

## CPH APPENDIX 2

### PROJECT INDICATIVE LEGISLATION REGISTER

#### 1 INTRODUCTION

##### 1.1 BACKGROUND

1.1.1 The CPH for the Beauldy-Denny Replacement Transmission Line project is intended to provide the contractor with a useful and essential project-specific tool to manage on-site construction activities, which may affect the environment. The key objective is to ensure that the risk of adverse impacts is reduced to the minimum necessary for the works and that all environmental commitments and conditions are met.

1.1.2 Environmental commitments and requirements relating to the project include:

- Mitigation measures set out in the ES; the Addendum to the ES (December 2005); and the second Addendum to the ES (October 2006) (the 'Addenda');
- Further mitigation measures agreed post publication with consultees including the Local Authorities, Forestry Commission Scotland (FCS), Historic Scotland, SEPA and SNH;
- Further mitigation set out in the Project Commitments Register agreed by SPT with landowners and land managers etc;
- Conditions attached to the consent by the Scottish Ministers;
- Any conditions of Controlled Activities Regulations (CAR) licences;
- Any conditions included in European Protected Species (EPS) or other protected species licences;
- Any conditions attached to scheduled monument consents;
- Any specific requirements relating to Listed Buildings etc as agreed with Local Authority archaeologists;
- Environmental commitments in the Contractor's environmental management system (EMS), ISO 14001 or equivalent; and
- Environmental best practice measures including those set out by statutory agencies such as the Scottish Government<sup>1</sup>, SEPA, SNH, FCS etc (some of which are also included in the ES mitigation).

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<sup>1</sup> Previously the Scottish Executive

- 1.1.3 Most of the above are linked to very clear regulatory requirements included in UK and European environmental legislation. It is therefore recognised that a guide to applicable legislation would form a useful tool as part of the CPH.
- 1.1.4 This Appendix summarises the regulatory requirements applicable to the prevention and mitigation of adverse environmental impacts that could arise from construction activities. The Guidance is designed to compliment an Environmental Management System (EMS) approach and is modelled on documentation that would meet the requirements of ISO 14001.

## 2 SCOPE AND STRUCTURE

### 2.1 SCOPE

2.1.1 The guidance provides summaries of environmental legislation that places duties and responsibilities on SPT and the Contractor during current and planned project activities. Specific legislation on Health and Safety is not included. Similarly, planning related issues (under Development Control) are included only where they relate to environmental protection. The guidance does not provide details of sanctions for breach of regulatory requirements.

### 2.2 CONTENT

2.2.1 The UK legislative system and key government bodies and regulatory authorities are outlined below. Summaries of relevant legislation are presented in Sections 1- 7 of the guidance, each addressing a separate subject area.

- Section 1: Emissions to the atmosphere.
- Section 2: Discharges to the aquatic environment.
- Section 3: Contaminated land and remediation.
- Section 4: Waste disposal and management.
- Section 5: Statutory nuisance.
- Section 6: Development control.
- Section 7: Wildlife and habitats.

2.2.2 Each section provides the following information:

- a brief summary of each piece of legislation.
- the key duties or prohibitions.
- the actions (if any) needed to comply with the regulations.
- the enforcement authority.

2.2.3 The guidance reflects the status of the legislation as of January 2012. Periodic updating of the Register will be required to ensure that it remains current and applicable to the activities taking place within the Beauldy-Denny project, both in terms of changes in the legislation and also possible changes in proposed project activities.

2.2.4 The guidance contains summaries of key aspects of the legislation and the material should not be taken as a substitute for the full text of the legislation or legal advice in any particular case. This guidance cannot reflect all aspects of possibly relevant law and is provided with no guarantee of being complete or up to date.

### 3 LEGISLATIVE SYSTEM

#### 3.1 UK LEGISLATION

- 3.1.1 Statutory control in the United Kingdom is provided by legislation comprising Acts of Parliament (primary legislation) and delegated (secondary) legislation in the form of Statutory Instruments (SI's). Ministers may be empowered by Acts to make SI's for specific purposes. SI's (including Regulations, Orders in Council, Orders and Rules), are extensions of the Acts under which they are made and it is not necessary for them to go through the full Parliamentary process prior to becoming law as is required for Acts of Parliament. An Act of Parliament is identified by its name and year. Statutory Instruments are identified by name, year and SI number. Scottish SI's (SSI's) have both a Scottish reference number and an equivalent UK number.
- 3.1.2 Information and guidance on legislation is provided in non-statutory instruments, including Approved Codes of Practice, Codes of Practice, Guidance Notes and Approved Lists.
- 3.1.3 Certain items of legislation apply only to Scotland and generally there are equivalent items of legislation for England and Wales although detailed provisions may vary. Other items of legislation apply to Scotland, England and Wales.

#### 3.2 EU LEGISLATION

- 3.2.1 European Union legislation on the environment is largely in the form of Directives. Directives are addressed to Member States' governments and are generally implemented by national legislation although in some cases administrative mechanisms are used. In some cases EU Regulations are used and these apply directly and do not need Member State government implementation.

