



Regulatory guidance

Promoting the sustainable reuse of greenfield soils in construction

Acknowledgments

This regulatory guidance has been prepared by a partnership of the Scottish Environment Protection Agency (SEPA), the Civil Engineering Contractors Association (Scotland) (CECA) and the Environment Industries Commission (EIC).

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1 Introduction

This document was produced by a working group set up as part of a collaboration between the Scottish Environment Protection Agency (SEPA), the Civil Engineering Contractors Association (CECA) and the Environmental Industries Commission (EIC) to promote the sustainable reuse of greenfield soils. The guidance fulfils a commitment made by SEPA under its Better Waste Regulation Action Programme¹ to encourage quality uses of soil.

Excess soils from development sites are generally regarded as waste and so their use or disposal requires a waste management licence or a registered exemption under the Environmental Protection Act 1990 and the Waste Management Licensing Regulations 1994 (as amended). But given the desire to promote the reuse of greenfield soils, SEPA has adopted this regulatory position so that, in certain circumstances, it will not require a licence or exemption for the use of such soils. This guidance sets out the circumstances in which this regulatory position applies.

If producers and users of greenfield soil comply with this guidance, SEPA will not regulate its use under waste legislation. Although producers and users are not obliged to comply with this guidance, if they do not then greenfield soil will be subject to the requirements of waste legislation. Similarly, soils that do not fit the description given in this guidance will not be covered by this regulatory position.

2 Scope

This guidance relates solely to natural topsoil and subsoil from "greenfield" sites. For the purposes of this guidance, "greenfield" means land that has not been previously developed and is uncontaminated. The scope of this definition is discussed further in Section 3.

Reuse of such greenfield soils on the site of excavation is not regulated as a waste activity. This guidance relates solely to the off-site uses specified in Section 4.

All uses must be carried out within the terms of a current planning permission. Therefore this guidance applies only to construction and development projects. This guidance applies only in Scotland.

This guidance does not apply to peat. Specific regulatory guidance on the reuse of peat is provided in SEPA's *Regulatory Position Statement: Developments on Peat*.²

This guidance does not apply to contaminated soils. If you have contaminated soils, please refer to SEPA's *Land Remediation and Waste Management Guidelines*.³

This guidance does not apply to secondary aggregates. Advice on whether an aggregate ceases to be waste is given in *The Quality Protocol for the Production of Aggregates from Inert Waste* ("the aggregates protocol").⁴

The position set out in this guidance may be reviewed and updated based on experience of practical applications, technological developments and legislative amendments. SEPA reserves the right to depart from the position outlined in this guidance and to take appropriate action to avoid harm to human health or pollution of the environment.

¹www.sepa.org.uk/waste/waste_regulation/better_waste_regulation.aspx

²www.sepa.org.uk/waste/waste_regulation/idoc.ashx?docid=c2030d4f-898f-479b-9f1c-638a3d87f036&version=-1

³www.sepa.org.uk/waste/waste_regulation/guidance__position_statements.aspx

⁴www.aggregain.org.uk/quality/quality_protocols/

3 Greenfield soil

A site investigation must be undertaken to demonstrate that the soil is covered by this guidance. The onus is on the person excavating the soil to ensure that this is carried out.

As stated above, this guidance relates only to natural topsoil and subsoil from "greenfield" sites (as defined in Section 2).

Soil covered by this guidance

- Soil from undeveloped, uncontaminated land.
- Uncontaminated soil from agricultural and forestry land.
- Uncontaminated overburden from new mines and quarries.
- Greenfield soil can include incorporated vegetation removed as part of the site preparation works ie grass, turf, mulch and leaf debris, but not tree stumps.

Soil not covered by this guidance

- Excavated peat arising from construction activities on peat land.
- Soil from land that is or was occupied by a permanent structure and/or associated fixed infrastructure. Previously developed land may occur in both built-up and rural settings.
- Soil from land previously classed as industrial or for military uses eg former mines and quarries, landfill sites, former infill sites, Ministry of Defence land.
- Soil contaminated by fly-tipping, chemicals or where invasive species listed under the Wildlife and Countryside Act 1984 (as amended) are present.
- Natural soils arising from areas of known contamination such as elevated lead in the "lead hills", radium and oil shales.
- Soil contaminated with any other substances including, although not restricted to, ash, oil shale ("blaes"), mining spoil, plastics, glass, metals and liquids.
- General construction and demolition wastes including concrete, bricks, tiles and plasterboard.
- Slurries or sewage sludge.
- Dredging spoil (European Waste Catalogue Code 17 05 05 and 17 05 06).

