



Briefing paper on incineration

September 2024

The new moratorium on Scottish incinerators is being undermined by a loophole which the Scottish Government has refused to fix, despite acknowledging its powers to do so. This briefing explains why MSPs must call on the Scottish Government to act now to prevent unnecessary incinerators being built in Scotland.

Incineration overcapacity in Scotland

In 2022, the Scottish Government created a moratorium on new incinerators being built in Scotland after a review recommended this as part of an approach to reduce the risk of incineration overcapacity in Scotland. The 'Independent Review on the Role of Incineration in the Waste Hierarchy' found "a risk of long-term overcapacity beginning from 2026 or 2027, if all or most of the incineration capacity in the pipeline is built" and that "given the risks of overcapacity, the Scottish Government should limit the amount of national capacity that is developed".

The review showed that, if plans remain unchanged, by 2028, Scotland will have about 1 million tonnes of overcapacity every year until 2050. Overcapacity could mean councils paying incinerator operators for capacity they do not use. Recycling rates would suffer as useful resources were burnt – in 2023, a Zero Waste Scotland study found that 52% of household waste thrown away could have been recycled.¹ People across Scotland would be exposed to harmful pollution. There is even the possibility that waste from England could be sent to Scotland to be burned.

Developers argued that additional incineration capacity is required, in the short term, to meet the Scottish Government's ban on biodegradable waste to landfill by 2025. However, any incinerator starting construction now will not be built in time to contribute to this policy as incinerators take around three years to build. Such incinerators would, however, add to the overcapacity problem for decades to come.

The review made two recommendations to prevent overcapacity: firstly, no further planning permission should be granted for new incinerators and, secondly, the Scottish Government should develop an 'indicative cap' that reduces incinerator capacity over time.

The incineration moratorium and associated policies

The Scottish Government accepted all the review recommendations in full.² It immediately created a moratorium to stop new incinerators entering the planning system. However, plants with planning permission were not included. The Scottish Government has not acted on the second overcapacity recommendation, to develop an indicative cap to reduce incineration capacity.

This means there is still a risk of incineration overcapacity. In 2024, the Scottish Government consulted on a plan to improve waste management, including incineration.³ This plan will not be developed until 2025/26 and there was no mention of an indicative cap to reduce incineration. Even if a cap is included, it will be too late to prevent overcapacity as developers are continuing to progress and invest in their plans across Scotland.

For example, incinerators in Aberdeen and Grangemouth, which were at the construction phase when the review was published, are now operational and construction has begun on incinerators in Fife, Irvine and Glenfarg. In June 2024, Aberdeenshire Council supported the developer to maintain their planning permission

¹ Zero Waste Scotland (2023) [The composition of household waste at the kerbside in 2021-23](#)

² Scottish Government (2022) [Response to the incineration review](#)

³ Scottish Government (2024) [Scotland's Circular Economy and waste route map to 2030 consultation](#)

for the Inverurie incinerator, bypassing the moratorium, despite the Aberdeen incinerator being only 17 miles away.

Incineration capacity is still rising

When the Scottish Government introduced the moratorium on incinerators, it stated that this was done to 'limit capacity'. Only two years on from this commitment, the policy has failed to stop incineration capacity rising. The loophole which allows plants that already had planning permission to be developed has led to an increase in incineration capacity by 215,000 tonnes already. Before 2018, Scotland had just two incinerators. Ten years later, in 2028 Scotland could have 17 incinerators, if all plants with planning permission are built.

The moratorium does not cover existing incinerators increasing their capacity. Scotland's largest incinerator, Viridor's Dunbar Energy Recovery Facility was awarded a permitted capacity increase of 20% from SEPA in July 2023, a year after the moratorium was introduced. These loopholes mean that a planning moratorium on new incinerators is not enough to prevent overcapacity. The Scottish Government must act to stop any new increases in incineration capacity.

The Scottish Government has the power to close these loopholes

Regulation 60 of the Pollution Prevention and Control (PPC) Regulations 2012⁴ gives Scottish Ministers (and only Scottish Ministers) the power to direct SEPA to, temporarily or permanently, refuse incineration permits. Incinerators cannot operate in Scotland without such permits so this would give the Scottish Government time to develop a cap, as promised, without developers building plants in the meantime.

In September 2023 and April 2024, community and environmental groups wrote to the Scottish Government to ask Ministers to direct SEPA to pause permit approvals until the Government's 'indicative cap' plan to reduce incineration capacity was in place.

The Scottish Government did not directly respond to this request in their replies.⁵ However, enquiries through the Scottish Parliament showed that the Scottish Government acknowledged that it had such powers but refused to use them except in 'exceptional circumstances'.⁶ The PPC regulation powers do not require 'exceptional circumstances'. However, environmental groups consider that the current situation, where only urgent action can prevent decades of incineration overcapacity, is exceptional.

Watchdog is investigating but this will take time

Environmental groups made a representation to Scotland's environmental watchdog, Environmental Standards Scotland (ESS), to investigate the Scottish Government's lack of action. In July 2024, the case was accepted for consideration and ESS begun to investigate. No estimated timeframe has been given for how long this process will take.

Urgent action must be taken to prevent overcapacity. This was set out in the incineration review, accepted by the Scottish Government and has not been acted on, despite the Government's powers to do so.

Recommendations to MSPs

MSPs must call on the Scottish Government to immediately direct SEPA to refuse new incineration permits until an indicative cap to reduce incineration is in place. 'Exceptional circumstances' are not required, although in this case the circumstances are exceptional due to the risk and impact of incineration overcapacity.

MSPs should urge the Scottish Government to fulfil its promise to create an indicative cap to reduce incineration in Scotland as soon as possible.

This briefing was written by Friends of the Earth Scotland, UKWIN and the Environmental Rights Centre for Scotland. Further information can be accessed at www.foe.scot. For more information email Kim Pratt, Circular Economy Campaigner at kpratt@foe.scot

⁴ [The Pollution Prevention and Control \(Scotland\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁵ Letters to Scottish Government and their replies are available on the FOE Scotland website at [Incineration loophole - letter to the Scottish Government - Friends of the Earth Scotland \(foe.scot\)](https://www.foe.scot)

⁶ [Written question and answer: S6W-23750 | Scottish Parliament Website](https://www.parliament.scot)