#### 3.3 ORGANISATIONAL STRUCTURE

- 3.3.1 The United Kingdom has a centralised structure of government. Environmental legislation and organisations responsible for its implementation differ in parts of the UK. Regulation and administrative provisions in Scotland may differ from those in England and Wales, although in general, parallel provisions apply throughout the UK, particularly in basic legislation. Key levels of government and regulatory authorities dealing with environmental policy and law in Scotland are as follows:
- **Scottish Government Rural and Environment Directorate:** Responsible for the development and implementation of environment policy and legislation in Scotland.
  - **Department of the Environment, Food and Rural Affairs (DEFRA):** Responsible for the development and implementation of environmental policy and legislation in England and Wales and in some cases also for Scotland.
  - **The Scottish Environment Protection Agency (SEPA):** Created by the Environment Act 1995 as an agency for Scotland. The Agency began

functioning on 1 April 1996. SEPA is organised into three regions (East, North and West), each with a regional director supported by Area Teams. The regions each have a Regional Board.

- **Water Authorities:** The Water Industry (Scotland) Act 2002 dealt with the formation of a new single water authority in Scotland - Scottish Water. It was formed to replace the previous three authorities (East, North and West) as a corporate body in March 2002. Scottish Water is responsible for issuing consents for discharge to sewer. Other responsibilities include setting ambient water quality standards and monitoring water quality, monitoring discharges to water and sewer, monitoring the performance of water and wastewater treatment plants, and devising and implementing policy for the recreational use of surface waters.
- **Environmental Health Officers (EHO's):** Local authority officers with responsibilities for local pollution control including noise, nuisance and contaminated land.
- **Health and Safety Executive (HSE):** Responsible for implementing health and safety legislation.
- **Scottish Natural Heritage (SNH):** Responsible for the conservation and enhancement of the natural heritage of Scotland. Has inherited the powers and responsibilities of its predecessor organisations, the Nature Conservancy Council for Scotland and the Countryside Commission for Scotland.
- **Historic Scotland:** An Executive Agency of Scottish Government responsible for safeguarding Scotland's archaeological and built heritage.
- **Transport Scotland:** The national transport Agency with responsibilities for maintaining the trunk road network.

## SECTION 1: EMISSIONS TO THE ATMOSPHERE

### INTRODUCTION

The principle air pollution control system in the UK was introduced by the *Environmental Protection Act 1990* (EPA 1990). The EPA 1990 introduced integrated pollution control (IPC) for major industrial facilities (Part A) and an alternative system of air pollution control (APC) for less polluting facilities (Part B). The system has now been superseded by the new IPPC regime introduced with the *Pollution Prevention and Control Act (1999)*. Because this system of pollution control is specific to facilities and installations there are no activities to be undertaken within the Beaulay-Denny construction project that would need a licence or authorisation under the PPC regime.

In addition to these controls, however, the *Clean Air Act 1993* and secondary legislation provide for the control of other aspects of air pollution such as smoke, fuel consumption and vehicle emissions.

### LEGISLATION

<b>1. CLEAN AIR ACT 1993</b>	
<b>Emissions Control</b>	
<b>Summary</b>	Parts IV and V of the Clean Air Act 1993 address emissions from various sources. The Act amends and replaces earlier provisions in the Control of Pollution Act 1974 (COPA 1974). Some of the regulations made under COPA 1974 remain in force. Provides for the prevention of certain types of atmospheric pollution. The following issues are addressed: Motor fuel, sulphur content of oil fuel for furnaces or engines and cable burning (S.33).
<b>Relevance</b>	Relevant to emissions to air from plant and vehicles during on-site construction and other contractor site practices such as waste disposal. A person who burns insulation from a cable, for example, to recover metal from the cable is guilty of an offence unless the burning is part of a process subject to Part 1 of the EPA 1990.
<b>Action</b>	Contractor(s) operating on site should be aware of the prohibition on cable burning and comply with it.
<b>Regulator</b>	Local Authorities.

<b>2. ENVIRONMENTAL PROTECTION ACT 1990, PART III</b>	
<b>Statutory Nuisance</b>	
<b>Summary</b>	Gives local authorities powers to deal with a range of statutory nuisances including noise, odour, fumes and dust emissions. Where a statutory nuisance exists or is likely to occur or recur local authorities must serve an abatement notice. Failure to comply with the terms of the abatement notice is an offence.
<b>Relevance</b>	Would apply if activities take place that could lead to one of the above nuisances e.g. excessive dust, fume and noise emissions from plant and equipment.
<b>Action</b>	Contractor(s) must ensure that no nuisances related to emissions to air are caused by site activities and to implement committed mitigation at all times when there was a risk of breaching the Act.
<b>Regulator</b>	Local Authorities.

