

# **WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 1 – Protection of the water environment**

##### ***Section 18 – Power to obtain information and documents***

71. This section provides for SEPA to obtain information and assistance from the Scottish Ministers and the responsible authorities and to obtain information from other persons to enable it to carry out its functions under Chapter 2 of Part 1 of the Act.
72. Subsection (1) places a duty on the Scottish Ministers and the responsible authorities designated pursuant to section 2, to provide SEPA with such information and assistance as SEPA may reasonably seek in connection with the exercise of any of its functions under Chapter 2.
73. Subsection (2) enables SEPA to serve a notice on any person (other than the Scottish Ministers or the responsible authorities) in order to obtain information from them that it needs to carry out its functions under Chapter 2. Subsections (3) and (4) provide more detail about the form and content of such notices.
74. Subsection (5) allows the Scottish Ministers to arbitrate where there are differences of opinion between SEPA and a responsible authority or any other person about the reasonableness of SEPA's requests for information or assistance, as appropriate.
75. Subsection (6) provides that SEPA may not require the disclosure of any information that is legally privileged.
76. Subsection (7) makes it clear that persons on whom such notices are to be served must produce documents in legible form (e.g. a print out of a document held electronically).
77. Subsection (9) makes it an offence not to comply with a request for information or documents or to intentionally alter, suppress or destroy any documents requested by SEPA. Subsection (10) describes the penalties that are attached to this offence. The statutory maximum referred to in subsection (10)(a) is currently £5,000. There is no limit on the level of fines in the event of conviction on indictment.