
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 420

**ENVIRONMENTAL PROTECTION
WATER**

**The Water Environment (Groundwater and
Priority Substances) (Scotland) Regulations 2009**

Made - - - - 24th November 2009

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20, 25 and 36(2) and (3) of, and schedule 2 to, the Water Environment and Water Services (Scotland) Act 2003 ^{M1} and all other powers enabling them to do so.

In accordance with section 21(1) of that Act, they have consulted with (a) SEPA, (b) every responsible authority, (c) such persons appearing to them to be representative of the interests of local government, industry, agriculture, fisheries and small businesses respectively as they thought fit, and (d) such other persons as they thought fit.

In accordance with section 36(6) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Marginal Citations

M1 2003 asp 3; section 20 was amended by regulation 3 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (S.S.I. 2005/348).

Citation and commencement

1. These Regulations may be cited as the Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

“the Act” means the Water Environment and Water Services (Scotland) Act 2003;

“the Groundwater Directive 2006” means Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration ^{M2}; and

Status: Point in time view as at 31/03/2011.

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009 (revoked). (See end of Document for details)

“the Priority Substances Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy^{M3}.

Marginal Citations

M2 O.J. L 372, 27.12.2006, p.19.

M3 O.J. L 348, 24.12.2008, p.84.

Provisions of the Act which are modified for the purpose of giving effect to the Groundwater Directive 2006 and the Priority Substances Directive

3. For the purpose of giving effect to the Groundwater Directive 2006 and the Priority Substances Directive the provisions of Part 1 of the Act have effect with the following modifications—

- (a) in section 2(1) and (2) (the general duties) after “Directive” insert “, the Groundwater Directive 2006 and the Priority Substances Directive ”; and
- (b) in section 28(1) (interpretation of Part 1)—
 - (i) after the definition of “groundwater” insert—

““the Groundwater Directive 2006” means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration,”; and
 - (ii) after the definition of “loch” insert—

““the Priority Substances Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy,”.

Amendment of the Water Environment (Controlled Activities) (Scotland) Regulations 2005

^{F1}4.

Textual Amendments

F1 Reg. 4 revoked (31.3.2011) by The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (S.S.I. 2011/209), regs. 1(2), 58(1)(e) (with regs. 3, 54)

Revocations

5. The Regulations specified in Schedule 3 are revoked.

St Andrew's House,
Edinburgh

R CUNNINGHAM
Authorised to sign by the Scottish Ministers

F²SCHEDULE 1

Regulation 4(6)

Schedule 2 to the Water Environment (Controlled Activities) (Scotland) Regulations 2005

Textual Amendments

F2 Sch. 1 revoked (31.3.2011) by [The Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/209\)](#), regs. 1(2), **58(1)(e)** (with regs. 3, 54)

“SCHEDULE 2

Regulation 2(1)

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F³SCHEDULE 2

Regulation 4(8)

Schedule 4 to the Water Environment (Controlled Activities) (Scotland) Regulations 2005

Textual Amendments

F3 Sch. 2 revoked (31.3.2011) by [The Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/209\)](#), regs. 1(2), **58(1)(e)** (with regs. 3, 54)

“SCHEDULE 4

Regulation 15(1)

.....

SCHEDULE 3

Regulation 5

Revocations

Regulations revoked

References

The Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1990 S.I. 1990/126

The Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1992 S.I. 1992/574

The Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1998 S.I. 1998/250

The Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1998 S.I. 1998/1344

Status: Point in time view as at 31/03/2011.

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009 (revoked). (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (“the Regulations”) give effect to community obligations arising under Directive [2006/118/EC](#) of the European Parliament and of the Council on the Protection of Groundwater against pollution and deterioration (“the Groundwater Directive 2006”) and Directive [2008/105/EC](#) of the European Parliament and of the Council on Environmental Quality Standards in the Field of Water Policy (“the Priority Substances Directive”).

Regulation 3 applies modified provisions of the Water and Environment and Water Services (Scotland) Act 2003 (“the Act”).

Section 2(1) and (2) of the Act is modified so as to provide that the Scottish Ministers, SEPA, and the responsible authorities must exercise their functions so as to secure compliance with the Groundwater Directive 2006 and the Priority Substances Directive.

Section 28 of the Act is modified to introduce definitions for the Groundwater Directive 2006 and the Priority Substances Directive.

Regulation 4 amends the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (“the 2005 Regulations”).

Regulation 2(1) of the 2005 Regulations is amended to introduce definitions for the Groundwater Directive 2006 and the Priority Substances Directive, and to redefine “the Groundwater Directive” as “the Groundwater Directive 1980”. Regulation 2(1) is also amended to introduce a definition of a hazardous substance.

Regulation 4 of the 2005 Regulations, which applies the 2005 Regulations to direct or indirect discharges into groundwater, is amended to take into account the new definition of a hazardous substance.

Regulation 10 of the 2005 Regulations is amended to oblige SEPA, when considering an application in respect of a controlled activity, to take into account the Groundwater Directive 2006 and, in respect of applications made before 22nd December 2013, the Groundwater Directive 1980.

Regulation 28 of the 2005 Regulations, which deals with enforcement notices, is amended in consequence of the new definition of a hazardous substance.

A substitute Schedule 2 to the 2005 Regulations sets out the criteria for the identification of hazardous substances by SEPA.

Schedule 3 to the 2005 Regulations, which contains rules concerning controlled activities, is amended to take into account the new definition of a hazardous substance.

A substitute Schedule 4 to the 2005 Regulations includes the Groundwater Directive 2006 and the Priority Substances Directive on the list of legislation that must be applied by SEPA in its decision-making process under regulation 15. The substitute Schedule also updates the list of legislation that SEPA must have regard to when determining applications under the 2005 Regulations.

Schedule 8 to the 2005 Regulations is amended to add further particulars to be included in the register SEPA must maintain under Regulation 33 of the 2005 Regulations.

Regulation 5 revokes regulations which have been superseded by the Priority Substances Directive and the Regulations or are otherwise dealt with in Directions by the Scottish Ministers to SEPA.

Status:

Point in time view as at 31/03/2011.

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009 (revoked).