

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 – Reservoirs

Chapter 2 – Registration

Section 9 – Controlled reservoirs register

21. **Section 9** requires SEPA to establish and maintain a register of controlled reservoirs.
22. Subsection (2) lists the information which must be included in the register for each controlled reservoir, which includes information such as the name and location of the reservoir, its maximum capacity, and the name and address of the reservoir manager, as well as copies of any reports, certificates and written statements relating to the reservoir, and a map showing where the water would be likely go in the event of an uncontrolled release of water from the reservoir. Subsection (3) enables the Scottish Ministers to make further provision in regulations to require further information to be contained in the register and make provision about the manner in which information in the register is to be recorded in the register.
23. Subsection (4) requires SEPA to make the register available for public inspection and subsection (5) enables the Scottish Ministers by order to stipulate where it is to be kept.

Section 10 – Reservoir managers’ duty to register

24. This section requires the reservoir managers of controlled reservoirs to register their reservoirs with SEPA. Subsection (2) enables the Scottish Ministers to make further provision in regulations about the information to be registered and the timing by which information, or any change to information has to be registered.

Section 11 – Controlled reservoirs required to be registered under the 1975 Act

25. This section requires controlled reservoirs which were previously “large raised reservoirs” under the 1975 Act (and therefore already registered under that Act) to be registered by SEPA within 6 months of the date of commencement of section 9 of the Act.

Section 12 – Controlled reservoirs not required to be registered under the 1975 Act

26. This section enables the Scottish Ministers to specify by order the date by which reservoirs which were not required to be registered under the 1975 Act have to be registered. Subsection (1) requires reservoir managers of these reservoirs to register the reservoir by the time specified in the order.

Section 13 – Controlled reservoirs which become controlled reservoirs after the relevant date

27. This section requires new controlled reservoirs to be registered within 28 days of the first issue of a preliminary certificate. Preliminary certificates are issued under section 37 when the construction engineer overseeing the construction of the reservoir considers that the reservoir may safely be filled (either wholly or partly) with water.

Section 14 – Fees: registration and administration

28. **Section 14** enables the Scottish Ministers to make regulations enabling SEPA to charge reservoir managers fees in relation to registration and other annual or recurring fees in relation to the performance of SEPA's functions under Part 1 of the Act. Subsection (2) requires the Scottish Ministers, when making any such regulations, to have regard to the reasonable cost of exercising the functions in relation to which the fees are to be charged. Subsection (3) requires the regulations to specify how SEPA is to determine and charge fees and to require SEPA to set out its fees in a charging scheme and consult persons affected by the fees before it publishes or revises the charging scheme. Subsection (4) enables the Scottish Ministers to include such other matters in the regulations as they deem appropriate and sets out examples of what those matters may be.

Section 15 – Registration: supplementary

29. **Section 15(1)** and (2) require reservoir managers to notify SEPA within 28 days of any change in the reservoir manager of a controlled reservoir and the date of that change. Where SEPA has been informed of a change in management of a reservoir under subsection (1) or (2), subsection (3) requires SEPA, as soon as reasonably practicable, to inform the new reservoir manager of the duties incumbent upon them under the Act. Subsection (4) enables the Scottish Ministers to make regulations requiring SEPA to prepare and publish guidance on registration and to consult the Institution of Civil Engineers before preparing such guidance.

Section 16 – Transfer of information from existing relevant authorities

30. This section contains detailed provision about the transfer of information from local authorities (who were the enforcement authority under the 1975 Act) to SEPA (who must enforce the new regime under the Act). Subsection (1) requires local authorities to hand over relevant registers, records and other relevant information to SEPA. Subsection (2) requires each local authority to give SEPA any assistance it may reasonably require for the purposes of taking over as enforcement authority. Subsections (3) to (6) contain transitional arrangements to ensure that acts by local authorities when they were enforcement authorities remain valid and to allow SEPA to take over responsibility for ongoing legal proceedings and other work.

Section 17 – Offences: registration

31. **Section 17(1)** provides that it is an offence for a reservoir manager to fail to comply with the specified registration requirements. Subsection (2) sets out that it is an offence to knowingly or recklessly give false information in relation to registration or changes of reservoir managers. Subsections (3) and (4) set out the maximum penalties for anyone found guilty of an offence under this section. Subsection (5) sets out a defence for the subsection (1) offence.