

2008 No. 263

ENVIRONMENTAL PROTECTION

**The Water Environment (Relevant Enactments and Designation
of Responsible Authorities and Functions) Order 2008**

Made - - - - - *26th June 2008*

Laid before the Scottish Parliament *27th June 2008*

Coming into force - - - *22nd September 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(8) of the Water Environment and Water Services (Scotland) Act 2003(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) Order 2008 and comes into force on 22nd September 2008.

(2) In this Order, “the Act” means the Water Environment and Water Services (Scotland) Act 2003.

Specification of relevant enactments

2. The Scottish Ministers hereby specify the enactments referred to in Schedule 1 as relevant enactments for the purposes of section 2 of the Act(b).

Designation of responsible authorities and functions

3.—(1) The Scottish Ministers hereby designate as responsible authorities, the public bodies and office holders referred to in column 1 of Schedule 2, for the purposes of Part 1 of the Act.

(2) The Scottish Ministers hereby specify as designated functions of each body or office holder, such of the functions relating to the water environment as are conferred by the enactments shown in column 2 of Schedule 2 relative to each body or office holder.

(a) 2003 asp 3.

(b) Section 2 imposes duties on the Scottish Ministers and SEPA with regard to the exercise of their functions under the enactments specified in Schedule 1 to this Order; insofar as such enactments confer functions upon a Minister of the Crown, which are exercisable within devolved competence, such functions were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

Revocation

4. The following Orders are revoked:–

- (a) the Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006(a); and
- (b) the Water Environment (Relevant Enactments) Order 2006(b).

St Andrew's House,
Edinburgh
26th June 2008

MICHAEL W RUSSELL
Authorised to sign by the Scottish Ministers

(a) S.S.I. 2006/126.
(b) S.S.I. 2006/554.

SCHEDULE 1

Article 2

- Diseases of Fish Act 1937**(a)**.
- Coast Protection Act 1949**(b)**.
- Flood Prevention (Scotland) Act 1961**(c)**.
- Roads (Scotland) Act 1984**(d)**.
- Food and Environment Protection Act 1985**(e)**.
- Natural Heritage (Scotland) Act 1991**(f)**.
- The Protection of Water Against Agricultural Nitrate Pollution (Scotland) Regulations 1996**(g)**.
- Town and Country Planning (Scotland) Act 1997**(h)**.
- Water Industry (Scotland) Act 2002**(i)**.
- The Water Environment (Controlled Activities) (Scotland) Regulations 2005**(j)**.
- The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006**(k)**.
- Transport and Works (Scotland) Act 2007**(l)**.
- Aquaculture and Fisheries (Scotland) Act 2007**(m)**.
- The Bathing Waters (Scotland) Regulations 2008**(n)**.

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- (a)** 1937 c.33.
 - (b)** 1949 c.74.
 - (c)** 1961 c.41.
 - (d)** 1984 c.54.
 - (e)** 1985 c.48.
 - (f)** 1991 c.28.
 - (g)** S.I. 1996/1564.
 - (h)** 1997 c.8.
 - (i)** 2002 asp 3.
 - (j)** S.S.I. 2005/348.
 - (k)** S.S.I. 2006/582.
 - (l)** 2007 asp 8.
 - (m)** 2007 asp 12.
 - (n)** S.S.I. 2008/170.

SCHEDULE 2

Article 3

<i>Public bodies and office holders</i>	<i>Enactments</i>	<i>Reference</i>
Councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994(a)	The Coast Protection Act 1949	1949 c.74
	The Flood Prevention (Scotland) Act 1961	1961 c.41
	The Civic Government (Scotland) Act 1982	1982 c.45
	The Roads (Scotland) Act 1984	1984 c.54
	The Environmental Protection Act 1990	1990 c.43
	The Town and Country Planning (Scotland) Act 1997	1997 c.8
	The Nature Conservation (Scotland) Act 2004	2004 asp 6
	The Bathing Waters (Scotland) Regulations 2008	S.S.I. 2008/170
Scottish Water	The Sewerage (Scotland) Act 1968	1968 c.47
	The Water (Scotland) Act 1980	1980 c.45
	The Water Industry (Scotland) Act 2002	2002 asp 3
	The Urban Waste Water Treatment (Scotland) Regulations 1994	S.I. 1994/2842
Scottish Natural Heritage	The Natural Heritage (Scotland) Act 1991	1991 c.28
	The Nature Conservation (Scotland) Act 2004	2004 asp 6
	The Conservation (Natural Habitats, &c.) Regulations 1994	S.I. 1994/2716
National Park authorities established by order under section 6 of the National Parks (Scotland) Act 2000(b)	The National Parks (Scotland) Act 2000	2000 asp 10
District Salmon Fishery Boards constituted in terms of section 43 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003(c)	The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003	2003 asp 15
	The Nature Conservation (Scotland) Act 2004	2004 asp 6
The British Waterways Board	The Transport Act 1962	1962 c.46

(a) 1994 c.39; section 2 was amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 232(1).

(b) 2000 asp 10; The Loch Lomond and The Trossachs National Park Authority was established by The Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 (S.S.I. 2002/201). The Cairngorms National Park Authority was established by the Cairngorms National Park Designation Transitional and Consequential Provisions (Scotland) Order 2003 (S.S.I. 2003/1).

(c) 2003 asp 15.

<i>Public bodies and office holders</i>	<i>Enactments</i>	<i>Reference</i>
	The British Waterways Act 1995	1995 c.i
The Forestry Commissioners continued in existence by section 1(1) of the Forestry Act 1967 (a)	The Forestry Act 1967	1967 c.10
	The Nature Conservation (Scotland) Act 2004	2004 asp 6
The Fisheries Committee appointed under section 5(2) of the Electricity (Scotland) Act 1979 (b)	The Electricity Act 1989	1989 c.29

(a) 1967 c.10.

(b) 1979 c.11 the Electricity (Scotland) Act 1979 was repealed by the Electricity Act 1989 (c.29), section 112(4) and Schedule 18. Schedule 9, paragraph 5(1) of the Electricity Act 1989 makes savings provisions in relation to the Fisheries Committee as appointed under section 5(2) of the Electricity (Scotland) Act 1979.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the enactments set out in Schedule 1 as relevant enactments within the meaning of section 2 of the Water Environment and Water Services (Scotland) Act 2003 and revokes the previous Order specifying relevant enactments.

The effect of specification is to require the Scottish Ministers and SEPA to exercise their respective functions under those enactments so as to secure compliance with the requirements of 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^(a) and to act in accordance with the requirements of section 2(4) of the Water Environment and Water Services (Scotland) Act 2003.

This Order also designates certain public bodies and office-holders as responsible authorities in respect of specified functions relating to the water environment, for the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. Article 3(1) of the Order designates the bodies and office-holders set out in column 1 of Schedule 2 for this purpose. It revokes the previous Order designating public bodies and office-holders as responsible authorities in respect of specified functions.

The functions of those bodies and office-holders which relate to the water environment, conferred by the enactments set out in column 2 of Schedule 2, are specified as designated functions of those bodies and office-holders, by Article 3(2) of the Order.

(a) O.J. No. L 327, 22.12.2000, p.1; amended by decision 2455/2001/EC of the European Parliament and the Council of 20th November 2001 establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC (O.J. No. L 331, 15.12.2001, p.1).

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