

RESERVOIRS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 – Reservoirs

Chapter 5 – Construction Or Alteration of Controlled Reservoirs

Section 39 – Final certificates

59. Where a controlled reservoir is being constructed or altered, except where it is being discontinued or abandoned, subsection (1) requires construction engineers to issue a final certificate to the reservoir manager within 28 days of being satisfied that the reservoir is sound and satisfactory and may be used safely for the collection and storage of water.
60. Where the final certificate relates to a high risk reservoir subsection (2)(b) requires the final certificate to recommend when an early inspection should take place (if the construction engineer considers one should be undertaken). If the reservoir is a high or medium risk reservoir, subsection (2)(c) requires the final certificate to specify any matter that the construction engineer considers should be monitored by the supervising engineer until the first inspection of the reservoir under section 46. Subsection (2)(d) requires the final certificate to impose requirements that the water level must not exceed the level specified in the certificate, that the reservoir manager must ensure that the level does not exceed that level, and that the engineer may set out requirements as to the manner in which water levels may be increased or decreased.
61. Subsection (3) requires the construction engineer of a controlled reservoir which is being discontinued, to issue a final certificate to the reservoir manager within 28 days of being satisfied that the discontinuance has been safely completed, that the resulting structure is incapable of holding 10,000 cubic metres of water above the natural level of any part of the surrounding land and that the resulting structure is sound and satisfactory and may be safely used for the collection and storage of water.
62. Subsection (4) requires where a reservoir is being discontinued that the final certificate must state whether the construction engineer considers that the discontinuance has been safely completed and that the resulting structure or area is incapable of holding 10,000 cubic metres of water above the natural level of any part of the surrounding land and that the resulting structure is sound and satisfactory and may be safely used for the collection and storage of water.
63. Subsection (5) requires the construction engineer, where a reservoir is being abandoned to issue a final certificate to the reservoir manager within 28 days of being satisfied that the abandonment has been safely completed and that the resulting structure is incapable of filling with water above the natural level of any part of the surrounding land.
64. Subsection (6) requires where a reservoir is being abandoned that the final certificate must state whether the construction engineer considers that the abandonment has been

*These notes relate to the Reservoirs (Scotland) Act 2011
(asp 9) which received Royal Assent on 12 April 2011*

safely completed and that the resulting structure or area is incapable of filling above the natural level of any part of the surrounding land.

65. Subsection (8) requires that a copy of the construction certificate must be attached to the final certificate when the reservoir has been constructed or altered. Subsection (9) requires the construction engineer to give SEPA a copy of the final certificate within 28 days of issuing. If a final certificate has not been issued within 5 years of the issue of the preliminary certificate, subsection (10) requires the construction engineer to give the reservoir manager a written explanation of the reasons why within 28 days of the expiry of the 5 year period. Subsection (10)(b) requires the construction engineer to give the reservoir manager a written explanation of the reasons at 12 months intervals thereafter until the final certificate is issued and subsection (10)(c) requires the construction engineer to send each of the written statements to SEPA within 28 days of being given.