<b>3. COUNCIL REGULATION EC/3093/94 ON SUBSTANCES THAT DEplete THE OZONE LAYER</b>	
<b>Ozone Depletion</b>	
<b>Summary</b>	The control of substances which deplete the ozone layer is regulated by European legislation which applies directly in the UK. EC/3093/94 implements the Montreal Protocol 1987 (amended in 1990 & 1992). This Regulation replaces Regulation EEC/594/91 (as amended). It accelerates the phasing out of the use of ozone depleting substances. The Regulation sets targets for the reduction / phasing out targets for named substances and sets quotas for imports. Rules for recovery, destruction and recycling of the used controlled substances are also set out. For all ozone depleting substances, an annual list of essential uses exempted from the Regulation will be produced by each Member State.
<b>Relevance</b>	<p>Targets set in the Regulation include a complete ban on production and sale of substances as follows:</p> <ul style="list-style-type: none"> <li>• CFCs by 1 January 1995.</li> <li>• Carbon Tetrachloride by 1 January 1995.</li> <li>• HCFCs by 23 June 1995 except for exempted uses (e.g. refrigerants, solvents). All uses will be phased out by 2015.</li> <li>• 1,1,1 Trichloroethane by 1 January 1996.</li> <li>• Hydrobromofluoro-carbons from 1 January 1996.</li> </ul> <p>For methyl bromide, using 1991 as a base level there will be a freeze on production levels from 1 January 1995 and a 25% reduction from 1 January 1998. Relevant to the use of fire extinguishers containing halons. Small quantities of HCFCs could be used in refrigeration / cooling units. Aerosols could be used by contractors for degreasing purposes.</p>
<b>Action</b>	Ozone depleters must be recovered, if practicable, for recycling, reclamation or destruction during service and maintenance of equipment, as well as prior to

	<p>equipment dismantling or disposal. It is also necessary to take precautionary measures to prevent leakages during operation and servicing.</p> <p>If contractor(s) have any equipment containing ozone depleters it would be wise to conserve them (the law now requires this) and switch to equipment containing substitutes as soon as possible. Close monitoring and regular servicing of equipment will minimise emissions and leakage.</p>
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<p><b>4. COUNCIL REGULATION EC/2037/2000 ON OZONE DEPLETING SUBSTANCES</b></p>	
<p>Summary</p>	<p>This regulation sets a ban on the supply of certain ODS (e.g. CFCs, halons etc) and sets tougher requirements regarding their recovery from equipment and to prevent leakage from systems. There is also a revised timetable for the supply of HCFCs starting in 2001 and a new timetable for the phase out of the EU production of HCFCs.</p>
<p>Relevance</p>	<p>ODS must be recovered, if practicable, for recycling, reclamation or destruction during service and maintenance of equipment as well as prior to equipment dismantling and disposal. It is necessary to take precautionary measures to prevent leakage during installation, operation and service.</p>
<p>Action</p>	<p>If any ODS are associated with contractor plant and equipment they should be conserved and removed and a switch made to an acceptable substitute as soon as possible. Close monitoring and regular service will minimise emissions and leakage.</p>

## SECTION 2: DISCHARGES TO THE AQUATIC ENVIRONMENT

### INTRODUCTION

The principal mechanism of water pollution control in Scotland is through a system of 'consents' for the discharge of liquid effluent or solid matter to water. For the majority of discharges to water (rivers, lochs, streams and coastal waters), control was provided by part II of the *Control of Pollution Act (1974)* as amended by schedule 23 of the *Water Act 1989* and by schedule 16 of the *Environment Act 1995*, and is the responsibility of the Scottish Environment Protection Agency (SEPA).

As a result of revisions brought about by the implementation of the Water Framework Directive the controls under Part II of the Control of Pollution Act 1974 have largely been absorbed into new regulations – the *Water Environment (Controlled Activities) (Scotland) Regulations 2005* (CAR) under which consents will operate but which will still be administered by SEPA. These regulations have been recently superseded by the *Water Environment (Controlled Activities) (Scotland) Regulations 2011* which has updated the consenting system.

Sources of uncontrolled discharge could arise from accidental releases, spills or leaks during construction and maintenance activities.

### LEGISLATION

<p><b>1. CONTROL OF POLLUTION ACT 1974, PART II (COPA)</b>  <b>WATER ACT 1989 (SCH.23)</b>  <b>ENVIRONMENT ACT 1995 (SCH.16)</b>  <b>WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2005 (CAR)</b>  <b>WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2011</b></p>	
<p><b>Consents for Discharge to Surface Water</b></p>	
<p><b>Summary</b></p>	<p>Controls water pollution from trade discharges and other sources through a system of discharge consents. The Act relates to 'controlled waters', defined to include inland surface waters, groundwater, coastal and territorial waters. The current drafting of COPA, last amended in the 1995 EPA, consolidates the water pollution offence provisions in a single section. S.46 of COPA 1974 contains provisions which empower SEPA to remedy or forestall pollution of water, and to recover costs from the "persons who caused or knowingly permitted any poisonous, noxious or polluting matter" to enter a "controlled water" except where subject to consent.</p> <p>CAR brought in to replace COPA Part II and to control activities likely to cause pollution. It will continue to control water pollution from trade discharges and other sources through a system of discharge consents, and still relates to 'controlled waters'. CAR is intended to provide a more flexible and proportionate approach to controlling discharges.</p>
<p><b>Relevance</b></p>	<p>Causing or knowingly permitting poisonous, noxious or polluting matter to enter controlled waters is an offence (including trade or sewerage effluent, or any matter other than trade or sewerage effluent that comes from a sewer). A</p>

