
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

The Environmental Liability (Scotland) Regulations 2009

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“activity” means any activity carried out in the course of an economic activity, a business or an undertaking, irrespectively of its private or public, profit or non profit character;

“Directive [79/409/EEC](#)” means Council Directive of 2nd April 1979 on the conservation of wild birds⁽¹⁾;

“Directive [92/43/EEC](#)” means Council Directive of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora⁽²⁾;

“Directive [2000/60/EC](#)” means the Directive of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy⁽³⁾;

“Directive [2001/18/EC](#)” means the Directive of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms⁽⁴⁾;

“enactment” has the meaning assigned to it in section 126(1) (interpretation) of the Scotland Act 1998⁽⁵⁾;

“environmental damage” means damage falling within regulation 4;

“genetically modified organisms” has the meaning assigned to it by Directive [2001/18/EC](#);

“protected species and natural habitats” means—

- (a) the species mentioned in Article 4(2) of Directive [79/409/EEC](#) or listed in Annex I to that Directive or the species listed in Annexes II and IV to Directive [92/43/EEC](#); and
- (b) the habitats of species mentioned in Article 4(2) of Directive [79/409/EEC](#) or listed in Annex I to that Directive or the habitats of species listed in Annex II to Directive [92/43/EEC](#) or the natural habitats listed in Annex I to Directive [92/43/EEC](#) and the breeding sites or resting places of the species listed in Annex IV to Directive [92/43/EEC](#);

“waters” means all waters which comprise “the water environment” within the meaning of section 3(2) of the Water Environment and Water Services (Scotland) Act 2003⁽⁶⁾.

(2) Unless otherwise defined in these Regulations, an expression used in Directive 2004/35/CE of the European Parliament and of the Council of 21st April 2004 on environmental liability with

(1) O.J. No. L 103, 25.4.1979, p.1, as last amended by Council Directive [2008/102/EC](#) (O.J. No. L 323, 3.12.2008, p.31).

(2) O.J. No. L 206, 22.7.1992, p.7, as last amended by Council Directive [2006/105/EC](#) (O.J. No. L 363, 20.12.2006, p.368).

(3) O.J. No. L 327, 22.12.2000, p.1, as last amended by Directive [2008/105/EC](#) (O.J. No. L 348, 24.12.2008, p.84).

(4) O.J. No. L 106, 17.4.2001, p.1, as last amended by Directive [2008/27/EC](#) (O.J. No. L 81, 20.3.2008, p.45).

(5) [1998 c. 46](#).

(6) [2003 asp 3](#) (“the 2003 Act”). Section 3(2) of the 2003 Act defines “the water environment” as meaning “all surface water, ground water and wetlands”. “Surface water”, “ground water” and “wetland” are defined, respectively in section 3(3), (4) and (5) of the 2003 Act, and associated definitions are also defined in that section.

regard to the prevention and remedying of environmental damage⁽⁷⁾ has the same meaning in these Regulations as it has in that Directive.

(3) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication (as defined in section 15 of the Electronic Communications Act 2000⁽⁸⁾) which has been recorded in written form and is capable of being reproduced in that form.

(7) O.J. No. L 143, 30.4.2004, p.56, as amended by Directive 2006/21/EC (O.J. No. L 102, 11.4.2006, p.15).

(8) 2000 c. 7, section 15 was relevantly amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).