
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 323

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

PART 2

RIVER BASIN MANAGEMENT PLANNING

Preparation of programme of measures

13.—(1) Each programme of measures must include the following measures (as further specified and qualified by Article 11(3) of the Water Framework Directive) ^{M1}—

- (a) measures required [^{F1}under [^{F2}assimilated] law] for the protection of water;
- (b) measures deemed appropriate for the purposes of regulation 15;
- (c) measures to promote an efficient and sustainable water use to avoid compromising the achievement of the environmental objectives set pursuant to regulation 3(1);
- (d) measures to meet the requirements of regulation 11 and those of Article 7(2) (waters used for the abstraction of drinking water) of the Water Framework Directive;
- (e) controls over the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water;
- (f) controls over the artificial recharge or augmentation of any body of groundwater, including a requirement for prior authorisation;
- (g) for point source discharges liable to cause pollution, a requirement for prior authorisation;
- (h) for diffuse sources liable to cause pollution, measures to prevent or control the input of pollutants;
- (i) for any other significant adverse impacts on the status of water identified under section 5 (characterisation) of the Act, measures to ensure that the hydromorphological conditions of each body of water is consistent with the achievement of the required ecological status or good ecological potential for any artificial or heavily modified body of surface water;
- (j) a prohibition of direct discharges of pollutants into groundwater, except that the reinjection into the same aquifer of water used for geothermal purposes may be authorised and the following discharges may also be authorised (with conditions)—
 - (i) injection of water containing only substances resulting from operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations—
 - (aa) from which hydrocarbons or other substances have been extracted; or
 - (bb) which, for natural reasons, are permanently unsuitable for other purposes;
 - (ii) reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works;
 - (iii) injection of natural gas or liquefied petroleum gas for storage purposes into—

- (aa) geological formations which, for natural reasons, are permanently unsuitable for other purposes; or
 - (bb) other geological formations where there is an overriding need for security of gas supply and the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater;
 - (iv) injection of carbon dioxide streams for storage purposes into geological formations which, for natural reasons, are permanently unsuitable for other purposes, provided that such injection is made in accordance with [F3the [F4assimilated] law which implemented] Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide M2F5 ...;
 - (v) construction, civil engineering and building works and similar activities on or in the ground which come into contact with groundwater; and
 - (vi) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of a body of water limited to the amount strictly necessary for the purposes concerned,
- provided such discharges do not compromise the achievement of the environmental objectives for that body of groundwater;
- (k) measures to eliminate pollution of surface waters by priority substances and to progressively reduce pollution by other substances which would otherwise prevent the achievement of the environmental objectives for each body of surface water; and
 - (l) any measures required to prevent significant losses of pollutants from technical installations, and to prevent and/or to reduce the impact of accidental pollution incidents for example as a result of floods, including through systems to detect or give warning of such events including, in the case of accidents which could not reasonably have been foreseen, all appropriate measures to reduce the risk to aquatic ecosystems.
- (2) Each programme must also include, where necessary, any other measures designed and implemented with the aim of achieving the environmental objectives set pursuant to regulation 3(1).
- (3) Where monitoring or other data indicate that the environmental objectives set pursuant to regulation 3(1) for a body of water are unlikely to be achieved, SEPA must take steps to ensure that—
- (a) the causes of the possible failure are investigated;
 - (b) any relevant permits and authorisations are examined and reviewed as appropriate;
 - (c) the monitoring programmes are reviewed and adjusted as appropriate; and
 - (d) any additional measures needed to achieve those objectives (subject to the application of regulations 5 to 10) are included in the programme of measures applying to that body of water.
- (4) Each measure in a programme of measures to be applied to achieve an environmental objective, must be implemented, so far as may be applicable, by—
- (a) the Scottish Ministers in exercising their functions under the relevant enactments;
 - (b) SEPA in exercising its functions under the relevant enactments; and
 - (c) each responsible authority in exercising its designated functions.
- [F6(4A) In implementing any measure pursuant to paragraph (4), the Scottish Ministers, SEPA or a responsible authority, as the case may be, must—
- (a) ensure that the application of measures taken pursuant to paragraph (1) does not lead directly or indirectly to increased pollution of surface waters;
 - (b) take all appropriate steps not to increase pollution of marine waters; and

(c) periodically review and, where necessary, update the controls, requirements or measures in paragraph (1)(e) to (i).]

(5) Each programme of measures, in so far as it comprises measures to achieve an environmental objective, must be reviewed and, if necessary, updated by 22nd December 2015 and every 6 years after that.

(6) Where a programme of measures is updated under paragraph (5), any new or revised measure to achieve an environmental objective which is included in the updated programme must be implemented within 3 years of the date on which that measure was added or revised.

Textual Amendments

- F1** Words in reg. 13(1)(a) substituted (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **4(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in reg. 13(1)(a) 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(5)**
- F3** Words in reg. 13(1)(j)(iv) inserted (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **4(5)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in reg. 13(1)(j)(iv) 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(6)**
- F5** Words in reg. 13(1)(j)(iv) omitted (31.12.2020) by virtue of The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **4(5)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 13(4A) inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **8**

Marginal Citations

- M1** See also regulation 24.
- M2** OJ L 140, 5.6.2009, p.114, as amended by Directive 2011/92/EU of the European Parliament and of the Council (OJ L 26, 28.1.2012, p.1).

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013, Section 13.