

**Information note on the use of Land Contamination Risk Management (LCRM) guidance in Scotland**

May 2025

# Overview

This information note has been developed by a subgroup of the Contaminated Land Advisory Group, made up of representatives of Scottish Government, SEPA and Local Authorities, to provide further information about the use of LCRM guidance in the Scottish regulatory context.

It has been drafted for use in conjunction with the currently awaited, revised LCRM guidance, expected to be published by the Environment Agency in 2025. Whilst the existing July 2023 LCRM guidance can be used in Scotland, please be aware that it may still contain some cross- border divergences of approach. If you are unsure of any divergences in approach or references not highlighted by this information note - please contact the relevant regulator for clarification.

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**Contents**

[Overview 1](#_Toc196828967)

[1. What is LCRM? 3](#_Toc196828968)

[2. Scotland’s Statutory Contaminated Land regime in Part 2A of the Environmental Protection Act 1990 (The “1990 Act”) 4](#_Toc196828969)

[2.1 The definition of Contaminated Land 4](#_Toc196828970)

[2.2 Statutory Guidance 4](#_Toc196828971)

[2.3 Differences in terminology 5](#_Toc196828972)

[3. The planning regime 5](#_Toc196828973)

[3.1 National Spatial Strategy 5](#_Toc196828974)

[3.2 Competent person definition 6](#_Toc196828975)

[4. Category 4 Screening Levels, and other human health assessment methodologies 6](#_Toc196828976)

[5. Water environment risk assessment 7](#_Toc196828977)

[6. Regulatory Controls for Remediation 7](#_Toc196828978)

[7. Other regulatory decisions from the environmental regulator 7](#_Toc196828979)

[8. Other schemes and initiatives referenced in LCRM 8](#_Toc196828980)

[8.1 The National Quality Mark Scheme (NQMS) and CL:AIRE Gas Protection Verification Accreditation Scheme (GPVS) 8](#_Toc196828981)

[8.2 Monitoring Certification Scheme (MCERTS) 8](#_Toc196828982)

[8.3 Definition of Waste Industry Code of Practice (DoW CoP) 8](#_Toc196828983)

[9. Equivalent Legislation 9](#_Toc196828984)

# What is LCRM?

The Environment Agency authored [Land Contamination Risk Management (LCRM) Guidance](https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm) sets out how risks from land contamination should be assessed and managed. It is relevant to all those involved in managing land contamination.

LCRM guidance was published on 8 October 2020 and replaces the earlier Contaminated Land Report 11 (CLR 11), first published in 2004. While CLR11 was applied UK-wide, the LCRM guidance was not formally applied in Scotland upon publication due to certain differences in the Scottish regulatory context that required clarification.

The LCRM guidance has now been formally adopted in Scotland, and the good practice outlined in that document is expected to be followed, with consideration given, where required, to divergences in the Scottish regulatory context. The most significant differences are set out in this document and signposted throughout the LCRM guidance itself.

This document is intended for land contamination practitioners with existing technical and regulatory knowledge. Anyone using LCRM guidance in Scotland is expected to familiarise themselves with relevant Scottish legislation and guidance (see ‘competent person’, below).

For clarification, please contact the relevant regulator:

* Local authorities are the lead regulator under the planning regime.
* Local authorities are the lead regulator under Part 2A of the Environmental Protection Act 1990 and regulate all sites that have not been designated as special sites.
* SEPA is the regulator for sites designated as special sites under Part 2A of the Environmental Protection Act 1990.
* SEPA is the lead regulator for [radioactive contaminated land](https://www.sepa.org.uk/regulations/land/contaminated-land/#four).
* SEPA is the responsible authority for environmental permitting. SEPA also provide technical advice and guidance to local authorities on matters relating to the water environment and other regulatory regimes (e.g. waste).

# Scotland’s Statutory Contaminated Land regime in Part 2A of the Environmental Protection Act 1990 (The “1990 Act”)

Scotland’s contaminated land legislation is comprised of Part 2A of the 1990 Act, which provides a statutory regime to address contaminated land, along with the Contaminated Land (Scotland) Regulations 2000 (as amended).