	<p>discharge as outlined above is permitted if it occurs in accordance with a discharge consent or a disposal licence. Consent conditions may be imposed including the nature, origin, composition, temperature, volume and rate of discharge.</p> <p>Discharges of wastewater or solid matter to surface watercourses or to groundwater may require a 'consent'. Accidental or uncontrolled discharges may lead to an offence. Sources of discharge include:</p> <ul style="list-style-type: none"> <li>• Surface water (mainly rain water) generally draining from construction working areas and sites.</li> <li>• Surface drainage from construction works that may have received spillages of fuel, lubricating oils, diesel and any other harmful chemicals.</li> <li>• Surface drainage from construction works and sites contaminated by suspended solids.</li> </ul>
Action	Contractor(s) must meet all consent requirements and ensure that there is no accidental leakage or spillage of contaminants that could cause pollution of surface or ground waters.
Regulator	SEPA

<b>2. PUBLIC HEALTH (SCOTLAND) ACT 1897 (AS AMENDED BY THE ENVIRONMENTAL PROTECTION ACT, 1990)</b>	
<b>Statutory Nuisance for Surface Water and Groundwater</b>	
Summary	Sets out provisions for statutory nuisance in relation to surface water and groundwater.
Relevance	It is a statutory nuisance to cause a watercourse to be so foul or obstructed that it is prejudicial to health or becomes a nuisance. Relevant to: <ul style="list-style-type: none"> <li>• Spills of petrol, diesel, lubricating oils and any other chemicals.</li> <li>• Leaks from tanks and chemical storage areas.</li> </ul>
Action	Contractor(s) should promote good working practices to ensure that any minor spills or discharges in an around construction sites do not constitute a statutory nuisance. Particular attention should be given to preventing a spill or leak from any bulk storage tanks (e.g. for diesel and oil) and chemical storage areas.
Regulator	SEPA

<b>3. THE WATER ENVIRONMENT (OIL STORAGE) (SCOTLAND) REGULATIONS 2006</b>	
<b>Oil Storage</b>	
Summary	Set out the requirements for the storage of oil (including petrol, diesel, mineral

	oil, heating oil, lubricating oil, waste oil, vegetable and plant oil) in fixed tanks, intermediate bulk containers, and drums. The regulations provide design standards for new and existing above ground oil storage facilities. Oil storage must comply with the regulations which cover requirements such as – nature of container, need for secondary containment, bund requirements, pipework, etc.
Relevance	Contractor(s) are likely to store a number of fuels and oils in above-ground bulk storage tanks.
Action	Under these regulations contractor(s) would need to make sure that they meet all the requirements (e.g. for bunding, tank inspection and maintenance) and do not run the risk of causing any contamination of nearby watercourses or drains through accidental spill or leakage from storage tanks.
Regulator	SEPA

## SECTION 3: CONTAMINATED LAND AND REMEDIATION

### INTRODUCTION

Contamination of land either by present or past activities is an issue of increasing concern, due primarily to the associated liabilities and requirements for clean-up and cost recovery which the regulators can place on a company and individual members of a company. Such action can result in very large costs and/ or imprisonment. Current legislation relating to environmental remediation of contaminated land and water is provided in several key pieces of legislation. Key provisions related to contaminated land have been inserted into the *Environmental Protection Act 1990 (EPA 1990)* by the *Environment Act 1995*. Additional provisions occur in the Contaminated Land (Scotland) Regulations 2000, which concentrate on safeguards for ensuring the concepts of “suitable for use” and “end of use” with respect to contaminated land. There are also provisions in several other pieces of legislation relevant to environmental clean up (e.g. the *Control of Pollution Act 1974* (as amended by the *Water Act 1989*).

Under the EPA 1990 liability for certain environmental offences can be placed not only on a company or organisation as a whole, but also on an individual director, manager or other member of the company, where the offence is proved to have been caused through the consent, connivance or neglect of that individual. Costs may also be incurred as a result of a notice being served under statutory nuisance provisions requiring modifications to operating procedures / plant / equipment etc. (see also *Section 5*). Failure to comply with a nuisance abatement notice may result in prosecution.

