

POLICY NOTE

THE WATER ENVIRONMENT (DRINKING WATER PROTECTED AREAS) (SCOTLAND) ORDER 2013

SSI 2013/29

Introduction

1. The Water Environment (Drinking Water Protected Areas) (Scotland) Order 2013 (“the 2013 Order”) is made by the Scottish Ministers in exercise of the powers conferred by sections 6(1) and (2) of the Water Environment and Water Services (Scotland) Act 2003 (“the WEWS Act”). The instrument revokes the Water Environment (Drinking Water Protected Areas) (Scotland) Order 2007 (“the 2007 Order”) and is subject to negative resolution procedure.

2. The 2013 Order identifies those bodies of surface water and bodies of groundwater in the Scotland River Basin District which are used, or intended to be used, for the abstraction of drinking water as Drinking Water Protected Areas (“DWPAs”); and provides access to maps of those DWPAs. In doing so it implements the Scottish Ministers’ obligations to identify such water bodies as set out in paragraph 1 of Article 7 of Directive 2000/60/EC establishing a framework for Community action in the field of water policy (“the Directive”).

Background

3. The Directive sets out, *inter alia*, clear quality objectives for all European waters, including inland surface waters, transitional waters, coastal waters and groundwater. The Directive was transposed in Scotland by the WEWS Act and introduced a requirement to produce River Basin Management Plans (“RBMP”) setting out demanding environmental targets for the water environment.

4. As part of the overall RBMP process the Scottish Ministers are required by section 6 of the WEWS Act to identify bodies of water within the Scotland River Basin District which are used, or intended to be used, for the abstraction of drinking water, if they provide more than 10 m³ per day, or serve more than 50 persons. The identification of such DWPAs is an on-going process.

5. The 2013 Order revokes the 2007 Order and identifies DWPAs by reference to maps. In particular it updates the surface water DWPAs to reflect changes to Scottish Water’s network of abstractions for public water supply. Sources of public drinking water have been significantly rationalised in recent years, and a number of sources have been abandoned while others have been developed as public water supplies.

6. These maps also include for the first time certain Type A private water supplies (PWS). PWS are classified as Type A or Type B. Most PWS are relatively small, serving individual households, and these are classified as Type B; but a PWS is classified Type A when it serves a population of 50 people or more, or where it supplies over 10m³ of water a day to a commercial enterprise where water is a major component in the production of food and drink, such as the bottled water and brewing industries. Such Type A PWS are included

in the bodies of water identified in the 2013 Order. Robust data regarding such Type A PWS has only recently become available.

Legal issues

7. Section 6 of the WEWS Act requires the Scottish Ministers to identify DWPA's within the Scotland River Basin District by Order, and empowers Ministers to do so by maps prepared for that purpose and laid before Parliament. An initial identification was notified to Parliament in 2005, and was revised in 2007.

8. Section 4(3) of the WEWS Act requires that a relevant body of groundwater should form part of the nearest river basin district, unless it appears to Scottish Ministers that another river basin district is more appropriate. In addition to identifying the DWPA's, maps numbered 12, 21 and 22 distinguish those groundwater bodies not assigned to the Scotland River Basin District.

Financial implications

9. The 2013 Order and associated maps do not represent any additional regulatory burden for communities and businesses.

Maps

10. All maps are at 1 in 250,000 scale in order to meet the reporting requirements of the European Commission. For the purposes of the 2013 Order, bodies of surface water are identified as DWPA's in maps 1 to 11, and bodies of groundwater are identified as DWPA's in maps 12 to 22.

11. Section 6(3) of the WEWS Act requires the Scottish Ministers to send a copy of the Order and the maps to the Scottish Environment Protection Agency ("SEPA"). Under section 7 of the WEWS Act and the Water Environment (Register of Protected Areas) (Scotland) Regulations 2004, SEPA is required to include these identified DWPA's in its Register of Protected Areas; and to make the Register publicly available on its website at: www.sepa.org.uk

12. The Order and the maps will also be published by the Scottish Ministers and made available on their website at: www.scotland.gov.uk

Environmental Quality Division
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