

SCHEDULE 3

Article 5

EXPENSES RECOVERY NOTICES

Expenses recovery notices

1.—(1) SEPA may by notice (an “expenses recovery notice”) require a reservoir manager to whom a stop notice is given or on whom a further enforcement measure is imposed, to pay the amount of any expenses reasonably incurred by SEPA in relation to (and up to the time of) the giving of the notice or (as the case may be) imposition of the measure.

(2) In sub-paragraph (1), “expenses” include in particular—

- (a) investigation expenses;
- (b) administration expenses; and
- (c) expenses of obtaining expert advice (including legal advice).

(3) The expenses recovery notice must be given by SEPA to the reservoir manager.

(4) The expenses recovery notice must specify—

- (a) the grounds for giving the notice;
- (b) the amount to be paid;
- (c) how this payment may be made;
- (d) the period within which the payment must be made;
- (e) that the reservoir manager to whom the notice is given may request SEPA to provide a detailed breakdown of the amount to be paid (unless such a breakdown was previously given by SEPA to the reservoir manager);
- (f) rights of appeal; and
- (g) consequences of non-payment.

(5) Where a reservoir manager requests SEPA to provide a detailed breakdown of the amount to be paid (and no such a breakdown was previously given by SEPA to the reservoir manager), SEPA must take such steps as are reasonable to ensure that a detailed breakdown of the amount to be paid is given to the reservoir manager within a period of 21 days beginning with the day on which SEPA received the request.

Appeals against expenses recovery notices

2.—(1) A reservoir manager who is required (by virtue of an expenses recovery notice) to pay expenses under paragraph 1 may appeal to the Scottish Ministers against—

- (a) the decision of SEPA to impose the requirement to pay expenses; and
- (b) the decision of SEPA as to the amount of the expenses.

(2) An appeal under this paragraph must be made within the period of 28 days beginning with—

- (a) the day on which the expenses recovery notice was given to the reservoir manager; or
- (b) where the reservoir manager requests a detailed breakdown of the amount to be paid and no such a breakdown was previously given by SEPA to the reservoir manager, the day on which that breakdown was given to the reservoir manager.

(3) Where an appeal is made under this paragraph, the expenses recovery notice is suspended from the day on which the appeal is made until the day on which the appeal is determined or withdrawn.

Payment requirements for expenses recovery notices

3.—(1) The amount to be paid by a reservoir manager under an expenses recovery notice must, unless sub-paragraph (3) applies, be paid to SEPA within a period of 56 days beginning with the day the notice was given to the reservoir manager, or such longer period as SEPA may specify in the notice.

(2) Where sub-paragraph (3) applies, the amount to be paid by the reservoir manager under an expenses recovery notice must be paid to SEPA within whichever of the following periods ends later—

- (a) the period (if any) specified in the notice;
- (b) a period of 56 days beginning with the day on which the notice was given to the reservoir manager;
- (c) a period of 28 days beginning with the day on which the appeal is determined or withdrawn; or
- (d) such modified period as the Scottish Ministers, in determining the appeal, may specify.

(3) This sub-paragraph applies where, in relation to an expenses recovery notice—

- (a) an appeal is made in accordance with paragraph 2 against a decision of SEPA—
 - (i) to impose the requirement to pay expenses; or
 - (ii) as to the amount of the expenses,and the Scottish Ministers, in determining the appeal, uphold the decision; or
- (b) an appeal is made under paragraph 2 and the appeal is withdrawn.