### LEGISLATION

<p><b>1. ENVIRONMENTAL PROTECTION ACT 1990 (S. 78 AMENDED BY S.57 OF ENVIRONMENT ACT 1995)</b>  <b>THE CONTAMINATED LAND (SCOTLAND) REGULATIONS 2000</b>  <b>THE CONTAMINATED LAND (SCOTLAND) REGULATIONS 2005</b></p>	
<p><b>Contaminated Land Registers and Clean-up Provisions</b></p>	
<p><b>Summary</b></p>	<p>Under the 1995 Act, local authorities have duties to inspect their areas for contaminated land and where required to serve a remediation notice on that land. The Scottish Environmental Protection Agency (SEPA) has similar responsibilities for land designated a ‘special site’. Registers of information are required to be held by local authorities containing details of notices served etc. A regime for dealing with contaminated land has been inserted into the EPA 1990 by the EA 1995.</p> <p>Regimes have been introduced for land investigation, ‘special site’ designation and clean up. These have been enforced through the Contaminated Land (Scotland) Acts of 2000 and 2005.</p>
<p><b>Relevance</b></p>	<p>The enforcing authorities must maintain a register containing certain information relating to remediation notices, appeals, convictions etc. relevant to all areas of land identified as contaminated e.g. with asbestos, fuel, heavy metals etc.</p> <p>Local authorities must inspect their areas in order to identify contaminated land. If any such land is found a notice shall be served on the owner of the land and on any person who caused or knowingly permitted the contamination</p>

	<p>(an 'appropriate person'), setting out the reasons for the notice. A 'remediation notice' must be served on the 'appropriate person' or if no such person can be found, on the owner of the land. The notice specifies the clean up works required, with dates. SEPA has similar responsibilities for land designated as 'special sites'.</p> <p>Detailed registers of information are required to be held by local authorities, containing details of notices served etc. It is an offence not to comply with any of the requirements of a remediation notice. In certain circumstances the authority may carry out the remediation works and recover the costs from the land owner.</p>
Action	SPT and the Contractor would be required to clean up any land caused to be contaminated. The main risks are likely to be associated with bulk storage tanks for fuels, oils and other chemicals should they start to leak or if there was an accidental spill to ground.
Regulator	Local Authorities and SEPA

<b>2. ENVIRONMENTAL PROTECTION ACT 1990, PART II (S.73)</b>	
<b>Unlawful Deposit of Waste</b>	
Summary	Imposes a prohibition on the unauthorised depositing of waste supplemented with a more general duty of care.
Relevance	Regarding persons involved in the unlawful deposit of waste for any damage caused, subject to limited exceptions. Relevant to: <ul style="list-style-type: none"> <li>• Unlawful waste disposal.</li> <li>• Contractors / clients.</li> <li>• Fly-tippers.</li> </ul>
Action	SPT and the Contractor should ensure that no waste is deposited on land without a licence or registered exemption to do so.
Regulator	SEPA

## SECTION 4: WASTE DISPOSAL AND MANAGEMENT

### INTRODUCTION

The principal system of waste management operating throughout the UK is that provided by the *Environmental Protection Act 1990 (EPA)* which has replaced most of the earlier system provided by the *Control of Pollution Act 1974 (COPA)*. Both systems apply to 'controlled waste' which includes non-hazardous and hazardous waste. Hazardous waste in Scotland is 'special waste' as defined in the *Control of Pollution (Special Waste) Regulations 1980* issued under *COPA 1974* and the more recent *Special Waste Amendment (Scotland) Regulations 2004 (SSI 2004/112)* and the *Special Waste Amendment (Scotland) Amendment Regulations 2004 (SSI 2004/204)*.

The *EPA* introduced a 'Duty of Care' on all who produce, import, carry, keep, treat, or dispose of controlled waste. Other specific aspects of waste management such as waste transfer and waste carriage are covered by relevant Regulations issued under the two principal Acts. The control of litter is treated separately from other waste, principally by the *EPA (1990)* and associated Regulations. It is likely that contractors would generate both non-hazardous 'general' waste as well as hazardous or 'special' waste during construction activities.

The *EPA 1990* has been updated by the *Waste (Scotland) Regulations 2011* that amend various enactments in order to transpose *Directive 2008/98/EC* on waste and to affect certain additional changes. The chief of these as far as contractors are concerned is extending the duty of care in Section 34 to include compliance with the waste hierarchy set out in Article 4 of the Directive.

### LEGISLATION

<b>1. CONTROLLED WASTE REGULATIONS 1992 (AMENDED 1993)</b>	
<b>Definitions</b>	
<b>Summary</b>	There are currently two systems of waste classification in place. The first was adopted under <i>COPA</i> and the other was adopted under the <i>EPA</i> . Requirements under the <i>EPA</i> are gradually being implemented and replacing the provisions of <i>COPA</i> . Both pieces of legislation apply to 'controlled waste' and 'special waste' as defined in the relevant Regulations. These Regulations are made under the <i>EPA 1990</i> and define controlled waste for the purposes of Part II of the Act. 'Controlled waste' includes household, industrial and commercial waste.
<b>Relevance</b>	Contractors are likely to produce a number of controlled wastes as follows: <ul style="list-style-type: none"> <li>• Earth and other excavated waste materials</li> <li>• Cleared trees and other vegetative waste</li> <li>• Paper and cardboard</li> <li>• Plastic</li> <li>• Wood</li> <li>• Metal</li> <li>• Spent oils, greases, solvents and hydraulic fluids and containers</li> </ul>
<b>Action</b>	Contractor(s) should regularly check the requirements of waste contractors for collection and disposal of different controlled wastes and implement the site

	waste plan.
Regulator	SEPA

<b>2. ENVIRONMENTAL PROTECTION ACT 1990, PART II (S.34)</b>	
<b>Waste Duty of Care</b>	
Summary	A Duty of Care is imposed on all who produce, import, carry, keep, treat or dispose of controlled waste. Breach of the Duty of Care is a criminal offence.
Relevance	It is the duty of any person who produces, imports, carries, keeps, treats or disposes of controlled waste to ensure that waste is transferred only to a person authorised for transport purposes and that the waste is accompanied by a transfer note. Reasonable measures must be taken to prevent escape from the control of the person, or any other person, and to prevent illegal disposal by any other person. Breach of the duty of care is a criminal offence.
Action	Contractor(s) must comply with the 'Duty of Care'.
Regulator	SEPA

