

EXECUTIVE NOTE

DRAFT : THE WATER ENVIRONMENT (CONSEQUENTIAL AND SAVINGS PROVISIONS) (SCOTLAND) ORDER 2006

The above instrument is made in exercise of the powers conferred by sections 36(3) and 37 of the Water Environment and Water Services (Scotland) Act 2003 ('the 2003 Act'). The instrument is subject to affirmative resolution procedure.

Policy Objectives

1. The purpose of this Order is to make amendments consequential upon the 2003 Act and the regulatory regime which controls activities which impact on the water environment established in the Water Environment (Controlled Activities) (Scotland) Regulations 2005 ('the 2005 Regulations') made under section 20 of the 2003 Act.

Background

2. On 23 October 2000 the Water Framework Directive was adopted (Directive 2000/60/EC establishing a framework for Community action in the field of water policy). The Directive entered into force on 22 December 2000, and the Executive has had three years from that date to transpose its provisions into Scots Law.

3. The 2003 Act transposed the requirements of the Directive into Scots Law, establishing a framework to protect and improve the ecological status of Scotland's water environment, whilst also protecting the social and economic needs of those who depend upon it. Under section 20 of that Act, Scottish Ministers were given the power to introduce such measures as they consider necessary or expedient to regulate 'controlled activities' for the purposes of protection of the water environment.

4. The 2005 Regulations were approved by the Parliament in June last year, and introduce flexible and risk-based controls to regulate 'controlled activities' including point-source discharges, abstraction, impoundment and building, engineering and other works that impact on the physical quality of aquatic habitats. The 2005 Regulations will enter into full force on 1 April 2006.

5. This Order is the first of a series, and makes key amendment to ensure that existing legislation is updated to take account of the 2003 Act and the 2005 Regulations.

Consultation

6. In April 2004 we consulted widely on our proposals to introduce Regulations over 'controlled activities'. As part of that exercise we consulted formally on our general proposals for consequential amendments. More recently we have been working collaboratively with key stakeholders, particularly SEPA and Scottish Water in relation to the proposed amendments to the Water (Scotland) Act 1980.

Regulatory Impact Assessment

7. The amendments specified in this Order do not in themselves generate any costs. An RIA has therefore not been prepared.

Associated Statutory Instruments

8. This Order deals principally with those amendments necessary to align key primary legislation with the 2003 Act and the 2005 Regulations made there under. We intend to bring forward a further Order in respect of amendments to key secondary legislation within the next 2-3 weeks. Together these Orders will address the principal amendments necessary to ensure an integrated and coherent approach to protection of the water environment.

9. It is anticipated that amendments to further legislation will be made during the course of the coming year.

Scottish Executive Environment and Rural Affairs Department
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