
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 323

The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013

PART 3

SPECIFIC MEASURES AGAINST POLLUTION OF WATER

[^{F1}Environmental quality standards for bodies of surface water

17.—(1) Subject to paragraph (2), SEPA must, for each body of surface water within a river basin district, apply the EQS in Part A in accordance with the requirements in Part B.

(2) Without prejudice to existing obligations, SEPA must—

- (a) from 22nd December 2015, apply the EQS in Part A for the substances numbered (2), (5), (15), (20), (22), (23) and (28) (in column (1) of the table in that Part) with the aim of achieving good surface water chemical status in relation to those substances by 22nd December 2021 by means of the programme of measures included in the river basin management plan (or an update of it); and
- (b) from 22nd December 2018, apply the EQS in Part A for the substances numbered (34) to (45) (in column (1) of the table in that Part) with the aim of achieving good surface water chemical status in relation to those substances by 22nd December 2027 and preventing deterioration in the chemical status of each body of surface water in relation to those substances.

(3) The objectives set under section 9(1)(a)(i) of the Act must, subject to the application of regulations 5 to 10 and without prejudice to any other objectives that are required to be set under that section, aim to achieve the obligations in paragraph (2).

(4) For the purposes of paragraph (3), references in regulations 5 to 9 to an objective set pursuant to regulation 3(1) are to be construed as an objective set pursuant to paragraph (3).

(5) For the purposes of paragraph (2)(b), SEPA must—

- (a) by 22nd December 2018, establish a supplementary monitoring programme and a preliminary programme of measures covering those substances;
- (b) by 22nd December 2021, establish a full programme of measures covering those substances (“the full programme”); and
- (c) as soon as possible after 22nd December 2021, and not later than 22nd December 2024, implement and make fully operational the full programme.

(6) SEPA must apply—

- (a) the biota EQS in Part A for the substances numbered (5), (15), (16), (17), (21), (28), (34), (35), (37), (43) and (44) (in column (1) of the table in that Part); and
- (b) the water EQS in Part A for the other substances numbered (in that column).

(7) SEPA may in relation to one or more categories of surface water, apply—

- (a) an EQS for a matrix other than that specified in paragraph (6); or
 - (b) where relevant, an EQS for a biota taxon other than that specified in Part A.
- (8) Where SEPA makes use of the option in paragraph (7), it must—
- (a) apply the EQS for the substances in question; or
 - (b) if there is no EQS for the matrix or biota taxon in question, establish an EQS for that matrix or biota taxon that offers at least the same level of protection as the corresponding EQS for those substances in relation to other matrix and biota taxon.
- (9) SEPA may use the option in paragraph (7) only where—
- (a) the method of analysis used for the chosen matrix or biota taxon fulfils the minimum performance criteria in Article 4 of [Directive 2009/90/EC](#); or
 - (b) if the method does not fulfil those criteria for any matrix, SEPA ensures—
 - (i) that the method of analysis performs at least as well as that available for the matrix specified in paragraph (6) for the relevant substance; and
 - (ii) that monitoring is carried out using best available techniques not entailing excessive costs.
- (10) Where a biota or sediment EQS for a substance in Part A is being applied and a potential risk to, or via, the water environment from acute exposure to the substance has been identified as a result of measured or estimated environmental concentrations or emissions of that substance, SEPA must—
- (a) additionally apply any MAC-EQS in Part A for that substance; and
 - (b) carry out monitoring in relevant bodies of surface water for that substance.
- (11) Any measured result for the substance being monitored must not be considered by SEPA for the purposes of assessing the chemical status of a body of surface water where—
- (a) pursuant to Article 5 of [Directive 2009/90/EC](#), the calculated mean value of a measurement, when carried out using the best available technique not entailing excessive costs, is referred to as ‘less than limit of quantification’; and
 - (b) the limit of quantification of that technique is above the EQS for the substance.
- (12) For substances for which an EQS for sediment or biota is applied, SEPA must, subject to paragraph (13), monitor the substance in the relevant matrix at least once every year, unless technical knowledge and expert judgment justify a different interval.
- (13) SEPA may monitor the substances numbered (5), (21), (28), (30), (35), (37), (43) and (44) (in column (1) of the table in Part A) less intensively than is required by paragraph (12) and Annex V to the Water Framework Directive provided that the monitoring—
- (a) is representative and a statistically robust baseline is available regarding the presence of those substances in the aquatic environment; and
 - (b) takes place for each of the substances at least once every 3 years (unless technical knowledge and expert judgment justify a different interval).
- (14) SEPA must include the following information in the river basin management plan (or the next update of it)—
- (a) a table presenting the limits of quantification of the methods of analysis applied, and information on the performance of those methods in relation to the minimum performance criteria in Article 4 of [Directive 2009/90/EC](#);
 - (b) for the substances for which the option in paragraph (7) is used—
 - (i) the reasons and basis for using that option;
 - (ii) where relevant, the alternative EQS established, evidence that those EQS would offer at least the same level of protection as the EQS in Part A, including the data and

methodology used to derive the EQS, and the categories of surface water to which they would apply; and

(iii) for comparison with the information referred to in sub-paragraph (a), the limits of quantification of the methods of analysis for matrices specified in Part A, including information on the performance of the methods in relation to the minimum performance criteria in Article 4 of [Directive 2009/90/EC](#); and

(c) justification for the frequency of monitoring applied in accordance with paragraph (12) (as read with paragraph (13)), if monitoring intervals are longer than one year.

(15) SEPA must ensure—

(a) that the river basin management plan (or the next update of it) contains the results and impact of the measures taken to prevent chemical pollution of surface water; ^{F2}...

^{F3}(b)

(16) SEPA must—

(a) arrange for the long-term trend analysis of concentrations of the priority substances listed in Part A that tend to accumulate in sediment or biota (giving particular consideration to the substances numbered (2), (5), (6), (7), (12), (15), (16), (17), (18), (20), (21), (26), (28), (30), (34), (35), (36), (37), (43) and (44) in column (1) of the table in that Part) on the basis of the monitoring of surface water status carried out in accordance with section 8 (monitoring) of the Act;

(b) take measures aimed at ensuring, subject to Article 4 of the Water Framework Directive, that such concentrations do not significantly increase in sediment or relevant biota;

(c) determine the frequency of monitoring in sediment and biota so as to provide sufficient data for reliable long-term trend analysis of each priority substance; and

(d) ensure that monitoring for each priority substance takes place at least once every 3 years, unless technical knowledge and expert judgment justify a different interval.]

Textual Amendments

- F1** Reg. 17 and cross-heading substituted (14.9.2015) by [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **3(b)** (with reg. 6)
- F2** Word in reg. 17(15) omitted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, **4(8)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 17(15)(b) omitted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, **4(8)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013, Section 17.