<b>3. ENVIRONMENTAL PROTECTION (DUTY OF CARE) REGULATIONS 1991</b>	
<b>Waste Transfer Documentation</b>	
Summary	Sets out documentation requirements.
Relevance	Requires those persons transferring and receiving a written description of the controlled waste to each keep copies of that description and copies of a transfer note for two years. The transfer note must give certain details about the waste and about the persons transferring and receiving the waste.
Action	Contractor(s) have a duty to ensure that waste is transferred only to a person authorised for transport purposes and that the waste is accompanied by a transfer note. Contractor(s) must complete transfer notes and keep them, and written descriptions of the waste for a minimum of two years.
Regulator	SEPA

<b>4. THE SPECIAL WASTE REGULATIONS 1996 (AMENDED 1996, 1997)</b>	
<b>Hazardous Waste</b>	
Summary	<p>Hazardous waste is termed "<i>Special Waste</i>" in Scotland. Its disposal is controlled under specific Regulations. These Regulations list categories of waste which are to be regarded as 'special waste' if, in addition to being on the list, the waste exhibits any of a list of physico-chemical characteristics which give it hazardous properties.</p> <p>In addition, any waste except household waste which exhibits one of a number of hazardous properties is classified as 'special waste' even if it is not included in the list of categories of waste given in the Regulations. Under the EPA 1990</p>

	'special waste' is treated as 'controlled waste'.
Relevance	<p>Consignment notes are required for transport of special waste, requiring a unique code supplied by SEPA. The consignor and carrier of the waste have obligations regarding record keeping. It is prohibited to mix special waste with other categories of waste, except where this is authorised under special circumstances.</p> <p>A fee will be payable to SEPA for most consignments of 'special waste'. Consignment notes issued under the new regulations should be held for 3 years. Contractor(s) are likely to generate variable quantities of 'special' waste. This would include for example:</p> <ul style="list-style-type: none"> <li>• Waste oils.</li> <li>• Waste residues of lubricants and de-greasing agents.</li> <li>• Oily rags and waste absorbent materials used to soak up spillages of fuels, oils and other similar materials.</li> </ul>
Action	Contractor(s) will need to meet the obligations for the disposal of 'special' wastes and maintain a register of consignment notes. They should also keep a check on which of their wastes are classified as 'special' (in line with any new legislation) and ensure that these are handled and disposed of in a manner acceptable to the regulator. Good environmental management practice would suggest that even where small quantities of waste that is classified as 'special' (such as batteries, paints and solvents) is generated that it should be disposed of via the safest and most environmentally acceptable route.
Regulator	SEPA

## 5. THE SPECIAL WASTE AMENDMENT (SCOTLAND) REGULATIONS 2004

### THE SPECIAL WASTE AMENDMENT (SCOTLAND) AMENDMENT REGULATIONS 2004

#### Hazardous Waste

Summary	Make important changes to The Special Waste Regulations in Scotland, in particular by incorporating the revised European Waste Catalogue. The definition of 'special' waste is amended to incorporate the definition set out in the Hazardous Waste Directive. Further amendments relating to packaging and labelling, special waste registers and a duty to segregate wastes.
Relevance	Widens the scope of wastes to be classed as 'special' waste.
Action	Contractor(s) should keep a check on the classification system and make sure that all special wastes continue to be dealt with in accordance with the regulations (see above).
Regulator	SEPA

## 6. CONTROL OF POLLUTION (AMENDMENT) ACT 1989

### Waste Carriage and Transfer

Summary	This Act deals with the registration of waste carriers and provides powers to control illegal dumping of waste (fly-tipping).
Relevance	A carrier of waste must be registered with SEPA unless exempt. This is relevant to the transport of waste off-site.

