



# Reservoirs (Scotland) Act 2011

## 2011 asp 9

### PART 1 **S**

#### RESERVOIRS

### CHAPTER 2 **S**

#### REGISTRATION

## 9 **Controlled reservoirs register** **S**

- (1) SEPA must establish and maintain a controlled reservoirs register.
- (2) The controlled reservoirs register is a register containing the following information and documents in relation to each controlled reservoir—
  - (a) the name (if any) and location of the reservoir,
  - (b) the maximum volume of water capable of being held in the reservoir,
  - (c) the name and address of the reservoir manager,
  - (d) the risk designation for the time being of the reservoir (and the date on which the designation was given) (see sections 19 and 21),
  - (e) any different risk designation the reservoir may have had in the past (and where it has had a different risk designation, the dates on which such designation was given and changed),
  - (f) the name of any construction engineer, inspecting engineer, other qualified engineer or supervising engineer appointed at any time in relation to the reservoir (and the period of any such appointment),
  - (g) a copy of—
    - (i) any safety report, safety measure certificate, preliminary certificate, construction certificate or final certificate in relation to a controlled reservoir which is copied to SEPA (or given to it pursuant to section 68),
    - (ii) any inspection report, interim inspection compliance certificate or inspection compliance certificate in relation to a controlled reservoir which is so copied (or given),

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- (iii) any written recommendation or written statement by a supervising engineer under section 50(3) or (8) in relation to a controlled reservoir which is so copied (or given),
  - (h) a map showing the area of land which, in the event of an uncontrolled release of water from the reservoir, would be likely to be flooded.
- (3) The Scottish Ministers may by regulations—
- (a) require further information or documents specified in the regulations to be contained in the register,
  - (b) make provision as to the manner in which the information to be contained in the register is to be recorded there.
- (4) SEPA must make arrangements for the controlled reservoirs register (or a copy of it) to be available for inspection by any person at all reasonable times.
- (5) The Scottish Ministers may by order make provision as to the place (or places) in which the register is (or copies of it are) to be kept.

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

- C1** S. 9(1) excluded (1.4.2015) by [The Reservoirs \(Scotland\) Act 2011 \(Restrictions on Disclosure of Information in relation to National Security etc.\) Order 2015 \(S.I. 2015/48\)](#), arts. 1(2), **14** (with arts. 13, 16)

**Commencement Information**

- I1** S. 9 in force at 1.4.2015 by [S.S.I. 2015/63](#), art. 2, **Sch.** (with arts. 3-6)

**10 Reservoir managers' duty to register with SEPA** **S**

- (1) The reservoir manager of each controlled reservoir must register the reservoir with SEPA in accordance with sections 11 to 13.
- (2) The Scottish Ministers may by regulations make provision as to—
- (a) the information to be registered,
  - (b) the time by which information, or any change to information, must be registered.

**Commencement Information**

- I2** S. 10(1) in force at 1.4.2015 for specified purposes by [S.S.I. 2015/63](#), art. 2, **Sch.**
- I3** S. 10(1) in force at 1.4.2016 in so far as not already in force by [S.S.I. 2016/42](#), art. 2, **Sch.** (with art. 3)
- I4** S. 10(2) in force at 1.1.2015 by [S.S.I. 2014/348](#), art. 2, **Sch.**

**11 Controlled reservoirs required to be registered under the 1975 Act** **S**

- (1) Registration under section 10 of a controlled reservoir to which subsection (2) applies must take place before the end of the period of 6 months beginning with the relevant date.
- (2) This subsection applies to controlled reservoirs which were, immediately before the relevant date, required to be registered in a large raised reservoirs register.

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- (3) In this section and sections 12, 13 and 16—  
a “large raised reservoirs register” means a register maintained under section 2(2) of the 1975 Act,  
“the relevant date” means the date of commencement of section 9.

#### Commencement Information

- I5** S. 11(1)(2) in force at 1.4.2015 by S.S.I. 2015/63, art. 2, Sch.  
**I6** S. 11(3) in force at 1.1.2015 by S.S.I. 2014/348, art. 2, Sch.

### 12 Controlled reservoirs not required to be registered under the 1975 Act **S**

- (1) Registration under section 10 of a controlled reservoir to which subsection (2) applies must take place by such time as the Scottish Ministers by order specify.
- (2) This subsection applies to controlled reservoirs which are controlled reservoirs on the relevant date but which were not, immediately before that date, required to be registered in the large raised reservoirs register.

#### Commencement Information

- I7** S. 12 in force at 1.1.2015 for specified purposes by S.S.I. 2014/348, art. 2, Sch.

### 13 Structures or areas which become controlled reservoirs after the relevant date **S**

Registration of a controlled reservoir which becomes a controlled reservoir after the relevant date must take place not later than 28 days after the day on which a preliminary certificate is given in relation to it for the first time.

