

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – OVERVIEW

3. The Act is separated into 3 Parts:
 - Part 1 sets out a new regulatory regime for the safe construction and operation of reservoirs in Scotland. This replaces the regime under the Reservoirs Act 1975 and supersedes the prospective amendments to the 1975 Act in Part 7 of the Flood Risk Management (Scotland) Act 2009 (the 1975 Act and Part 7 of the 2009 Act are repealed).
 - Part 2 provides for the creation of offences to support the Water Environment and Water Services (Scotland) Act 2003.
 - Part 3 includes general provisions.
4. [Part 1](#) is the largest part of the Act. It makes provision for the compulsory registration of all reservoirs to which the Act applies (referred to in the Act as “controlled reservoirs”). It provides for SEPA to assess the risk (in terms of adverse consequences and probability) of an uncontrolled release of water from each registered reservoir. Different regulatory controls apply to controlled reservoirs with different risk designations. It regulates the construction of reservoirs, imposing a system of inspections, reports and certificates overseen by an engineer appointed from an approved panel. Panels of appropriately qualified engineers are to be established by the Scottish Ministers. It also sets out requirements for the supervision and periodical inspection of controlled reservoirs, as well as creating incident reporting obligations and making provision about the retention of appropriate records. It gives SEPA the power to serve enforcement notices and to step in and take certain actions where reservoir managers have failed to do so, as well as giving SEPA the power to act in an emergency to protect people or property from an escape of water from a controlled reservoir. It also enables the Scottish Ministers to make provision for SEPA to use various civil enforcement measures, intended to enable SEPA to enforce the Act in a proportionate manner.
5. [Part 2](#) of the Act amends the Water Environment and Water Services (Scotland) Act 2003 to enable the creation of criminal offences to support regulations to be made under section 22 of that Act concerning the remediation and restoration of the water environment.
6. [Part 3](#) contains general provisions about matters such as ancillary provisions, the power to make regulations, crown application and the short title.