
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (“the Regulations”) give effect to community obligations arising under Directive [2006/118/EC](#) of the European Parliament and of the Council on the Protection of Groundwater against pollution and deterioration (“the Groundwater Directive 2006”) and Directive [2008/105/EC](#) of the European Parliament and of the Council on Environmental Quality Standards in the Field of Water Policy (“the Priority Substances Directive”).

Regulation 3 applies modified provisions of the Water and Environment and Water Services (Scotland) Act 2003 (“the Act”).

- Section 2(1) and (2) of the Act is modified so as to provide that the Scottish Ministers, SEPA, and the responsible authorities must exercise their functions so as to secure compliance with the Groundwater Directive 2006 and the Priority Substances Directive.
- Section 28 of the Act is modified to introduce definitions for the Groundwater Directive 2006 and the Priority Substances Directive.

Regulation 4 amends the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (“the 2005 Regulations”).

- Regulation 2(1) of the 2005 Regulations is amended to introduce definitions for the Groundwater Directive 2006 and the Priority Substances Directive, and to redefine “the Groundwater Directive” as “the Groundwater Directive 1980”. Regulation 2(1) is also amended to introduce a definition of a hazardous substance.
- Regulation 4 of the 2005 Regulations, which applies the 2005 Regulations to direct or indirect discharges into groundwater, is amended to take into account the new definition of a hazardous substance.
- Regulation 10 of the 2005 Regulations is amended to oblige SEPA, when considering an application in respect of a controlled activity, to take into account the Groundwater Directive 2006 and, in respect of applications made before 22nd December 2013, the Groundwater Directive 1980.
- Regulation 28 of the 2005 Regulations, which deals with enforcement notices, is amended in consequence of the new definition of a hazardous substance.
- A substitute Schedule 2 to the 2005 Regulations sets out the criteria for the identification of hazardous substances by SEPA.
- Schedule 3 to the 2005 Regulations, which contains rules concerning controlled activities, is amended to take into account the new definition of a hazardous substance.
- A substitute Schedule 4 to the 2005 Regulations includes the Groundwater Directive 2006 and the Priority Substances Directive on the list of legislation that must be applied by SEPA in its decision-making process under regulation 15. The substitute Schedule also updates the list of legislation that SEPA must have regard to when determining applications under the 2005 Regulations.
- Schedule 8 to the 2005 Regulations is amended to add further particulars to be included in the register SEPA must maintain under Regulation 33 of the 2005 Regulations.

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

Regulation 5 revokes regulations which have been superseded by the Priority Substances Directive and the Regulations or are otherwise dealt with in Directions by the Scottish Ministers to SEPA.