Source Type

Is it greenfield?



Source Type

Is it greenfield?



4 Off-site reuse

Before excavation operations begin, the person responsible for the excavation site must establish that there is an identified and certain end-use for the greenfield soil.

Those uses of greenfield soil covered by the regulatory position and those that are not are listed below. Abandoning soil is fly-tipping and is regulated accordingly.

All uses must be in accordance with a current planning permission including approved drawings. Therefore this guidance applies only to uses of greenfield soil in construction and development projects.

Uses covered by the regulatory position

- Use of greenfield soil from one development on another development where the soil is required for engineering works as per the planning permission. Such uses include soil for front and rear gardens.
- Use of greenfield soil in developments on brownfield land to meet site-specific capping requirements for remediation.
- Use of greenfield soil in sustainable urban drainage schemes (SUDS).
- Use of greenfield soil in the construction of roads and road verges.

The upper limits listed below must be followed for approved uses of soil in construction projects. Uses at depths greater than these must be carried out under a relevant exemption.

Soil type	Depth (mm)
Topsoil	100–150
Subsoil	300–450

Uses not covered by the regulatory position

- Greenfield soil deposited in volumes exceeding those specified by the planning permission.
- Greenfield soil deposited outside the boundary outlined in any relevant planning permission.
- Backfilling disused quarries.
- Any construction activity where:
 - planning permission is required but has not been obtained (eg bunds, raising of levels); or
 - the works affect any watercourse where an authorisation under The Controlled Activities Regulations 2005 ("CAR") is required and has not been obtained.
- Storage of greenfield soil on third party sites pending use.

Use Type

Is it an approved use?



Road and verge construction



Landscaping



SUDS



Use Type

Is it an approved use?



5 Compliance

SEPA has adopted a regulatory position that waste controls are not likely to be applied to soil if:

- the soil is derived from a greenfield site as defined in Sections 2 and 3;
- the soil is used off-site in one of the approved uses listed in Section 4.

This enables the soil to be used without a waste management licence or exemption in place. A flowchart illustrating this regulatory position is given in Appendix 1.

However, the reuse of soil at the receiving site may require authorisation under other regulatory regimes including, but not restricted to:

- planning permission;
- building control approval;
- Controlled Activities Regulations 2005.

Where soil has not met the conditions set out in this guidance or is put to uses other than those approved in this guidance, then it is likely to be subject to waste regulatory controls for its storage, use, treatment and disposal. Details of these controls can be found at the links listed in Section 7.

6 Declaration

In order to benefit from this regulatory position, the producer or receiver of the soil must:

- complete and sign a single page declaration form;
- send this declaration form to the SEPA office nearest to where the soil is to be used.

This must be done before the soil is despatched to the receiving site.

If soil is to be delivered to more than one site, declaration forms must be completed for each receiving site. A copy of the declaration form should be retained for two years.

