

2016 No. 42 (C. 7)

FLOOD RISK MANAGEMENT

WATER SUPPLY

**The Reservoirs (Scotland) Act 2011 (Commencement No. 5 and
Transitional Provision) Order 2016**

Made - - - - - *26th January 2016*

Laid before the Scottish Parliament *28th January 2016*

Coming into force - - - *1st April 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 114(2)(a) and 116(1) of the Reservoirs (Scotland) Act 2011(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Reservoirs (Scotland) Act 2011 (Commencement No. 5 and Transitional Provision) Order 2016 and comes into force on 1st April 2016.

(2) In this Order, “the Act” means the Reservoirs (Scotland) Act 2011.

Appointed day

2.—(1) Subject to paragraph (2), 1st April 2016 is the day appointed for the coming into force of the provisions of the Act specified in column (1) of the table in the Schedule (the subject matter of which is specified in column (2) of that table).

(2) Where a purpose is specified in column (3) of that table in relation to any provision specified in column (1), that provision comes into force on 1st April 2016 only for that purpose.

Transitional provision

3.—(1) Until section 12 of the Act (controlled reservoirs not required to be registered under the 1975 Act) has effect for all purposes, references to “10,000 cubic metres” in sections 1(2) and (3)(b), 32(3) and (5), 35(2)(b) and 39(3)(b) of the Act are, for the purposes of the following enactments, to be treated as references to “25,000 cubic metres”—

- (a) Part 1 of the Act; and
- (b) any provision made by regulations or by order under that Part of the Act.

(2) Paragraph (1) does not apply in so far as it might otherwise modify—

(a) section 12 of the Act; or

(b) any power conferred by the Act to give directions or to make regulations or orders.

St Andrew's House,
Edinburgh
26th January 2016

AILEEN MCLEOD
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2

Provisions coming into force on 1st April 2016

<i>Column (1)</i> <i>Provisions of the Act</i>	<i>Column (2)</i> <i>Subject matter</i>	<i>Column (3)</i> <i>Purpose</i>
Section 5(1)	Duty of multiple reservoir managers to co-operate	In so far as not already in force.
Section 8	The 1975 Act and its repeal	
Section 10(1)	Reservoir managers' duty to register with SEPA	In so far as not already in force.
Section 13	Structures or areas which become controlled reservoirs after the relevant date	In so far as not already in force.
Section 15(1) to (3)	Registration: supplementary	In so far as not already in force.
Section 16(1) and (3) to (5)	Transfer of information from existing relevant authorities	
Section 26(2)	High-risk reservoirs, medium-risk reservoirs and low-risk reservoirs: further provision	
Section 32	Application of Chapter 5	In so far as not already in force.
Section 33	Notice to SEPA and appointment of construction engineer	
Section 34	Inspection, reports, supervision of works etc. by construction engineer	
Section 35	Safety reports	In so far as not already in force.
Section 36	Safety reports: compliance	
Section 37	Preliminary certificates	
Section 38	Construction certificates	In so far as not already in force.
Section 39	Final certificates	
Section 40	Preliminary and final certificates: compliance	
Section 41	Termination of supervision by construction engineer	
Section 42	Offences: construction or alteration	
Section 43	Defences: offences under section 42(1)(d) or (e)	
Section 44(1), (2) and (6)	Controlled reservoirs subject to relevant works on commencement	
Section 45	Appointment of inspecting engineer etc.	
Section 46	Inspections: timing	
Section 47	Inspections: duties of inspecting engineers etc.	
Section 48	Inspection reports: compliance	
Section 49	Appointment of supervising engineers etc.	

