



# Water Environment and Water Services (Scotland) Act 2003

## 2003 asp 3

### PART 1

#### PROTECTION OF THE WATER ENVIRONMENT

#### CHAPTER 2

#### RIVER BASIN MANAGEMENT PLANNING

#### *River basin districts*

#### **4 Establishment of river basin districts**

- (1) The Scottish Ministers must by order designate one or more river basin districts for the purposes of this Part.
- (2) A river basin district is an area, identified in the order, comprising one or more river basins together with any relevant bodies of groundwater and bodies of coastal water which are to form part of that river basin district in accordance with subsection (3).
- (3) A relevant body of groundwater or body of coastal water is to form part of the nearest river basin district or, if it appears to the Scottish Ministers that another river basin district is more appropriate, that district.
- (4) An order under subsection (1) (a “designation order”) must identify each river basin district by reference to a map prepared for the purposes of the order and laid before the Scottish Parliament.
- (5) The Scottish Ministers must send to SEPA a copy of—
  - (a) a designation order, and
  - (b) the map prepared in pursuance of subsection (4).
- (6) SEPA must make the copies of the designation order and map available, at all reasonable times, for public inspection free of charge.

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- (7) In this section “relevant body of groundwater” means a body of groundwater which does not fully follow any particular river basin.

**Commencement Information**

**I1** S. 4 in force at 15.12.2003 by [S.S.I. 2003/562](#), [art. 2\(a\)](#)

## 5 Characterisation of river basin districts

- (1) SEPA must, by 22nd December 2004, carry out a characterisation of each river basin district.
- (2) In this section “characterisation”, in relation to a river basin district, means—
- (a) an analysis of the characteristics of the water environment,
  - (b) a review of the impact of human activity on the status of the water environment, and
  - (c) an economic analysis of water use.
- (3) SEPA must review and, where necessary, update each characterisation carried out under subsection (1) by 22nd December 2013 and by the end of each period of 6 years thereafter.
- (4) A characterisation under subsection (1) and a review under subsection (3) must be carried out in accordance with the technical specifications set out in Annexes II and III to the Directive.
- (5) The Scottish Ministers may by regulations make further provision as to the characterisations and reviews to be carried out under this section, including provision as to—
- (a) the criteria by reference to which characterisations and reviews are to be carried out, including criteria for designating bodies of surface water as artificial or heavily modified,
  - (b) the methods and procedures to be followed in carrying out characterisations and reviews.

**Commencement Information**

**I2** S. 5 in force at 15.12.2003 by [S.S.I. 2003/562](#), [art. 2\(a\)](#)

### [<sup>F1</sup>5A Shellfish water protected areas

- (1) The Scottish Ministers may by order (in this section, a “designation order”) designate an area of coastal water or transitional water as a shellfish water protected area for the purposes of this Part.
- (2) An area of coastal water or transitional water may be designated under subsection (1) only if the Scottish Ministers consider it necessary or desirable to do so for the protection or development of economically significant shellfish production.
- (3) The Scottish Ministers must review each designation order—
- (a) by 22 December 2019, and

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- (b) by each date falling every 6 years (or such lesser period as the Scottish Ministers may determine) after 22 December 2019.
- (4) Subsection (3) applies to a designation order which comes into force after 22 December 2019 as if paragraph (a) were omitted.
- (5) A designation order which would, apart from this subsection, fall to be reviewed under subsection (3) by a particular date need not be reviewed by that date if the order came into force less than 6 months before that date; but must otherwise be reviewed in accordance with that subsection.
- (6) A designation order may identify the area of coastal water or transitional water by reference to a map prepared for the purposes of the order and laid before the Scottish Parliament.
- (7) The Scottish Ministers must send SEPA a copy of—
  - (a) a designation order, and
  - (b) any map prepared in pursuance of subsection (6).]

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**Textual Amendments**

- F1** S. 5A inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. **54(2)**, **66(2)** (with s. 65); [S.S.I. 2013/249](#), art. 2

## 6 Bodies of water used for the abstraction of drinking water

- (1) The Scottish Ministers must by order identify any bodies of water within each river basin district which—
  - (a) are used for the abstraction of water intended for human consumption and either—
    - (i) provide more than 10 cubic metres of such water per day, or
    - (ii) serve more than 50 persons, or
  - (b) are intended to be used as mentioned in paragraph (a).
- (2) An order under subsection (1) may identify the bodies of water by reference to a map prepared for the purposes of the order and laid before the Parliament.
- (3) The Scottish Ministers must send to SEPA a copy of—
  - (a) an order made under subsection (1), and
  - (b) any map prepared in pursuance of subsection (2).

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**Commencement Information**

- I3** S. 6 in force at 15.12.2003 by [S.S.I. 2003/562](#), art. **2(a)**

## 7 Register of protected areas

- (1) SEPA must, for each river basin district—
  - (a) by 22nd December 2004 prepare, and
  - (b) thereafter maintain,

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a register of the protected areas lying (whether wholly or partly) within the district in accordance with regulations made by the Scottish Ministers.