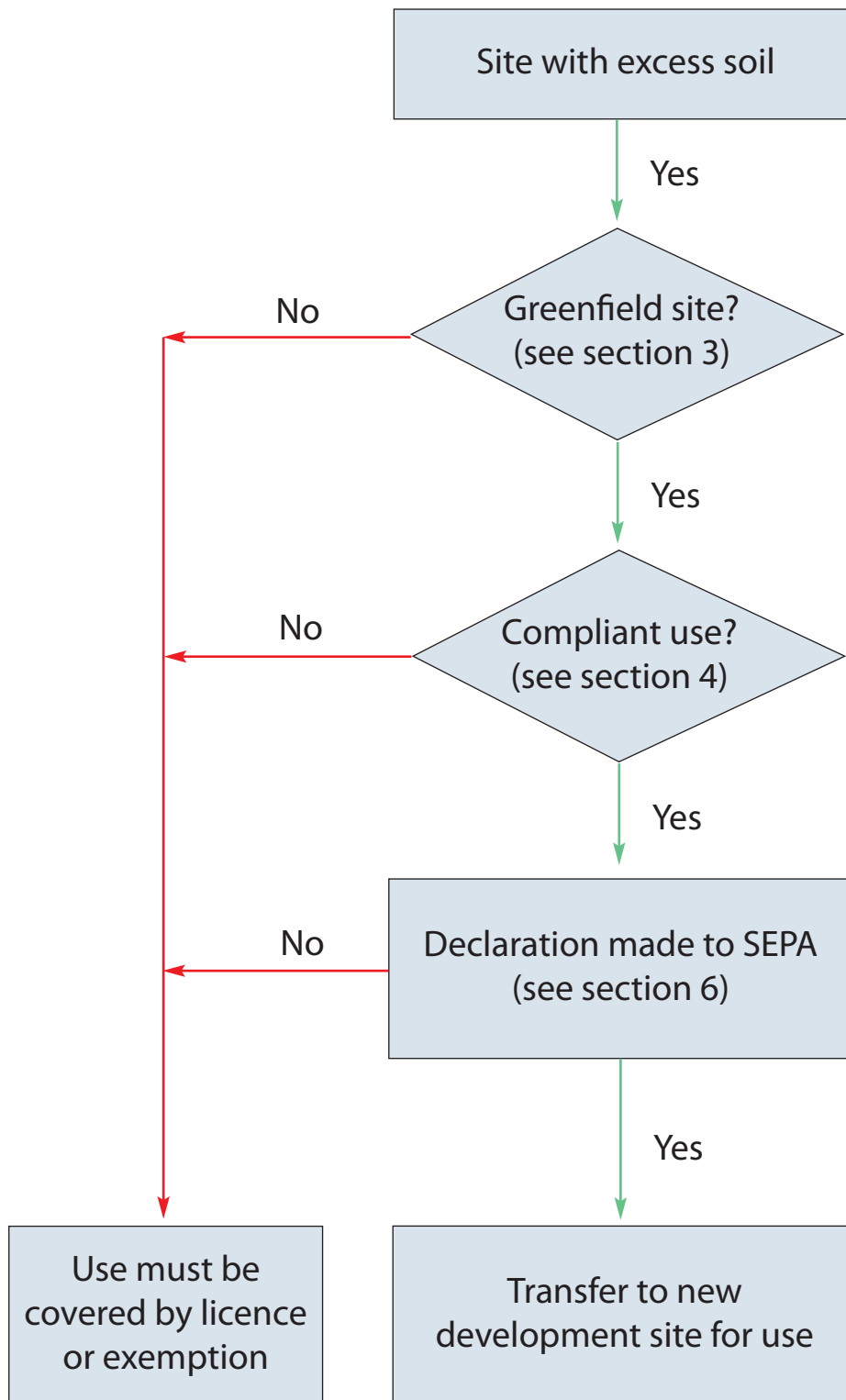
SEPA will not issue a formal acknowledgement receipt of the declaration form(s), but the transfer and use of the soil may be audited to ensure full compliance with this guidance.

The declaration form is given in Appendix 2.

7 Information sources

- SEPA website (general information): www.sepa.org.uk
- SEPA guidance, Is it waste? Understanding the definition of waste: www.sepa.org.uk/waste/waste_regulation/is_it_waste.aspx
- CECA Scotland website: www.ceca.co.uk/Region.aspx?RegionID=1
- The Waste Management Licensing Regulations 1994: www.netregs.gov.uk

Appendix 1 – Flowchart



Appendix 2 – Declaration form



Declaration of compliance with the greenfield soils guidance

Supply company/person details

Company name: _____
Company address: _____
Contact name and phone number: _____

Receiver company/person details

Company name: _____
Company address: _____
Contact name and phone number: _____

Source

From which type of greenfield site does the soil come from? <input type="checkbox"/> Agriculture <input type="checkbox"/> Forestry <input type="checkbox"/> Other (please specify): _____
Quantity of soil (tonnes): _____
Source site name: _____
Source site address and postcode: _____

