

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 – Reservoirs

Chapter 10 – Miscellaneous

Section 100 – Guidance

136. This section requires the Scottish Ministers to publish guidance on Part 1 of the Act. Subsection (2) requires the guidance to include guidance on orders and regulations made under the Act which affects the operation of Part 1 and incorporate any other guidance issued either by the Scottish Ministers or SEPA under Part 1 of the Act. Subsection (3) requires the Scottish Ministers to keep the guidance under review and to revise and republish the guidance with such revisions as they think appropriate. Subsection (4) requires the Scottish Ministers to consult with SEPA, the Institution of Civil Engineers and any such other persons they consider appropriate before publishing or republishing any guidance under this section.

Section 101 – Grants

137. This section enables the Scottish Ministers to pay grants to reservoir managers for the purposes of enabling or assisting them to comply with any obligation under Part 1 of the Act. Subsection (2) sets out the circumstances in which such grants can be made. Subsection (3) enables the Scottish Ministers to impose such conditions to the grants as they see fit.

Section 102 – Assessment of engineers' reports etc.

138. This section enables the Scottish Ministers to make provision in regulations for the assessment of reports, written statements and certificates prepared by engineers as part of their functions under Part 1 of the Act. Subsection (2) enables the regulations to make provision for a committee of members of the Institution of Civil Engineers to undertake this assessment and the conditions of membership for such a committee. Subsection (3) lists the things which the regulations may in particular provide for.

Section 103 – Notice to SEPA of revocation of appointment or resignation of engineer

139. This section requires reservoir managers to notify to SEPA when they have revoked the appointment of an engineer or when an engineer appointed by him or her notifies them of their resignation from appointment in relation to a controlled reservoir and the date it took effect. Subsection (2) requires engineers to notify the reservoir manager in writing when they have resigned from an appointment for a controlled reservoir and the date the resignation is effective from. Subsection (3) and (4) require the reservoir manager to notify SEPA within 28 days of the revocation or of being informed of the resignation. Subsection (5) makes it an offence for the reservoir manager to fail to comply with the

requirements of this section. Subsection (6) sets out the liabilities of anyone committing an offence under this section.

Section 104 – SEPA: Ministerial directions

140. This section requires SEPA to act in accordance with any directions given to it by the Scottish Ministers when carrying out its functions under Part 1 of the Act.

Section 105 – Form and content of notices, reports, certificates etc

141. This section enables the Scottish Ministers to make further provision in regulations in relation to the form and content of any notices, and the form of any report, certificate, written statement or recommendation under Part 1 of the Act.

Section 106 – Notices by SEPA

142. This section applies section 123 of the [Environment Act 1995 \(c.25\)](#) to any documents authorised or required to be given by SEPA under this Act. Section 123 of the Environment Act 1995 concerns methods of service of documents and provides that any notice or document to be given or served may be given or served by delivering it to the person, leaving it at their last known address, or by sending it by post to their last known address. It also makes provision regarding service on companies and partnerships and provides for service on unoccupied premises or premises occupied by persons who cannot be identified.

Section 107 – Change to the Institution of Civil Engineers

143. [Section 107](#) enables the Scottish Ministers to amend references to the Institution of Civil Engineers and its President if the institution ceases to exist.

Section 108 – Civil liability

144. [Section 108](#) prevents civil proceedings for damages being pursued in respect of failures to comply with the duties imposed by Part 1.