<i>Column (1) Provisions of the Act</i>	<i>Column (2) Subject matter</i>	<i>Column (3) Purpose</i>
Section 50	Supervising engineer and monitoring of reservoir	
Section 51	Recording of water levels etc. and record keeping	In so far as not already in force.
Section 52	Offences: inspection, supervision, record keeping	
Section 53	Defences: offence under section 52(1)(c)	
Section 56	Maintenance of records	In so far as not already in force.
Section 57(4) to (6)	Display of emergency response information: directions	
Section 58	Offences: record keeping, display of emergency response information	For all purposes, except in so far as section 58 applies in relation to the requirements of section 57(1) of the Act.
Section 59	Referral to referee: directions in safety report or inspection report	
Section 60	Referral to referee: requirements in preliminary certificate or final certificate	
Section 61	Appointment of referee	
Section 62	Powers of referee: referral under section 59(2)	
Section 63	Powers of referee: referral under section 60(1)	
Section 64(2)	Procedure: expenses	
Section 65	Enforcement notice: appointment of engineer	
Section 66	Offence: failure to comply with notice under section 65(2)	
Section 67	Appointment of engineer by SEPA	
Section 68	Appointment by SEPA: engineers' reports, certificates, recommendations etc.	
Section 69(1) to (6)	Enforcement notice: safety and other measures	
Section 70	Offence: failure to comply with notice under section 69(2)	
Section 71	SEPA's power to arrange taking of safety and other measures	
Section 72	Offences under sections 42(1)(d) and 52(1)(c): further remedies	
Section 77	Emergency powers	
Section 89	Guidance: appeals	In so far as not already in force.
Section 91	Powers of entry	In so far as not already in force.
Section 93(1)	Powers of entry: supplementary	
Section 95(4)	Compensation	
Section 97	Affording of reasonable facilities to engineers	

<i>Column (1) Provisions of the Act</i>	<i>Column (2) Subject matter</i>	<i>Column (3) Purpose</i>
Section 98(2)	Power of SEPA to require information and assistance	In so far as not already in force.
Section 99(1)	Offences: section 97	In so far as not already in force.
Section 101	Grants	
Section 103	Notice to SEPA of revocation of appointment or resignation of engineer	
Section 112(1) to (4)	Consequential amendment and repeals	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 2016 the provisions of the Reservoirs (Scotland) Act 2011 (“the Act”) listed in the Schedule, for all purposes except where otherwise specified.

Article 3 has the effect of modifying Part 1 of the Act so that, for a transitional period, it applies only in relation to reservoirs which are capable of holding 25,000 cubic meters or more of water.

Sections 1, 2, 3, 7 and 114 to 116 of the Act came into force on 13th April 2011 in accordance with section 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions were brought into force by earlier commencement orders as follows:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 4	1st April 2015	S.S.I. 2015/63
Section 5(1) only for the purpose of bringing into force paragraph (o)	1st April 2015	S.S.I. 2015/63
Section 5(2) to (4)	1st April 2015	S.S.I. 2015/63
Section 6	1st January 2015	S.S.I. 2014/348
Section 9	1st April 2015	S.S.I. 2015/63
Section 10(1) for the purpose of giving effect to section 10(1) of the Act only in so far as it applies in relation to a 1975 Act reservoir	1st April 2015	S.S.I. 2015/63
Section 10(2)	1st January 2015	S.S.I. 2014/348
Section 11(1) and (2)	1st April 2015	S.S.I. 2015/63
Section 11(3)	1st January 2015	S.S.I. 2014/348
Section 12 for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 13 for the purpose of giving effect to section 13 of the Act only in so far as it applies in relation to a 1975 Act reservoir	1st April 2015	S.S.I. 2015/63
Section 14	1st January 2015	S.S.I. 2014/348
Section 15(1) to (3) for the purpose of giving effect to section 15(1) to (3) of the Act only in so far as it applies in relation to a 1975 Act reservoir	1st April 2015	S.S.I. 2015/63
Section 15(4)	1st January 2015	S.S.I. 2014/348
Section 16(2) and (6)	1st April 2015	S.S.I. 2015/63
Section 17 for all purposes except in relation to requirements of section 12(1) of the Act	1st April 2015	S.S.I. 2015/63
Sections 18 to 21	1st October 2015	S.S.I. 2015/314
Section 22(1) to (3)	1st October 2015	S.S.I. 2015/314
Section 22(4)	1st January 2015	S.S.I. 2014/348
Section 23(1) to (7)	1st October 2015	S.S.I. 2015/314
Section 23(8)	1st January 2015	S.S.I. 2014/348
Section 24(1) to (6)	1st October 2015	S.S.I. 2015/314
Section 24(7)	1st January 2015	S.S.I. 2014/348
Section 25	1st January 2015	S.S.I. 2014/348
Section 26(1)	1st October 2015	S.S.I. 2015/314
Section 27(a) for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 27(a) in so far as not already in force	20th February 2015	S.S.I. 2015/43
Section 27 in so far as not already in force	1st April 2015	S.S.I. 2015/63