Use

Which of the approved use(s) set out in the greenfield soils guidance will the soil be put to? <input type="checkbox"/> Construction <input type="checkbox"/> Roads <input type="checkbox"/> Landscaping <input type="checkbox"/> Other (please specify): _____
Reuse site address: _____
What quantity of soil will be used (tonnes): _____
Estimated completion date: _____
Planning consent reference number: _____

Declaration

I certify that the information in this declaration is correct -
Signature: _____
Name: _____
Date: _____

Aberdeen
Inverdee House
Baxter Street
Torry
Aberdeen
AB11 9QA
Tel: 01224 266600
Fax: 01224 896657

Angus Smith Building
6 Parklands Avenue
Eurocentral
Holytown
North Lanarkshire
ML1 4WQ
Tel: 01698 839000
Fax: 01698 738155

Arbroath Office
62 High Street
Arbroath
DD11 1AW
Tel: 01241 874370
Fax: 01241 430695

Ayr Office
31 Miller Road
Ayr
KA7 2AX
Tel: 01292 294000
Fax: 01292 611130

Balloch Office
Carrochan
Carrochan Road
G83 8EG
Tel: 01389 727770
Fax: 01389 755387

Dingwall Office
Graesser House
Fodderty Way
Dingwall Business Park
Dingwall
IV15 9XB
Tel: 01349 862021
Fax: 01349 863987

Dumfries Office
Rivers House
Irongray Road
Dumfries DG2 0JE
Tel: 01387 720502
Fax: 01387 721154

Edinburgh Office
Clearwater House
Heriot Watt Research Park
Avenue North
Riccarton
Edinburgh
EH14 4AP
Tel: 0131 449 7296
Fax: 0131 449 7277

Elgin Office
28 Perimeter Road
Pinefield
Elgin
IV30 6AF
Tel: 01343 547663
Fax: 01343 540884

Fort William Office
Carr's Corner Industrial
Estate
Lochybridge
Fort William
PH33 6TL
Tel: 01397 704426
Fax: 01397 705404

Fraserburgh Office
Shaw House
Mid Street
Fraserburgh
AB43 9JN
Tel: 01346 510502
Fax: 01346 515444

Galashiels Office
Burnbrae
Mossilee Road
Galashiels
TD11NF
Tel: 01896 754797
Fax: 01896 754412

Glasgow Office
Law House
Todd Campus
West of Scotland Science Park
Maryhill Road
Glasgow G20 0XA
Tel: 0141 945 6350
Fax: 0141 948 0006

Glenrothes Office
Pentland Court
The Saltire Centre
Glenrothes
KY6 2DA
Tel: 01592 776910
Fax: 01592 775923

Lochgilphead Office
Kilbrandon House
Manse Brae
Lochgilphead
Argyll
PA31 8QX
Tel: 01546 602876
Fax: 01546 602337

Newton Stewart Office
Penkiln Bridge Court
Minnigaff
Newton Stewart
DG8 6AA
Tel: 01671 402618
Fax: 01671 404121

Orkney Office
Norlantic House
Scotts Road
Hatston
Kirkwall
Orkney
KW15 1RE
Tel: 01856 871080
Fax: 01856 871090

Perth (Whitefriars) Office
7 Whitefriars Crescent
Perth
PH2 0PA
Tel: 01738 627989
Fax: 01738 630997

Perth (Strathearn House) Office
Strathearn House
Broxden Business Park
Lamberkine Drive
Perth
PH1 1RX
Tel: 01738 627989
Fax: 01738 630997

Shetland Office
The Esplanade
Lerwick
Shetland
ZE1 0LL
Tel: 01595 696926
Fax: 01595 696946

Stirling Office
Strathallan House
Castle Business Park
Stirling
FK9 4TZ
Tel: 01786 452595
Fax: 01786 446885

Thurso Office
Strathbeg House
Clarence Street
Thurso
Caithness
KW14 7JS
Tel: 01847 894422
Fax: 01847 893365

Western Isles Office
2 James Square
James Street
Stornoway
Isle of Lewis
HS1 2QN
Tel: 01851 706477
Fax: 01851 70351

Office addresses are correct as of 31 July 2015.