the WFD in Scotland, by creating a regime for authorising "controlled activities", e.g. point source discharges, abstractions, impoundments and engineering activities. They provide for three levels of authorisation, dependent on the risks associated with a controlled activity. A licence is the highest level of authorisation.

Having differing levels of authorisation allows for proportionate and cost-effective controls, so that environmental protection can be achieved whilst minimising the regulatory burden.

2. WATER EFFICIENCY

Regulation 6 of the Regulations imposes a general duty to use water efficiently:

"It shall be the duty of any person carrying out a controlled activity authorised under these Regulations to take all reasonable steps to secure efficient and sustainable water use."

Water efficiency is the management of the total quantity of water abstracted from a source of supply using measures to minimise wastage, optimise use and reduce consumption.

The means of achieving this can be varied but may include good housekeeping, management systems and procedures, reusing and recycling water and the redesign of operations.

Water audits are the first step to using water efficiently. Water audits develop an understanding of the water system, enable detection of leakages and areas of water wastage and are a means of identifying opportunities for reduced water use.

3. APPEALS

If you are aggrieved by any of the conditions of the licence or the level of authorisation, you may appeal to the Scottish Ministers. Further information on your right of appeal and the appeals procedure is contained in regulations 46 to 49 and Schedule 9 of the Regulations.

Formal notice of appeal under regulation 46(b) or (c) is to be given within three months of the date that the licence is issued. Paragraph 2 of Schedule 9 lists the documents that the appellant has to submit to the Scottish Ministers.

4. SUBSISTENCE CHARGES

An annual subsistence charge may be payable in respect of the licence in terms of the Water Environment (Controlled Activities) Fees and Charges (Scotland) Scheme 2006, copies of which are available from SEPA. Where a subsistence charge is payable, an invoice will be sent to you.

5. GENERAL STATUTORY REQUIREMENTS

A licence under the Controlled Activities Regulations does not disapply any other statutory requirements applicable to the licence holder or his/her operations, such as any need to obtain planning permission or a building warrant, or any responsibilities under legislation for health, safety and welfare in the workplace.

6. ADDRESS FOR REPORTS

The contact address for all information to be **reported** in terms of Condition 2.7.1 of the licence is as follows: -

The Registry
Scottish Environment Protection Agency
Greyhope House
Greyhope Road
Torry
Aberdeen
AB11 9RD

7. CONTACT DETAILS FOR NOTIFICATIONS

The contact address and telephone number for all **notifications** in terms of the licence is as follows: -

Scottish Environment Protection Agency
Greyhope House
Greyhope Road
Torry
Aberdeen
AB11 9RD

During office hours:

Tel No: 01224 248338

Fax No: 01224 248591

Out of office hours and public holidays

Tel No: 0800 80 70 60

8. SEPA REVIEW AND VARIATION OF CONDITIONS

The conditions of the licence will be periodically reviewed by SEPA and may be varied under regulation 19 of the Regulations as a result of that review.

9. OPERATOR-INITIATED VARIATION OF CONDITIONS

The responsible person may apply to SEPA under regulation 21 for a variation of the conditions of the licence.

10. TRANSFER OF AUTHORISATION

A responsible person may apply to transfer the licence to another person under regulation 22 by making a joint application with the other person.

11. SURRENDER OF AUTHORISATION

Where the controlled activities authorised by the licence have ceased, or it is intended that the controlled activities will cease, the responsible person may apply to SEPA to surrender the licence under regulation 24.

12. SUSPENSION AND REVOCATION OF AUTHORISATION

SEPA may at any time suspend or revoke an authorisation (in whole or in part) by serving a notice on the responsible person under regulation 26.

13. ENFORCEMENT NOTICES

Where SEPA is of the opinion that an activity

- a) has contravened, is contravening or is likely to contravene any condition of the licence or
- b) has caused, is causing or is likely to cause significant adverse impacts on the water environment or
- c) has caused, is causing or is likely to cause a direct or indirect discharge into groundwater of substances listed in Schedule 2 of the Regulations

SEPA may serve an enforcement notice on the responsible person under regulation 28.

This notice will specify the steps to be taken by the responsible person which SEPA considers to be necessary or appropriate to prevent, mitigate or remedy the contravention, the impact on the environment or the discharge into groundwater.

14. OFFENCES

It is an offence to carry on, or cause or permit others to carry on, any controlled activity except insofar as it is authorised under the Regulations and carried on in accordance with that authorisation.

It is an offence to fail to comply with or contravene, or cause or permit others to fail to comply with or contravene, a water use licence, including any condition imposed.

It is an offence to fail to comply with, or cause or permit others to fail to comply with, the requirements of an enforcement notice.

It is an offence to intentionally make, or cause or permit others to make, a false entry in any record required to be kept under a condition of an authorisation.

Further details on these and other offences and on penalties liable to be imposed upon conviction for an offence are provided in regulation 40 of the Regulations.

Directors, managers and other individuals within a company may be held personally liable for offences under the Regulations.

All personnel who are responsible for fulfilling any condition of the licence should be made aware of these facts.

Please note that your licence authorises you to carry out the activity or activities outlined in your application to SEPA in accordance with the licence and its conditions. Be aware however, that any activity outwith the terms of the licence is prohibited under regulation 5 of the Regulations. Should you undertake any activity which does not conform to the terms of your licence, you may be subject to criminal proceedings in accordance with regulation 40(1)(a) of the Regulations. This prohibition encompasses any 'accidental' activity which is liable to cause pollution of the water environment, as "activities liable to cause pollution of the water environment" are controlled activities within the definition of section 20 of the Water Environment and Water Services (Scotland) Act 2003, even if SEPA would not grant an authorisation for such an activity.

The statutory definition of pollution, as set out in that section, is as follows:-

"Pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and "harm" means –

- (a) harm to the health of human beings or other living organisms,*
- (b) harm to the quality of the water environment, including-*
 - (i) harm to the water environment taken as a whole,*
 - (ii) other impairment of or interference with, the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,*
- (c) offence to the senses of human beings,*
- (d) damage to property, or*
- (e) impairment of, or interference with, amenities or other legitimate uses of the water environment.*