Action	The Contractor must use only registered waste carriers for movement of waste offsite.
Regulator	SEPA

<b>7. THE WASTE (SCOTLAND) REGULATIONS 2011</b>	
<b>Waste Management</b>	
Summary	<p>These Regulations amend various enactments in order to transpose aspects of Directive 2008/98/EC on waste (“the Directive”) and to effect certain additional changes. Regulation 2 amends the Environmental Protection Act 1990 (“the 1990 Act”).</p> <p>Paragraph (4)(b) extends the duty of care in section 34 to include compliance with the waste hierarchy set out in Article 4 of the Directive, while paragraph (4)(c) inserts relevant definitions and paragraph (4)(d) extends the offence of failure to comply with the duty of care to non-compliance with the new waste hierarchy provisions.</p>
Relevance	<p>It is a duty for any person who produces, keeps or manages controlled waste, or as a broker or dealer has control of such waste, to take all such measures available to that person, as are reasonable in the circumstances to apply the waste hierarchy set out in Article 4(1) of the Waste Directive i.e.</p> <ul style="list-style-type: none"> <li>• Prevention.</li> <li>• Reuse and preparation for reuse</li> <li>• Recycle</li> <li>• Recovery</li> <li>• Disposal</li> </ul>
Action	Contractors must apply the waste hierarchy in managing all wastes on site during the development.
Regulator	SEPA

## SECTION 5: STATUTORY NUISANCE

### INTRODUCTION

Statutory nuisance is an important mechanism for the control of noise, vibration, smoke, dust, odour and other emissions to the environment. Nuisance control was covered by the *Control of Pollution Act 1974* but the statutory nuisance provisions of *COPA* have been replaced by new provisions in the *Environmental Protection Act 1990* (as amended by the *Noise and Statutory Nuisance Act 1993* and the *Environment Act 1995*). Local authorities may serve notices where certain types of pollution occur, requiring the nuisance to be stopped or the damage remediated. Breach of, or non-compliance with such a notice may result in prosecution and a fine. The National Air Quality Strategy, which will introduce statutory air quality limit values for eight substances by 2005 and will require local authorities to undertake more air quality monitoring, may result in the identification of more statutory nuisances.

### LEGISLATION

<b>1. ENVIRONMENTAL PROTECTION ACT 1990 (AS AMENDED BY THE NOISE AND STATUTORY NUISANCE ACT 1993 AND ENVIRONMENT ACT 1995)</b>	
<b>Sources of Nuisance</b>	
<b>Summary</b>	Defines and sets out provisions for statutory nuisance in relation to surface water, groundwater, waste, noise and premises. Statutory nuisance include the following if they are considered to be a nuisance, or injurious or dangerous to health: any noise, vibration, smoke, fumes or gases emitted from premises, construction sites and compounds, or any dust, steam, smell or other effluvia arising on industrial, trade or business premises. A notice will usually be served on the person responsible for that nuisance but may also be served on the owner of the premises.
<b>Relevance</b>	A duty is placed on a local authority to routinely inspect its area for statutory nuisance and to investigate any complaints. If a statutory nuisance exists the local authority is under a duty to serve an abatement notice requiring the nuisance to be stopped or reduced. Failure to comply with a notice is a criminal offence. The activities of contractors could give rise to a statutory nuisance with respect to noise, vibration, dust, smoke or fumes. This is of particular relevance during construction work and maintenance but also relevant to diesel generators.
<b>Action</b>	Contractor(s) must ensure that their activities do not breach statutory nuisance regulations.
<b>Regulator</b>	Local Authorities

<b>2. CONTROL OF POLLUTION ACT 1974 (PART III)</b>	
<b>Construction Noise</b>	
<b>Summary</b>	The control of noise from construction works is provided for by COPA 1974, and an associated code, empowers local authorities to serve notices imposing requirements relating to noise from construction sites.
<b>Relevance</b>	<p>Under s.60 a local authority may serve a notice on construction works. The notice can specify types of plant and machinery, permitted hours of operation, boundary noise levels etc. Non-compliance with a notice is an offence. Under s.61, operators may also apply for prior consent from the local authority relating to noise. The consent may include noise limits for daytime and night-time works.</p> <p>Operating in accordance with a consent is a defence for non-compliance with a notice but it is not a defence against action in statutory nuisance brought by a member of the public. Applies to any construction works carried out as part of the Beauly-Denny project. Emergency works and statutory operators may be exempt.</p>
<b>Action</b>	Prior to construction, contractor(s) may apply where appropriate for a consent relating to noise emissions.
<b>Regulator</b>	Local Authorities

## SECTION 6: DEVELOPMENT CONTROL

### INTRODUCTION

Some associated works may require planning permission. Planning permission for some developments is granted under the *Town and Country Planning (Scotland) Act 1997* with more recent amendments in the *Planning Etc (Scotland) Act 2006*. The *Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997* and *Ancient Monuments and Archaeological Areas Act 1979* form the basis of protection for buildings and monuments of historic and conservation importance in Scotland.

