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## SCOTTISH STATUTORY INSTRUMENTS

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# 2013 No. 323

## The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013

### PART 4

#### SPECIFIC MEASURES TO PREVENT AND CONTROL POLLUTION OF GROUNDWATER

##### Interpretation of Part 4

##### 20.—(1) In this Part—

“background level” means the concentration of a substance or the value of an indicator in a body of groundwater corresponding to no, or only very minor, anthropogenic alterations to undisturbed conditions;

“baseline level” means the average value measured at least during the reference years 2007 and 2008 on the basis of monitoring in accordance with a programme prepared under section 8(2) (monitoring) of the Act or, in the case of substances identified after these reference years, during the first period for which a representative period of monitoring data is available;

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...

“groundwater quality standard” means an environmental quality standard expressed as the concentration of a particular pollutant, group of pollutants or indicator of pollution in groundwater, which should not be exceeded in order to protect human health and the environment;

“input of pollutants into groundwater” means the direct or indirect introduction of pollutants into groundwater as a result of human activity;

“significant and sustained upward trend” means any statistically and environmentally significant increase of concentration of a pollutant, group of pollutants, or indicator of pollution in groundwater for which trend reversal is identified as being necessary in accordance with regulation 23; and

“threshold value” means a groundwater quality standard established under regulation 21(2).

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##### Textual Amendments

F1 Words in [reg. 20\(1\)](#) omitted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), [regs. 1, 4\(10\)](#); 2020 c. 1, Sch. 5 para. 1(1)

##### Criteria for assessing groundwater chemical status

21.—(1) For the purposes of assessing the chemical status of each body of groundwater (or group of such bodies) under section 8 (monitoring) of the Act, SEPA must use the following criteria—

- (a) groundwater quality standards in Annex I to the Groundwater Directive; and
  - (b) threshold values which the Scottish Ministers direct (in exercise of powers conferred by the Act or any other enactment) SEPA to apply for those purposes.
- (2) Threshold values must be established in accordance with Annex II to the Groundwater Directive, based on the protection of the body of groundwater and having particular regard to its impact on, and interrelationship with, associated surface waters and directly dependent terrestrial ecosystems and wetlands and take into account human toxicology and ecotoxicology knowledge.
- (3) Where new information indicates that, to protect human health and the environment, a new threshold value should be applied or a threshold value being applied should be revised, SEPA must submit to the Scottish Ministers proposals for a new or revised threshold value to be applied.
- (4) The river basin management plan (or the next update of it) must include—
- (a) the threshold values which apply for the purposes of paragraph (1);
  - (b) any changes to those threshold values since the plan was last approved; and
  - (c) <sup>F2</sup>...the information set out in Part C of Annex II to the Groundwater Directive.

#### Textual Amendments

- F2** Words in reg. 21(4)(c) omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **4(b)**

#### Procedure for assessing groundwater chemical status

**22.—**(1) SEPA must use the procedure in paragraph (2) to assess the chemical status of a body of groundwater but, in carrying out this procedure, a body of groundwater may, if appropriate, be grouped with other such bodies in accordance with Annex V to the Water Framework Directive.

(2) The body of groundwater (or group of such bodies) must be considered to be of good chemical status when—

- (a) relevant monitoring shows that the conditions set out in section 2.3.2 (good groundwater chemical status) of Annex V to the Water Framework Directive are being met;
- (b) the values for the groundwater quality standards in Annex I to the Groundwater Directive and the threshold values which apply for the purposes of regulation 21(1)(b) are not exceeded at any monitoring point in the body of groundwater (or group of such bodies); or
- (c) the value for any such groundwater quality standard or any such threshold value is exceeded at one or more monitoring points but an appropriate investigation in accordance with Annex III to the Groundwater Directive confirms that—
  - (i) on the basis of the assessment referred to in paragraph 3 of Annex III to the Groundwater Directive, the concentrations of pollutants exceeding the groundwater quality standard or threshold value is not considered to present a significant environmental risk, taking into account, where appropriate, the extent of the body of groundwater (or group of such bodies) which is affected;
  - (ii) the other conditions for good groundwater chemical status in section 2.3.2 in Annex V to the Water Framework Directive are being met in accordance with paragraph 4 of Annex III to the Groundwater Directive;
  - (iii) for any body of groundwater identified in accordance with section 6 (water used for abstraction) of the Act, the requirements of regulation 11 are being met in accordance with paragraph 4 of Annex III to the Groundwater Directive; and

- (iv) the ability of the body of groundwater (or, as the case may be, each such body in the group) to support human uses has not been significantly impaired by pollution.

