

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 2 – Protection of the Water Environment - Remedial and Restoration Measures

Section 109 – Remedial and restoration measures regulations

145. This section extends the powers conferred by section 22 of the Water Environment and Water Services (Scotland) Act 2003 (“the 2003 Act”) to enable the creation of offences in connection with remedial and restoration measures to help achieve the environmental objectives of directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy (“the Water Framework Directive”). This inclusion is required as section 22 of the 2003 Act failed to include provision for criminal offences relating to restoration measures.
146. [Section 22](#) is amended and a new schedule 2A is inserted into the 2003 Act. New schedule 2A is modelled on paragraphs 12, 13 and 20 of schedule 2 to the 2003 Act, which enable the creation of offences in regulations made under section 20 of that Act. In paragraph 4 of new schedule 2A, provision equivalent to paragraph 13(b) of schedule 2 is not required, however, given that section 22(3)(b)(ii) already provides for this.
147. [Paragraph 4](#) of Schedule 2A makes provision concerning modes of trial and maximum sentences, in a similar manner to paragraph 20 of schedule 2. The level of the maximum penalties permitted is modelled on the requirements of the 2003 Act, and intended to reflect the potential seriousness of the offences.
148. In the absence of such provisions, SEPA would have difficulty enforcing the terms of regulations made under section 22 of the 2003 Act about remedial and restoration measures, which could affect the achievement of the water environment quality objectives of the Water Framework Directive.