

CONSULTATION ON THE CONSERVATION (NATURAL HABITATS.) AMENDMENT (SCOTLAND) REGULATIONS 2006

RESPONSE OF THE SCOTTISH ENVIRONMENTAL SERVICES ASSOCIATION

The Scottish Environmental Services Association (SESA) is the sectoral trade association representing Scotland's managers of waste and secondary resources. SESA's Members provide essential waste and secondary resources management services to the public and private sectors across Scotland. Our Members want a planning system and regulatory regime which provides the certainty and confidence for them to invest in waste management infrastructure.

THE INCIDENTAL RESULTS DEFENCE

SESA welcomes the provision to accommodate the "incidental results" of an otherwise lawful activity through the licensing of such activities.

Competent authorities such as SEPA and SNH require clear, robust and timely guidance and adequate resources to allow for "incidental results" to be incorporated within the remit of regulatory control. The removal of this defence in the amended regulations is likely to result in an increase in licence applications and without additional resources for the regulators, SESA is concerned that this could result in regulatory delays.

WILDLIFE AND COUNTRYSIDE ACT 1981

SESA supports option II – removal of EPS from the provisions of the Wildlife and Countryside Act whereby protection of EPS would be solely provided for within the Habitat Regulations. A consolidated set of regulations would benefit both regulators and developers.

DEVELOPMENT PLANS

Whilst SESA supports proposals for planning authorities to account for the protection of designated European sites in the development plan process, this is likely to further restrict the availability of land for development. The Scottish Executive, and local authorities must therefore be prepared to identify and make greater provision for waste management infrastructure at alternative sites.

SESA is further concerned that the proposed amendments may duplicate existing planning controls. The requirement for an assessment of the implications of a landuse development on designated European sites is provided for within the current planning system. The submission of an Environmental Impact Assessment, as part of a planning application, already assesses potential impacts on species and designated European sites and proposes mitigation measures. Planning authorities, upon receipt of an EIA, are currently required to consult with appropriate nature conservation bodies and have regard to any representations made by that body.