Scotland’s contaminated land legislation, associated statutory guidance and relevant technical guidance are similar to those of England and Wales, but have some important differences as a result of separate changes made to the 1990 Act over time by Scotland, England and Wales, different secondary legislation in the form of the Contaminated Land (Scotland) Regulations 2000 and separate technical guidance. For the large part these differences do not affect interpretation of the LCRM guidance. Key points of divergence to be aware of are set out below. This is not an exhaustive list of differences, but instead are those that are most relevant to the interpretation of the LCRM guidance.

## The definition of Contaminated Land

In Scotland, the Part 2A definition of contaminated land no longer refers to ‘**controlled waters**’ as defined in section 104 of the Water Resources Act 1991 for England and Wales, but instead to, the ‘**water environment’**. The ‘water environment’ is defined in section 3(2) of the Water Environment and Water Services Act (Scotland) 2003 as “all surface water, groundwater and wetlands.” Therefore, wherever LCRM refers to ‘controlled waters’, this should be read as ‘the water environment’ when dealing with land contamination in Scotland.

## Statutory Guidance

Scotland’s [Part 2A statutory guidance](https://www.gov.scot/publications/environmental-protection-act-1990-part-iia-contaminated-land-statutory-guidance/pages/10/), prepared by the Scottish Executive (now the Scottish Government) in 2006, is also distinct from that prepared by the Department for Environment, Food and Rural Affairs for England and the Welsh Government, and sets out further information regarding the meaning of terms, including measures of ‘significant pollution’. [SEPA](https://www.sepa.org.uk/regulations/land/contaminated-land/technical-concepts/) provides further technical guidance on relevant operational standards in relation to pollution of the water environment.

Scotland’s statutory guidance does not include the 4-tier categorisation to decide whether or not land is ‘contaminated land’ on grounds of significant possibility of significant harm to human health, as described in paragraphs 4.19-4.30 of both the English and Welsh statutory guidance. The ‘Category 4 Screening Levels’ (C4SL) are derived to assist with this categorisation. Further guidance on how to use C4SL and their relevance in Scotland is provided below.

## Differences in terminology

LCRM uses slightly different terminology to those set out in English, Welsh and Scottish statutory guidance, for example referring to remediation strategy rather than ‘remediation scheme’. However, these do not reflect a statutory difference between contaminated land regimes. Similarly, the term ‘contaminant linkage’, used in LCRM, is equivalent to the term ‘pollutant linkage’, which is in the statutory guidance and is more commonly used in Scotland.

# The planning regime

Scotland’s planning regime is devolved and is subject to a different planning framework to that described in LCRM. The planning system in Scotland is overseen by the Scottish Government, who is responsible for the development of legislation and national planning policy. The primary responsibility for the delivery of planning services in Scotland lies with the 32 local planning authorities and the two national park authorities: the Cairngorms and Loch Lomond and the Trossachs. SEPA has a role as a statutory consultee in the planning process and can provide technical advice and guidance to local planning authorities.

## 3.1 National Spatial Strategy

Scotland’s national spatial strategy is the [National Planning Framework 4 (NPF4)](https://www.gov.scot/publications/national-planning-framework-4/documents/). This should be consulted in place of the English National Planning Policy Framework where this is referenced in LCRM.

## 3.2 Competent person definition

LCRM refers to the definition of “competent person” as set out in England’s National Planning Policy Framework. Scotland’s NPF4 does not have an equivalent specific definition of a “competent person”. The definition provided in England’s National Planning Policy Framework is considered appropriate for use in Scotland, but in addition, the competent person is also expected to have some familiarity with the current regulatory requirements in Scotland.

# **Category 4 Screening Levels, and other human health assessment methodologies**

The Environment Agency has set out in LCRM that, when deciding to stop further assessment of a site on the grounds that it falls within Category 4 (Human Health), Category 4 Screening Levels (C4SLs) must be used in place of Soil Guideline Values (SGVs) where these are available.