- (2) Such regulations may, in particular, make provision as to—
- (a) the form and manner in which the register is to be prepared and maintained,
  - (b) the information which the register is to contain.
- (3) In this section, “protected areas” means—
- [<sup>F2</sup>(za) any shellfish water protected area,]
- (a) any bodies of water identified under section 6, and
  - (b) the areas and bodies of water falling within subsection (4).
- (4) The areas and bodies of water falling within this subsection are those for the time being designated or otherwise identified as requiring special protection under any Community instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such a Community instrument, including, in particular—
- (a) areas designated for the protection of economically significant aquatic species,
  - (b) bodies of water designated as recreational waters,
  - (c) nutrient-sensitive areas, and
  - (d) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.
- (5) The Scottish Ministers may by regulations make such further provision for identifying, or enabling the identification of, the areas and bodies of water falling within subsection (4) as they consider necessary or expedient, including provision for identifying any of those areas or bodies of water by reference to—
- (a) such Community instruments, or enactments implementing such instruments, as are specified in the regulations,
  - (b) such other criteria as may be specified in the regulations.
- (6) SEPA must make the register available, at all reasonable times, for public inspection free of charge.

#### Textual Amendments

**F2** S. 7(3)(za) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. 54(3), 66(2) (with s. 65); S.S.I. 2013/249, art. 2

#### Commencement Information

**I4** S. 7 in force at 15.12.2003 by [S.S.I. 2003/562](#), art. 2(a)

## 8 Monitoring

- (1) SEPA must, in relation to each river basin district—
- (a) carry out, or secure the carrying out of, monitoring of the status of the water environment and relevant territorial water adjacent to the district, and
  - (b) analyse, or secure the analysis of, the information obtained under paragraph (a).

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- (2) SEPA must prepare a programme for monitoring (whether by SEPA or other persons) the status of the water environment and relevant territorial water (a “monitoring programme”).
- (3) Monitoring in accordance with the monitoring programme must be commenced by 22nd December 2006.
- (4) Subsection (3) is subject to any provision made in regulations by virtue of subsection (5)(d).
- (5) The Scottish Ministers may by regulations make provision—
  - (a) as to the nature and method of monitoring and analysis to be carried out (whether by SEPA or by other persons) for the purpose of subsection (1)(a),
  - (b) requiring persons other than SEPA to carry out such monitoring and analysis,
  - (c) as to the times at or by which, and the circumstances in which, such monitoring and analysis is to be carried out,
  - (d) for monitoring in accordance with the monitoring programme to be commenced in relation to such protected areas (within the meaning of section 7(3)) or descriptions of protected area as are specified in the regulations by such date (other than that specified in subsection (3)) as is specified in or determined under the regulations,
  - (e) as to the provision to SEPA of information resulting from such monitoring and analysis carried out by persons other than SEPA,
  - (f) as to the form and content of a monitoring programme,
  - (g) as to consultation and other procedure in connection with the preparation of a monitoring programme.
- (6) The Scottish Ministers may issue guidance to SEPA or any other person on any matter in relation to which they have power to make regulations under subsection (5); and SEPA or, as the case may be, that person must have regard to the guidance.
- (7) Subsection (6) is without prejudice to section 2(6).
- (8) In this section “relevant territorial water” means so much of the territorial sea of the United Kingdom adjacent to Scotland as is not coastal water or transitional water.

#### Commencement Information

**I5** S. 8 in force at 1.6.2005 by [S.S.I. 2005/235](#), [art. 2\(a\)](#)

## 9 Environmental objectives and programmes of measures

- (1) For the purposes of the river basin management plan for a river basin district SEPA must—
  - (a) set environmental objectives for
    - [<sup>F3</sup>(i) each body of water in the district, and]
    - [<sup>F4</sup>(ii) each shellfish water protected area in the district, and]
  - (b) prepare a programme of measures to be applied to achieve those objectives.
- (2) In setting environmental objectives and preparing a programme of measures under this section, SEPA must take account of the characterisation of the river basin district concerned (and any review of it) carried out under section 5.

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- (3) Environmental objectives may be set so as to apply with modifications in relation to particular descriptions of bodies of water or in particular circumstances.
- (4) The Scottish Ministers may by regulations make further provision as to the setting of environmental objectives and the preparation of programmes of measures under this section.
- (5) Regulations under subsection (4) making provision as to the setting of environmental objectives under this section may, in particular, include provision as to—
- (a) the types of environmental objective which may be set for particular descriptions of body of water,
  - (b) the date by which and the criteria by reference to which such objectives are to be set,
  - (c) the methods and procedures to be followed in setting such objectives,
  - (d) the dates by which such objectives are to be achieved,
  - (e) particular descriptions of bodies of water in relation to which, or particular circumstances in which, such objectives are to apply with modifications.
- (6) Regulations under subsection (4) making provision as to the preparation of programmes of measures under this section may, in particular, include provision as to—
- (a) the types of measures which must or may be included in such a programme,
  - (b) the date by which such a programme is to be prepared,
  - (c) the methods and procedures to be followed in preparing such a programme.
- (7) In this section, “environmental objectives” means the objectives required to comply with Article 4 of the Directive together with any objectives
- <sup>F5</sup>(a) in respect of any body of water]<sup>F6</sup>, and
  - (b) in respect of a shellfish water protected area, includes (without prejudice to the definition in paragraph (a)) such objectives as SEPA considers necessary or desirable to improve or protect that area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption. ]

required to comply with paragraphs 2 and 3 of Article 7 of the Directive.

#### Textual Amendments

- F3** Words in s. 9(1)(a) renumbered as s. 9(1)(a)(i) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 54(4)(a)(i)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F4** S. 9(1)(a)(ii) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 54(4)(a)(ii)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F5** S. 9(7)(a) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 54(4)(b)(i)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F6** S. 9(7)(b) and preceding word inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 54(4)(b)(ii)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2

#### Commencement Information

- I6** S. 9 in force at 1.6.2005 by [S.S.I. 2005/235](#), **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\(6\)\(b\)](#)