



# Water Environment and Water Services (Scotland) Act 2003

## 2003 asp 3

### PART 1

#### PROTECTION OF THE WATER ENVIRONMENT

#### CHAPTER 1

#### PURPOSE, GENERAL DUTIES AND DEFINITIONS

#### 1 General purpose of Part 1

(1) The purpose of this Part is to make provision for or in connection with protection of the water environment, including making provision, and enabling provision to be made, for or in connection with implementing Directive [2000/60/EC](#) of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy [<sup>F1</sup>, as last amended by Commission Directive [2014/101/EU](#) <sup>F2</sup>,] (referred to in this Part as “the Directive”).

[<sup>F3</sup>(1A) The reference in subsection (1) to [Directive 2000/60/EC](#) is to that Directive as amended by—

- (a) Decision No [2455/2001/EC](#) of the European Parliament and of the Council,
- (b) [Directive 2008/32/EC](#) of the European Parliament and of the Council,
- (c) [Directive 2008/105/EC](#) of the European Parliament and of the Council,
- (d) [Directive 2009/31/EC](#) of the European Parliament and of the Council,
- (e) Directive [2013/39/EU](#) of the European Parliament and of the Council, and
- (f) Commission Directive [2014/101/EU](#).]

(2) In this Part “protection of the water environment” includes, in particular—

- (a) preventing further deterioration of, and protecting and enhancing, the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on those aquatic ecosystems,
- (b) promoting sustainable water use based on the long-term protection of available water resources,

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- (c) aiming at enhancing protection and improvement of the aquatic environment through, amongst other things, specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing out of discharges, emissions and losses of the priority hazardous substances,
  - (d) ensuring the progressive reduction of pollution of groundwater and preventing further pollution of it, and
  - (e) contributing to mitigating the effects of floods and droughts,
- with a view to contributing to the achievement of the aims specified in subsection (3).
- (3) Those aims are—
- (a) the provision of a sufficient supply of good quality surface water and groundwater as needed for sustainable, balanced and equitable water use,
  - (b) a significant reduction in pollution of groundwater,
  - (c) the protection of territorial and other marine waters, and
  - (d) achieving the objectives of international agreements, including those which aim to prevent and eliminate pollution of the marine environment, in relation to which measures are adopted under paragraph 1 of Article 16 of the Directive in pursuance of a proposal under paragraph 3 of that Article.

#### Textual Amendments

- F1** Words in s. 1(1) inserted (31.12.2020) by [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** OJ L 311, 31.10.2014, p.32.
- F3** S. 1(1A) inserted (14.9.2015) by [The Water Environment and Water Services \(Scotland\) Act 2003 \(Modification of Part 1\) Regulations 2015 \(S.S.I. 2015/270\)](#), regs. 1(1), **2(a)**

#### Commencement Information

- I1** S. 1 in force at 15.12.2003 by [S.S.I. 2003/562](#), **art. 2(a)**

## 2 The general duties

- (1) The Scottish Ministers and SEPA must exercise their functions under the relevant enactments so as to secure compliance with the requirements of the Directive [<sup>F4</sup>, the Groundwater Directive and the Priority Substances Directive].
- (2) The responsible authorities must exercise their designated functions so as to secure compliance with the requirements of the Directive [<sup>F5</sup>, the Groundwater Directive and the Priority Substances Directive].
- (3) Subsection (4) applies to—
  - (a) the Scottish Ministers in exercising their functions, and SEPA in exercising its functions, under the relevant enactments in pursuance of subsection (1),
  - (b) the responsible authorities in exercising their designated functions in pursuance of subsection (2).
- (4) The Scottish Ministers, SEPA and the responsible authorities must—
  - (a) have regard to the social and economic impact of such exercise of those functions,

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- (b) so far as is consistent with the purposes of the relevant enactment or designated function in question—
- (i) promote sustainable flood [<sup>F6</sup>risk] management, and
  - (ii) act in the way best calculated to contribute to the achievement of sustainable development, and
- (c) so far as practicable, adopt an integrated approach by co-operating with each other with a view to co-ordinating the exercise of their respective functions.
- (5) Without prejudice to subsections (1) to (4), the Scottish Ministers and every public body and office-holder must, in exercising any functions, have regard to the desirability of protecting the water environment.
- (6) The Scottish Ministers may give directions (whether general or specific) and guidance to—
- (a) SEPA, in relation to the exercise of its functions under the relevant enactments,
  - (b) the responsible authorities, in relation to the exercise of their designated functions;
- and SEPA and the responsible authorities must comply with any such directions and have regard to any such guidance.
- (7) Directions under subsection (6) may include provision for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than the Scottish Ministers.
- (8) In this section—
- [<sup>F7</sup> “the Groundwater Directive” means [Directive 2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration , ]
- [<sup>F7</sup> “the Priority Substances Directive” means [Directive 2008/105/EC](#) of the European Parliament and of the Council on environmental quality standards in the field of water policy , ]
- “ the relevant enactments ” means this Part [<sup>F8</sup> , Part 3 of the Regulatory Reform (Scotland) Act 2014 ] and such other enactments as the Scottish Ministers may by order specify,
- “ responsible authorities ” means such public bodies and office-holders, or public bodies and office-holders of such descriptions, as the Scottish Ministers may by order designate for the purposes of this Part; and “ designated functions ”, in relation to a responsible authority, means such of the authority’s functions relating to the water environment as are specified in relation to the authority in an order made by the Scottish Ministers (whether or not the order designating the authority as a responsible authority).