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 28(1) to (6)	1st April 2015	S.S.I. 2015/63
Section 28(7) and (8)	1st January 2015	S.S.I. 2014/348
Section 29	1st April 2015	S.S.I. 2015/63
Section 30(1)	1st April 2015	S.S.I. 2015/63
Section 30(2)	1st January 2015	S.S.I. 2014/348
Section 31(1)(a)	20th February 2015	S.S.I. 2015/43
Section 31(1)(b)	1st January 2015	S.S.I. 2014/348
Section 31(1) in so far as not already in force	1st April 2015	S.S.I. 2015/63
Section 31(2)	1st January 2015	S.S.I. 2014/348
Section 32(4)(b) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 35(1)(d) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 38(3)(c) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 51(1)(e) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 51(2)	1st January 2015	S.S.I. 2014/348
Sections 54 and 55	1st January 2015	S.S.I. 2014/348
Section 56(3) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 57(2) and (3) for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 64(1)	1st January 2015	S.S.I. 2014/348
Section 69(7) and (8)	1st January 2015	S.S.I. 2014/348
Sections 73 to 76	1st January 2015	S.S.I. 2014/348
Sections 82 to 88	1st January 2015	S.S.I. 2014/348
Section 89 except in so far as it applies in pursuance of section 69	1st January 2015	S.S.I. 2014/348
Section 90	1st January 2015	S.S.I. 2014/348
Section 91(1)	1st April 2015	S.S.I. 2015/63
Section 91(2)(a)	1st April 2015	S.S.I. 2015/63
Section 91(2)(b)	1st October 2015	S.S.I. 2015/314
Section 91(2)(l)	1st April 2015	S.S.I. 2015/63
Section 92	1st April 2015	S.S.I. 2015/63
Section 93(2) to (5)	1st April 2015	S.S.I. 2015/63
Section 94	1st April 2015	S.S.I. 2015/63
Section 95(1) to (3)	1st April 2015	S.S.I. 2015/63
Section 96	1st April 2015	S.S.I. 2015/63
Section 98(1)	1st April 2015	S.S.I. 2015/63
Section 98(2)(b)	1st April 2015	S.S.I. 2015/63
Section 99(1)(b), (2) and (3)	1st April 2015	S.S.I. 2015/63
Section 100	1st April 2015	S.S.I. 2015/63
Section 102	1st January 2015	S.S.I. 2014/348
Sections 104 and 105	1st January 2015	S.S.I. 2014/348
Section 106	1st April 2015	S.S.I. 2015/63
Section 107	1st January 2015	S.S.I. 2014/348
Section 108	1st April 2015	S.S.I. 2015/63
Section 109	1st January 2015	S.S.I. 2014/348
Section 110(1)	1st April 2015	S.S.I. 2015/63
Section 110(2)	1st January 2015	S.S.I. 2014/348
Section 110(3) to (9)	1st April 2015	S.S.I. 2015/63

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 111	1st April 2015	S.S.I. 2015/63
Section 112(5)	1st January 2015	S.S.I. 2014/348
Section 113	1st January 2015	S.S.I. 2014/348
Schedule	1st January 2015	S.S.I. 2014/348

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