

WATER RESOURCES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

SCHEDULES

Schedule 1 – Water Shortage Orders

95. [Paragraph 1](#) requires Scottish Water to publish a public notice of a proposal for a water shortage order. The notice must state that representations about the proposal may be made in writing to the Scottish Ministers within 14 days of publication of the notice.
96. [Paragraph 2](#) makes provision for owners, lessees and occupiers of premises on which a water shortage order would permit Scottish Water to carry out works to receive notice of the proposal. It also requires Scottish Water to give notice to a person whose right to abstract water would be restricted or prohibited by the order. Such persons may make representations about the proposal in writing to the Scottish Ministers within 14 days of notification being given.
97. [Paragraph 3](#) requires the Scottish Ministers to give a person notice of a proposal where they intend to make a water shortage order that would restrict or prohibit the abstraction of water by that person, but the person has not already received notice because the restriction or prohibition was not included in the draft order.
98. [Paragraph 4](#) makes provision for the Scottish Ministers to seek the Scottish Environment Protection Agency's advice in relation to adverse impacts upon the water environment and the need, if any, to restrict or prohibit the abstraction of water by any person.
99. [Paragraph 5](#) requires the Scottish Ministers to consider representations made and the advice received from the Scottish Environment Protection Agency before making their decision. It also provides that they may make a water shortage order in the same terms as the draft order contained in Scottish Water's proposal, make an order in different terms to the draft order, or refuse to make an order.
100. [Paragraph 6](#) provides for publication of the order. Where the order imposes water saving measures, Scottish Water is also required to take appropriate steps to bring the measures to the attention of persons who are subject to the measures.
101. Where a water shortage order restricts or prohibits the abstraction of water by a person, [paragraph 7](#) requires notice to be given to that person.
102. [Paragraph 8](#) makes provision for the coming into effect and duration of water shortage orders. Ordinary water shortage orders come into effect 3 days after notice of them is published under [paragraph 6](#), and have effect for 6 months. Emergency water shortage orders come into effect on the day after notice of them is published, and have effect for 3 months. The Scottish Ministers can extend the duration of both types of order by up to two months.
103. [Paragraph 9](#) makes provision for the publication of notice of any extension of a water shortage order. Where the extended order includes water saving measures, Scottish Water is also required to take appropriate steps to bring the extension to the attention of

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persons who are subject to the water saving measures. Where the order to be extended restricts or prohibits the abstraction of water by a person, the Scottish Ministers are required to give notice to that person.

104. [Paragraph 10](#) enables anyone aggrieved by an extension of a water shortage order to appeal to the sheriff.
105. [Paragraph 11](#) allows the Scottish Ministers to review a water shortage order at any time and, if they consider it appropriate following such a review, to revoke it in whole or in part. Provision is made for public notice of the revocation to be given, and for the giving of individual notice to any persons who were subject to a restriction or prohibition on the abstraction of water that has been wholly or partly removed by the revocation.
106. [Paragraphs 12 to 16](#) give Scottish Water powers of entry, by court warrant if necessary, in relation to assessing the need for water shortage orders, implementing them, and determining whether a water saving measure, or restriction or prohibition is being complied with. It is an offence to intentionally obstruct a person who is exercising authority to enter conferred by a warrant.
107. [Paragraph 17](#) provides for Scottish Water to pay compensation to anyone who has sustained loss or damage as a result of the abstraction or discharge of water by Scottish Water in accordance with a water shortage order, a restriction or prohibition on the abstraction of water imposed by such an order, or the exercise by an approved person of Scottish Water's powers of entry under paragraph 12(1) or powers conferred by warrant under paragraph 13(1). Compensation is not payable if the loss or damage is attributable to any matter listed in paragraph 17(2) including, for example, where it is attributable to the fault of the person who sustained it. If the parties cannot agree whether compensation is payable or the appropriate amount of compensation, the dispute can be determined by a sheriff.
108. [Paragraph 18](#) requires Scottish Water and the Scottish Ministers to act without undue delay when required to publish or give notice in connection with water shortage orders.
109. [Paragraph 19](#) provides that any reference to a day on which a notice is published under paragraphs 1, 6 and 9 is to the earliest day on which both the requirement to publish it in a newspaper and the requirement to publish it on Scottish Water's website have been met.

Schedule 2 – Water Saving Measures

110. This schedule lists the water saving measures that may be imposed by a water shortage order under section 40(2)(e) or recommended by Scottish Water under section 46. This list includes any measure that Scottish Water or, as the case may be, the Scottish Ministers consider to be necessary or expedient to abate a serious deficiency (or threat of a serious deficiency) of water supplies.

Schedule 3 – Crown Land

111. This schedule provides that the powers of entry in Parts 2 (control of water abstraction) and 7 (water shortage orders) may only be exercised in relation to Crown land with the consent of the appropriate authority. Paragraph 2 defines “Crown land” and “appropriate authority”.

Schedule 4 – Repeal of Enactments

112. This schedule repeals section 69 (power to restrict use of hosepipes) of the 1980 Act and certain provisions of the Natural Heritage (Scotland) Act 1991 which concern drought orders. The provisions of the 1991 Act regarding drought orders are replaced by the provisions of this Act regarding water shortage orders.

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113. The schedule also repeals section 26 of the 2003 Act, which requires the Scottish Ministers to report to the Scottish Parliament annually regarding compliance with the Water Framework Directive (2000/60/EC) and regarding progress towards achieving the environmental objectives for water status that member states are required to set under that Directive.