



Reservoirs (Scotland) Act 2011

2011 asp 9

PART 1

RESERVOIRS

CHAPTER 10

MISCELLANEOUS

100 **Guidance**

- (1) The Scottish Ministers must publish guidance on the operation of this Part.
- (2) Guidance under subsection (1) must in particular—
 - (a) include guidance on any orders or regulations which have been made under this Act and which affect the operation of this Part, and
 - (b) incorporate any guidance which has been issued or published under any other provision of this Part (whether by SEPA or the Scottish Ministers).
- (3) The Scottish Ministers must keep the guidance under this section under review with a view to revising and re-publishing the guidance with such revisions as they think appropriate.
- (4) Before publishing or re-publishing any guidance under this section, the Scottish Ministers must consult—
 - (a) SEPA,
 - (b) the Institution of Civil Engineers,
 - (c) such other persons as they consider appropriate.

101 **Grants**

- (1) The Scottish Ministers may pay grants to a reservoir manager for the purposes of enabling or assisting the reservoir manager to comply with any obligation arising under or by virtue of this Part.
- (2) Grants are payable only where the reservoir concerned—

Status: This is the original version (as it was originally enacted).

- (a) is a high-risk reservoir or a medium-risk reservoir, and
 - (b) was not a “large raised reservoir” for the purposes of section 1 of the 1975 Act on the date immediately before that section was repealed.
- (3) Grants may be subject to such conditions (including conditions on repayment) as the Scottish Ministers think fit.

102 Assessment of engineers’ reports etc.

- (1) The Scottish Ministers may by regulations make provision for the assessment of the quality of reports, written statements and certificates given under this Part by—
- (a) construction engineers,
 - (b) inspecting engineers,
 - (c) other qualified engineers,
 - (d) supervising engineers.
- (2) The regulations may—
- (a) make provision for the assessment to be made by a committee consisting of members of the Institution of Civil Engineers,
 - (b) specify the conditions for membership of the committee.
- (3) The regulations may, in particular, make provision as to—
- (a) the criteria for assessment,
 - (b) the reports, statements and certificates, or categories of reports, statements and certificates, that are to be assessed,
 - (c) the assessment procedure (including whether oral as well as written representations are to be permitted),
 - (d) timing,
 - (e) reporting by the committee to SEPA and the Scottish Ministers,
 - (f) the steps that may be taken by SEPA or the Scottish Ministers following an assessment.

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

- (1) Where the reservoir manager of a controlled reservoir revokes the appointment of a construction engineer, an inspecting engineer, an other qualified engineer or a supervising engineer appointed in relation to the reservoir, the manager must give SEPA notice of the revocation and of the date it took effect.
- (2) Where an engineer referred to in subsection (1) resigns such appointment—
- (a) the engineer must give the reservoir manager notice of the resignation and the date on which it took, or is to take, effect,
 - (b) the reservoir manager who receives notice under paragraph (a) must, not later than 28 days after the receipt, give SEPA a copy of the notice.
- (3) Notice under subsection (1) or (2)(a) must be given not later than 28 days after the revocation or (as the case may be) resignation.
- (4) Failure by a reservoir manager to comply with the requirements of subsection (1) or (2)(b) is an offence.
- (5) A reservoir manager guilty of an offence under subsection (4)—

Status: This is the original version (as it was originally enacted).

- (a) in relation to a controlled reservoir which is, at the time the offence is committed, designated as a high-risk reservoir is liable on summary conviction to a fine not exceeding level 5 on the standard scale,
 - (b) in relation to any other controlled reservoir is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) It is a defence to a charge in proceedings for an offence under subsection (4) that the reservoir manager did not receive notice of the engineer's resignation.

104 SEPA: Ministerial directions

SEPA must, in carrying out its functions under this Part, act subject to and in accordance with such directions as may be given by the Scottish Ministers.

105 Form and content of notices, reports, certificates etc.

The Scottish Ministers may by regulations make provision as to—

- (a) the form and content of any notice required under this Part,
- (b) the form of any report or certificate by a construction engineer or an inspecting engineer or of any notice, written statement or recommendation by a supervising engineer under this Part.

106 Notices by SEPA

- (1) Section 123 of the Environment Act 1995 (c.25) (service of documents) applies to any document authorised or required by virtue of any provision of this Act to be given by SEPA as if it were authorised or required to be given (or served) under that Act.
- (2) Where SEPA is unable after reasonable enquiry to ascertain the name or address of a reservoir manager of a controlled reservoir, a notice by SEPA under this Part is to be treated as given to the manager if either—
 - (a) it is left in the hands of a person who is or appears to be resident or employed at the site of the reservoir, or
 - (b) it is conspicuously affixed to a building or object at the site of the reservoir.

107 Change to the Institution of Civil Engineers

If the Institution of Civil Engineers ceases to exist, the Scottish Ministers may by order amend references in this Part to the Institution and to its President.

108 Civil liability

This Part does not confer a right to claim damages in respect of a breach of an obligation imposed by the Part.