#### Textual Amendments

- F4** Words in s. 2(1) inserted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019](#) (S.S.I. 2019/26), regs. 1, **2(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 2(2) inserted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019](#) (S.S.I. 2019/26), regs. 1, **2(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Word in s. 2(4)(b)(i) inserted (26.11.2009) by [Flood Risk Management \(Scotland\) Act 2009](#) (asp 6) , s. 97(1) , **Sch. 3 para. 14** (with s. 91 ) ; S.S.I. 2009/393 , art. 2 , Sch.
- F7** Words in s. 2(8) inserted (14.9.2015) by [The Water Environment and Water Services \(Scotland\) Act 2003 \(Modification of Part 1\) Regulations 2015](#) (S.S.I. 2015/270), regs. 1(1), **2(b)(ii)**

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**F8** Words in s. 2(8) inserted (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#) , s. 61(2) , [Sch. 3 para. 8\(2\)](#) ; [S.S.I. 2014/160](#) , art. 2(1)(2) , Sch.

**Modifications etc. (not altering text)**

**C1** S. 2(1)(2) modified (25.11.2009) by [Water Environment \(Groundwater and Priority Substances\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/420\)](#) , regs. 1 , [3\(a\)](#)

**Commencement Information**

**I2** S. 2 in force at 15.12.2003 by [S.S.I. 2003/562](#) , [art. 2\(a\)](#)

### 3 The water environment: definitions

- (1) The following provisions have effect for the interpretation of this Part.
- (2) “The water environment” means all surface water, groundwater and wetlands.
- (3) “Surface water” means inland water (other than groundwater), transitional water and coastal water.
- (4) “Groundwater” means water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil.
- (5) “Wetland” means an area of ground the ecological, chemical and hydrological characteristics of which are attributable to frequent inundation or saturation by water and which is directly dependent, with regard to its water needs, on a body of groundwater or a body of surface water.
- (6) “Inland water” means—
  - (a) all standing or flowing water on the surface of the land (other than transitional water), and
  - (b) all groundwater,
 within the landward limits of coastal water.
- (7) “Transitional water” means water (other than groundwater) in the vicinity of river mouths which is partly saline in character as a result of its proximity to coastal water but which is substantially influenced by freshwater flows.
- (8) “Coastal water” means water (other than groundwater) within the area extending landward from the 3 mile limit up to the limit of the highest tide or, where appropriate, the seaward limits of any bodies of transitional water, but does not include any water beyond the seaward limits of the territorial sea of the United Kingdom adjacent to Scotland.
- (9) “The 3 mile limit” means the limit consisting of a line every point of which is at a distance of 3 miles on the seaward side from the nearest point of the baseline from which the breadth of the territorial sea of the United Kingdom adjacent to Scotland is measured; and “miles” means international nautical miles of 1,852 metres.
- (10) Nothing in this Part applies to any water contained in—
  - (a) artificial swimming pools,
  - (b) mains or other pipes belonging to Scottish Water or which are used by Scottish Water or any other person for the purpose only of providing a supply of water to any premises,
  - (c) water treatment works,

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- (d) sewers and drains which drain into sewers,
  - (e) sewage treatment works,
  - (f) artificially created systems for the treatment of pollutants.
- (11) The Scottish Ministers—
- (a) must deposit with SEPA maps showing what appear to them to be the landward and seaward limits of every body of transitional water,
  - (b) may, if they consider it appropriate to do so, deposit with SEPA maps showing the landward and seaward limits of coastal water,
  - (c) may, if they consider it appropriate to do so by reason of any change of what appears to them to be any of the limits referred to in paragraphs (a) and (b), deposit a map showing the revised limits.
- (12) SEPA must make the maps deposited with it under subsection (11) available, at all reasonable times, for public inspection free of charge.
- (13) In subsection (8), “the seaward limits of any bodies of transitional water” means the places for the time being shown as such in the latest map deposited under subsection (11).

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**Commencement Information**

**I3** S. 3 in force at 15.12.2003 by [S.S.I. 2003/562](#), **art. 2(a)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23(5) inserted by [2014 asp 3 sch. 3 para. 8\(6\)\(b\)](#)