

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – General

Section 110 – Crown application

- 149. This section makes provision for the Act to apply to the Crown in Scotland.
- 150. Subsections (3) and (4) provide that the Crown in Scotland will not be criminally liable for any contravention of the Act's provisions but allows the Court of Session to declare any act of the Crown in contravention of the Act's provisions unlawful, upon application by SEPA or office holder responsible for enforcing the provision in question.
- 151. Subsection (5) provides that any provision made by or under this Act applies to persons in the service of the Crown as it applies to other persons.
- 152. Subsection (6) and (7) limit powers of entry to Crown land by requiring the consent of an appropriate authority to be obtained before the powers can be exercised. Subsection (7) defines "Crown land" and "appropriate authority" and subsection (9) provides for the Scottish Ministers to determine any questions about who the appropriate authority is in relation to any land.

Section 111 – Offences by bodies corporate

- 153. This section provides that where an offence under the Act has been committed by a corporate body, Scottish partnership or other unincorporated association and the offence was committed with the consent or connivance of a "relevant individual", both the body and the individual can be prosecuted.
- 154. Subsection (2) defines "relevant individual" and includes directors and other officers of companies, partners and individuals who manage or control other unincorporated associations.

Section 112 – Consequential amendment and repeals

- 155. This section contains consequential amendments and repeals to other Acts.

Section 113 – Ancillary provision

- 156. This section enables the Scottish Ministers by order to make incidental, supplementary, consequential, transitional, transitory or saving provision, if appropriate.

Section 114 – Orders and regulations

- 157. This section provides the procedure for making of orders and regulations under the Act.
- 158. Subsection (3) provides that all orders and regulations, except a commencement order, made under the Act are subject to negative procedure unless they are listed in

*These notes relate to the Reservoirs (Scotland) Act 2011
(asp 9) which received Royal Assent on 12 April 2011*

subsection (4). Orders and regulations which fall under subsection (4) are subject to affirmative procedure.

Section 115 – Defined expressions

159. This section introduces the Schedule, which contains an index of terms defined in the Act.

Section 116 – Commencement and short title

160. This section provides that the provisions of the Act, except those that merely contain definitions or stipulate Parliamentary procedures, are to come into force on a day set by the Scottish Ministers by order. The section also provides for the short title of the Act.