A key distinction between SGVs and C4SLs is the level of risk they describe. While SGVs provide a guideline value based on contaminant levels where long-term human exposure poses no appreciable / minimal risk, C4SLs were developed to describe a more pragmatic (but still strongly precautionary) value based on “low level of toxicological concern”. Although they describe a higher level of risk than SGVs, C4SLs are still considered to be set clearly below the ‘Significant Possibility of Significant Harm (SPOSH)’ threshold to trigger the legal determination of land as “contaminated land”. More information about C4SLs and their derivation can be found on the [CL:AIRE website](https://claire.co.uk/projects-and-initiatives/category-4-screening-levels).

When considering the appropriateness of use of C4SL criteria, both differences and similarities of the Scottish and English guidance with respect to the Part 2A regimes should be taken into account. For example, whilst Scotland does not have the same '4 category system' of assessing sites with land contamination, it does work to the same 'bar' for identification of contaminated land (i.e. SPOSH and unacceptable risk).

Scottish regulators consider that C4SLs, along with any other UK or international assessment criteria, can be used to assist competent persons in the assessment of long-term risk to health from human exposure to chemical contamination in soil, providing they are demonstrated to be relevant and appropriate for the specific site and proposed use in question and the practitioner has a clear understanding of the assumptions, science and policy decisions which underpin any such assessment criteria.

# Water environment risk assessment

SEPA’s [position statement, WAT-PS-10-02](https://www.sepa.org.uk/regulations/water/pollution-control/pollution-control-guidance/#:~:text=WAT-PS-10-01:%20Assigning%20groundwater%20assessment%20criteria%20for%20pollutant%20inputs%20(1.4Mb)%20Sewage) sets out groundwater assessment criteria for pollutant inputs, and must be consulted where carrying out assessment or risks to groundwater quality from both hazardous and non-hazardous substances in Scotland. SEPA’s guidance [Land Contamination and Impacts on the Water Environment](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.sepa.org.uk%2Fmedia%2Fybui3ri0%2Fland-contamination-and-impacts-on-the-water-environment.docx&wdOrigin=BROWSELINK) should also be referred to. This contains further guidance on water environment risk assessment in relation to land contamination.

# Regulatory Controls for Remediation

For Scotland, the LCRM sections on **Types of Regulatory Controls** and **Innovative Treatment Methods** do not apply directly as many regulatory controls differ in Scotland. There is guidance on [remediation activities](https://www.sepa.org.uk/regulations/land/contaminated-land/remediation-activities/) available on SEPA’s website. Contact SEPA for further information about relevant regulatory controls and their position on innovative treatment methods.

# Other regulatory decisions from the environmental regulator

Environment Agency refer to regulatory position statements (RPS) in the LCRM guidance, such as RPS 215 (Land contamination pilot trials and small-scale remediation schemes). Please contact SEPA for equivalent regulatory decisions.

Guidance referenced within LCRM on [carrying out research or trials with waste at sites without an environmental permit](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fguidance%2Fcarrying-out-research-or-trials-with-waste-at-sites-without-an-environmental-permit&data=05%7C02%7Cphil.fitzgerald%40environment-agency.gov.uk%7Cdee11f4b9dff4705a44708dc798529d7%7C770a245002274c6290c74e38537f1102%7C0%7C0%7C638518860034893159%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=hKKU1byx%2Fi71vUWo43IWvqCMuyobum1TfCh8SNGwRcQ%3D&reserved=0) (replacing RPS 182) applies to England only but links to equivalent Scottish guidance by SEPA: [Waste | Scottish Environment Protection Agency (SEPA)](https://www.sepa.org.uk/regulations/waste/).

SEPA has its own guidance on [how to stop the spread of invasive non-native species](https://www.sepa.org.uk/environment/biodiversity/invasive-non-native-species/#INNSLAND).

