



# Reservoirs (Scotland) Act 2011

## 2011 asp 9

### PART 1

### RESERVOIRS

### CHAPTER 9

#### CIVIL ENFORCEMENT, EMERGENCY POWERS AND FURTHER OFFENCES

#### *Appointment of engineers*

#### **65 Enforcement notice: appointment of engineer**

- (1) This section applies in relation to a controlled reservoir where it appears to SEPA that—
- (a) the reservoir manager is required by section 33(2)(a) to appoint a construction engineer, but no construction engineer is for the time being appointed,
  - (b) the reservoir manager is required by section 45(1)(a) to appoint an inspecting engineer, but no inspecting engineer is for the time being appointed,
  - (c) the reservoir manager is required by section 49(1)(a) to appoint a supervising engineer, but no supervising engineer is for the time being appointed.
- (2) SEPA may by notice require the reservoir manager of the reservoir—
- (a) to make the relevant appointment before the end of the period of 28 days beginning with the day on which the notice is given (unless the reservoir manager has already made the relevant appointment),
  - (b) to give notice to SEPA of the appointment (whether it was made before or after the notice was given).
- (3) In subsection (2)(a) and sections 67 and 68, “the relevant appointment” is the appointment of a construction engineer, an inspecting engineer or (as the case may be) a supervising engineer.

**66 Offence: failure to comply with notice under section 65(2)**

- (1) Failure to comply with the requirements of a notice by SEPA under the following sections is an offence—
  - (a) section 65(2)(a) (requirement to appoint construction engineer, inspecting engineer or supervising engineer),
  - (b) section 65(2)(b) (notice of appointment to SEPA).
- (2) A reservoir manager guilty of an offence under subsection (1)(a) or (b) is liable—
  - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
  - (b) on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.

**67 Appointment of engineer by SEPA**

- (1) SEPA may make the relevant appointment where—
  - (a) it has by notice under section 65(2) required a reservoir manager to make the appointment, and
  - (b) the reservoir manager has failed to make the appointment.
- (2) An appointment by SEPA under this section is to be treated for the purposes of this Part as if the appointment were by the reservoir manager under section 33(2)(a), 45(1)(a) or (as the case may be) 49(1)(a).
- (3) An appointment under this section has no effect if the reservoir manager has already made the relevant appointment.
- (4) An appointment under this section terminates with effect from the date of a subsequent relevant appointment made by the reservoir manager.
- (5) The reservoir manager must pay SEPA the amount of any expenses reasonably incurred by it in pursuance of the exercise of powers under this section.

**68 Appointment by SEPA: engineers' reports, certificates, recommendations etc.**

Where SEPA makes a relevant appointment under section 67, the following are to be given to SEPA (instead of being given to the reservoir manager) and copied to the reservoir manager not later than 28 days after being given to SEPA—

- (a) where the relevant appointment is that of a construction engineer, any safety report, safety measure certificate, preliminary certificate, construction certificate or final certificate by the construction engineer,
- (b) where the relevant appointment is that of an inspecting engineer, any inspection report, interim inspection compliance certificate or inspection compliance certificate by the inspecting engineer,
- (c) where the relevant appointment is that of a supervising engineer, any notice under section 50(2)(a) or (g), recommendation under section 50(3) or statement under section 50(8).