(3) SEPA must publish a summary of the assessment of groundwater chemical status in the river basin management plan (or the next update of it), including an explanation as to the manner in which exceedances of groundwater quality standards or threshold values at individual monitoring points have been taken into account in the final assessment.

(4) If a body of groundwater is classified as being of good chemical status in accordance with paragraph (2)(c), SEPA must, in exercising its functions under the relevant enactments, take such action as may be necessary to protect aquatic ecosystems, terrestrial ecosystems and human uses of groundwater dependent on the part of the body of groundwater represented by the monitoring point or points at which the value for a groundwater quality standard or the threshold value has been exceeded.

### **Identification of significant and sustained upward trends and the definition of starting points for trend reversals**

**23.**—(1) SEPA must, in accordance with Annex IV to the Groundwater Directive, for any body of groundwater (or, as the case may be, group of such bodies) that it has characterised as being at risk of failing to meet the environmental objectives set pursuant to regulation 3(1)—

- (a) identify any significant and sustained upward trend in the concentration of a pollutant, a group of pollutants or any indicator of pollution; and
- (b) determine the starting point for reversing that trend.

(2) SEPA must, in accordance with Part B of Annex IV to the Groundwater Directive, take steps to ensure that each programme of measures will reverse trends which present a significant risk of harm to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, in order progressively to reduce pollution and prevent deterioration of groundwater.

(3) SEPA must determine the starting point for trend reversal as a percentage of the level of the groundwater quality standards and threshold values, on the basis of the identified trend and the associated environmental risk, in accordance with paragraph 1 in Part B of Annex IV to the Groundwater Directive.

(4) Where necessary to assess the impact of existing plumes of pollution in a body of groundwater that may threaten the achievement of the environmental objectives set pursuant to regulation 3(1) including, in particular, plumes resulting from point sources and contaminated land, SEPA must carry out additional trend assessments for identified pollutants to verify that plumes from contaminated sites—

- (a) do not expand;
- (b) do not deteriorate the chemical status of the body of groundwater (or the group of such bodies); and
- (c) do not present a risk for human health and the environment.

(5) The river basin management plan (or the next update of it) must include a summary of—

- (a) the way in which the trend assessment from individual monitoring points within the body of groundwater (or group of such bodies) has contributed to identifying, in accordance with section 2.5 (presentation of groundwater status) of Annex V to the Water Framework Directive, that the body (or group of such bodies) is subject to a significant and sustained upward trend in concentration of any pollutant or a reversal of that trend;
- (b) the reasons for the starting points determined pursuant to paragraph (3); and
- (c) the results of any assessment under paragraph (4).

## Measures to prevent or limit inputs of pollutants into groundwater

24.—(1) Each programme of measures must include <sup>M1</sup>—

- (a) for any hazardous substance, all measures necessary to prevent the input of the substance into groundwater; and
- (b) for any other pollutant, considered to present an existing or potential risk of pollution, all measures necessary to limit inputs of the pollutant into groundwater so as to ensure that such inputs do not cause deterioration or significant and sustained upward trends in the concentrations of pollutants in groundwater.

(2) For the purposes of paragraph (1), inputs of pollutants from diffuse sources of pollution having an impact on the groundwater chemical status must be taken into account whenever technically possible.

(3) Without prejudice to any more stringent requirement in [<sup>F3</sup>[<sup>F4</sup>assimilated] law], paragraph (1) does not apply to the input of pollutants that are—

- (a) the result of direct discharges authorised in accordance with regulation 13(1)(j);
- (b) considered by SEPA to be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater;
- (c) the consequences of accidents or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated;
- (d) the result of artificial recharge or augmentation of any body of groundwater authorised in accordance with regulation 13(1)(f);
- (e) in the view of SEPA incapable, for technical reasons, of being prevented or limited without using—
  - (i) measures that would increase risks to human health or to the quality of the environment as a whole; or
  - (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil; or
- (f) the result of interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways, including at international level, provided that—
  - (i) the interventions are authorised for that purpose; and
  - (ii) the inputs do not compromise the achievement of the environmental objectives set pursuant to regulation 3(1) for each body of water concerned,

provided that efficient monitoring of each body of groundwater concerned, in accordance with section 2.4.2 (surveillance monitoring) of Annex V to the Water Framework Directive, or other appropriate monitoring, is being carried out.

### Textual Amendments

- F3** Words in [reg. 24\(3\)](#) substituted (31.12.2020) by [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, [4\(11\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in [reg. 24\(3\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 2 para. 24\(8\)](#)

### Marginal Citations

- M1** See also regulation 13.

**Changes to legislation:**

There are currently no known outstanding effects for the The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013, PART 4.