### LEGISLATION

<b>1. TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997</b>	
<b>PLANNING ETC. (SCOTLAND) ACT 2006</b>	
<b>Planning Permission</b>	
<b>Summary</b>	Planning permission is required under the Town and Country Planning (Scotland) Act 1997 for some types of development, including borrow pits and additional permanent access tracks. This, as modified by the Planning Etc (Scotland) Act 2006 has now become the principal Planning Act. It deals with administration, development plans and control, compensation, enforcement, acquisition and appropriation of land, highways and statutory undertakers.
<b>Relevance</b>	Any development (unless exempt) requires planning permission from the local planning authority. A breach of planning control is not in itself a criminal offence, but failure to comply with an enforcement notice is.
<b>Action</b>	The Contractor will need to ensure that any required planning permission is in place and that attached conditions are met.
<b>Regulator</b>	Local Authorities

<b>2. PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997</b>	
<b>Listed Buildings</b>	
<b>Summary</b>	Provides for notices and for other procedural provisions in relation to listed buildings and buildings in conservation areas. Listed building consent is required to demolish, alter or extend buildings of special historic or architectural interest if it is in a manner that affects the architectural or historic interest.
<b>Relevance</b>	Relevant in locations e.g. towns and villages where listed buildings and their setting may be affected.
<b>Action</b>	Contractor(s) should make sure that no listed buildings are affected by their activities and take account of all agreed mitigation.
<b>Regulator</b>	Local Authorities

<b>3. ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979</b>	
<b>THE ANCIENT MONUMENTS (CLASS CONSENTS) (SCOTLAND) ORDER 1996</b>	
<b>Works affecting Ancient Monuments</b>	
<b>Summary</b>	Provide controls on works that could affect ancient monuments and areas of archaeological importance. Have provisions that enable consents for works to be given in certain cases (e.g. in changes of use or alterations to the fabric).
<b>Relevance</b>	Relevant to areas where the development and associated work could affect a scheduled ancient monument or area of archaeological importance.
<b>Action</b>	Contractor(s) should make sure that no scheduled ancient monuments or areas of archaeological importance are negatively affected by their activities. If consents for work were given then the terms of the consent would need to be complied with.
<b>Regulator</b>	Historic Scotland Scottish Ministers

<b>4. TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999</b>	
<b>Tree Preservation</b>	
<b>Summary</b>	These regulations prescribe the form of tree preservation orders (TPO) and the procedure for their making, confirmation, variation and revocation. It is an offence to cut down a tree that is protected by a tree preservation order.
<b>Relevance</b>	Relevant on landholdings and near towns and villages where there are mature trees that have been given a TPO.
<b>Action</b>	SPT and the Contractor should keep a check to establish whether any trees in and around proposed construction sites are protected by a TPO and if so make sure that such a protected tree is not cut down.
<b>Regulator</b>	Local Authorities

## SECTION 7: WILDLIFE AND HABITATS

### INTRODUCTION

Many species and habitats are protected by legislation. The level of protection ranges from individual species to large areas of designated land. The Project's activities will be affected by this legislation and these areas.

The *Wildlife and Countryside Act 1981* (as amended) and the *Nature Conservation (Scotland) Act 2004* form the basis of most statutory wildlife protection in Scotland. There are a number of legislative provisions that restrict business and commercial activities in order to protect habitats, flora, fauna and the countryside. Other acts and secondary legislation address specific issues such as trees, birds, protected species (e.g. the Badger Act 1992 affords specific protection for badgers and their immediate environment).

### LEGISLATION

<b>1. WILDLIFE AND COUNTRYSIDE ACT 1981 (AMENDED 1985, 1991 AND 1995)</b>	
<b>NATURE CONSERVATION (SCOTLAND) ACT 2004</b>	
<b>Protection of Wildlife</b>	
<b>Summary</b>	These acts consolidate and extend earlier wildlife laws and form the basis of most statutory wildlife protection in Scotland. Part I of the Wildlife and Countryside Act deals with the protection of animals, birds and plants, and Part II addresses general nature conservation requirements and habitat/site protection measures. The use of poisons to injure or kill any wild bird (with exceptions) is prohibited. The destruction of specified 'protected' plants is prohibited. The Nature Conservation (Scotland) Act 2004 adds more protection to Special Sites of Scientific Interest as well as birds and animals in Scotland.
<b>Relevance</b>	The proposed line will run through and/or close to areas designated for their conservation interest (including Special Sites of Scientific Interest).
<b>Action</b>	Contractor(s) will need to make sure that their activities do not harm or interfere with any protected habitats or species.
<b>Regulator</b>	Scottish Natural Heritage

<b>2. CONSERVATION (NATURAL HABITATS &amp;C) REGULATIONS 1994</b>	
<b>Protection of Habitats</b>	
<b>Summary</b>	Where a plan or project is likely to have a significant effect on a European site, and that plan or project is not directly connected with or necessary to the management of the site, such sites (being the network of Natura sites – SAC's or SPA's) are protected by the duties placed on competent authorities to make an Appropriate Assessment of the implications for the site. This is carried out in the context of the site's conservation objectives and, in general terms, the competent authority will only agree to the plan or project after having ascertained that it will not affect the integrity of the site.
<b>Relevance</b>	Information to inform Appropriate Assessments has been submitted to the Competent Authority (Scottish Ministers) for the line. The contractor(s), however, should be aware that any contractor activity which was likely to affect a European site other than that consented would require an Appropriate Assessment to be carried out in order to assess the implications, screen for alternatives, evaluate the potential for mitigation and determine the best course of action to avoid affecting the integrity of the site.
<b>Action</b>	No immediate action necessary but all requirements for Natura Sites must be implemented as agreed.
<b>Regulator</b>	Scottish Natural Heritage