# Other schemes and initiatives referenced in LCRM

## 8.1 The National Quality Mark Scheme (NQMS) and CL:AIRE Gas Protection Verification Accreditation Scheme (GPVS)

Scotland’s regulators support any scheme that aims to improve quality and consistency of reports. A key stated benefit to such schemes is the opportunity to get reports right first time, and reduce delays caused by gaps in, or poor-quality, information being provided to regulators. However, the Position statement “J9: NQMS for land contamination”, referenced in LCRM, sets out the Environment Agency’s approach to NQMS and does not apply in Scotland.Where NQMS/GPVS reports are submitted to a regulator, it should be expected that these will be subject to the same level of independent regulatory scrutiny as other reports, and sufficient time should be allowed for consultation, particularly for complex projects.

## 8.2 Monitoring Certification Scheme (MCERTS)

As set out in LCRM, in England the Environment Agency expects the use of MCERTS for chemical analysis results and accreditation of laboratories carrying out analysis for soils. In Scotland, MCERTS can be used, but regulators will also accept certification schemes that are demonstrated to meet equivalent standards. SEPA may in certain circumstances be able to accept good quality data produced using quality assured methods without the methods being accredited by a national organisation. Site-specific circumstances should be discussed with SEPA.

## 8.3 Definition of Waste Industry Code of Practice (DoW CoP)

The DoW CoP is a voluntary code of practice that applies to England and Wales only. For Scotland, refer to SEPA’s [[understanding the definition of waste guidance](https://www.sepa.org.uk/media/154077/is_it_waste.pdf).](https://www.sepa.org.uk/media/154077/is_it_waste.pdf) You can also consult SEPA’s [Land remediation and waste management guidelines](https://www.sepa.org.uk/media/154103/land_remediation_and_waste_management_guidelines.pdf) and [guidance on the sustainable reuse of greenfield soils](https://www.sepa.org.uk/media/154233/reuse_greenfield_soils_construction.pdf). For any questions not covered in the guidance, contact SEPA.

# Equivalent Legislation

The majority of environmental legislation in Scotland is devolved, therefore certain references to legislation within LCRM are not applicable in Scotland. The following is a non-exhaustive list of English and/or Welsh legislation and the Scottish equivalent focusing on legislation referenced in, or considered relevant to, LCRM guidance.

|  |  |
| --- | --- |
| **English / Welsh Legislation** | **Scottish Legislation** |
| **The Environmental Protection Act 1990** – Part 2A  | **The Environmental Protection Act 1990** – Part 2A – certain provisions of Part 2A of the Environmental Protection Act 1990 as it applies in Scotland differ from those that apply in England or Wales; this includes, for example, the definition of contaminated land in section 78A(2) of that Act. |
| [The Contaminated Land (England) Regulations 2006](https://www.legislation.gov.uk/uksi/2006/1380/contents/made)  | [The Contaminated Land (Scotland) Regulations 2000](https://www.legislation.gov.uk/ssi/2005/658/contents/made) |
| The National Planning Policy Framework | The National Planning Framework 4 |
| The Building Act 1984 | The Building (Scotland) Act 2003 |
| The Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (EDR)The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 | [The Environmental Liability (Scotland) Regulations 2009](https://www.legislation.gov.uk/ssi/2009/266/contents/made)  |
| The Water Resources Act 1991  And regulations made under this Act |  The Water Environment and Water Services (Scotland) Act 2003And regulations made under this Act |
| The Environmental Permitting (England and Wales) Regulations 2016 | A number of different permitting regimes are currently in place in Scotland – including: * Pollution Prevention Control (Scotland) Regulations 2012.
* Waste Management Licences under the Environmental Protection Act.
* Water Environment (Controlled Activities) (Scotland) Regulations 2005.
* Environmental Authorisation (Scotland) Regulations 2018 (currently only dealing with Radioactive Substances regulation).

These different permitting regimes are due to be integrated into the single authorisation framework provided by the Environmental Authorisations (Scotland) Regulations 2018.  |
| **Legislation that applies across England, Scotland and Wales** |
| **Health and Safety at Work etc. Act 1974** and regulations made under the act (including the Construction (Design and Management) Regulations 2015). Health and safety at work is an area reserved to the UK government. The Health and Safety Executive is the competent authority and produces guidance that is applicable to England, Scotland and Wales. |