#### Commencement Information

- I8** S. 13 in force at 1.4.2015 for specified purposes by S.S.I. 2015/63, art. 2, Sch. (with art. 7)  
**I9** S. 13 in force at 1.4.2016 in so far as not already in force by S.S.I. 2016/42, art. 2, Sch. (with art. 3)

### 14 Fees: registration and administration **S**

- (1) The Scottish Ministers may by regulations make provision allowing SEPA to charge reservoir managers of controlled reservoirs, and requiring reservoir managers to pay—  
(a) fees in relation to registration, and  
(b) other annual or recurring fees in relation to the performance of functions by SEPA under this Part.
- (2) In making regulations under subsection (1) the Scottish Ministers must have regard to the reasonable cost of the exercise of the functions in respect of which the fees are to be charged.
- (3) Regulations made under subsection (1) must include provision—  
(a) specifying how SEPA is to determine and charge fees,

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- (b) requiring SEPA—
  - (i) to set out its fees in a published charging scheme,
  - (ii) to consult such persons as SEPA considers likely to be affected by the scheme before it publishes (or revises) a scheme.
- (4) Regulations made under subsection (1) may include such other matters as the Scottish Ministers consider appropriate, including provision specifying—
  - (a) the maximum amount of any fee,
  - (b) the circumstances in which any fee is payable,
  - (c) different fees to be imposed in respect of different reservoirs or in other different cases or classes of case, and
  - (d) how fees may be collected and recovered.

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**Commencement Information**

**I10** S. 14 in force at 1.1.2015 by S.S.I. 2014/348, art. 2, Sch.

**15 Registration: supplementary** **S**

- (1) Where a person ceases to be a reservoir manager of a controlled reservoir, the person must, not later than 28 days after ceasing to be reservoir manager, give notice to SEPA of that fact and the date on which the person ceased to be reservoir manager.
- (2) A person who becomes a reservoir manager of a controlled reservoir must, not later than 28 days after becoming reservoir manager, give notice to SEPA of that fact and the date on which the person became reservoir manager.
- (3) Where SEPA receives notice under subsection (1) or (2), it must take such steps as it considers are reasonably required to inform the new reservoir manager, as soon as is reasonably practicable, of the duties of reservoir managers of controlled reservoirs under this Part.
- (4) The Scottish Ministers may by regulations make provision requiring SEPA—
  - (a) to prepare and publish guidance on registration,
  - (b) to consult the Institution of Civil Engineers in relation to the preparation of such guidance.

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**Commencement Information**

**I11** S. 15(1)-(3) in force at 1.4.2015 for specified purposes by S.S.I. 2015/63, art. 2, Sch.

**I12** S. 15(1)-(3) in force at 1.4.2016 in so far as not already in force by S.S.I. 2016/42, art. 2, Sch. (with art. 3)

**I13** S. 15(4) in force at 1.1.2015 by S.S.I. 2014/348, art. 2, Sch.

**16 Transfer of information from existing relevant authorities** **S**

- (1) Each existing relevant authority must, as soon as practicable after the relevant date, give to SEPA—
  - (a) the large raised reservoirs register maintained by the authority,

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- (b) any other documents, records or other information in its possession which relate to the exercise of the authority's functions as an enforcement authority within the meaning of section 2(6) of the 1975 Act (referred to in this section as its “enforcement functions”).
- (2) An existing relevant authority must give SEPA such assistance as SEPA may reasonably require for the purposes of facilitating the taking over by SEPA of the authority's enforcement functions.
- (3) Nothing in this section affects the validity of anything done by or in relation to an existing relevant authority in the exercise of its enforcement functions before the relevant date.
- (4) There may be continued by or in relation to SEPA anything (including legal proceedings) which relates to any of an existing relevant authority's enforcement functions and is in the process of being done by or in relation to the authority immediately before the relevant date.
- (5) Anything which was done by an existing relevant authority for the purpose of or in connection with any of its enforcement functions and is in effect immediately before the relevant date has effect as if done by SEPA.
- (6) An existing relevant authority is a body which, immediately before the relevant date, is a relevant authority in Scotland for the purposes of the 1975 Act.

#### Commencement Information

- I14** S. 16(1)(3)-(5) in force at 1.4.2016 by S.S.I. 2016/42, art. 2, Sch. (with art. 3)  
**I15** S. 16(2)(6) in force at 1.4.2015 by S.S.I. 2015/63, art. 2, Sch.

## 17 Offences: registration **S**

- (1) Failure by the reservoir manager of a controlled reservoir to comply with any of the following requirements under this Chapter relating to registration is an offence—
- (a) the requirements of section 10(1) or of regulations made under section 10(2),
- (b) the requirements of section 11(1), 12(1) or 13,
- (c) the requirements of section 15(1) or (2).
- (2) A reservoir manager who, in relation to any requirement referred to in subsection (1), knowingly or recklessly gives information which is false or misleading in a material respect commits an offence.
- (3) A reservoir manager guilty of an offence under subsection (1) or (2) in relation to a controlled reservoir which is, at the time the offence is committed, a high-risk reservoir is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A reservoir manager guilty of an offence under either of those subsections in relation to any other controlled reservoir is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) It is a defence to a charge in proceedings for an offence under subsection (1) that the person did not know and could not reasonably be expected to have known that the person was the reservoir manager of a controlled reservoir to whom the requirement concerned applied.

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#### **Commencement Information**

**I16** [S. 17](#) in force at 1.4.2015 for specified purposes by [S.S.I. 2015/63](#), [art. 2](#), [Sch.](#)

**Changes to legislation:**

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