



# Reservoirs (Scotland) Act 2011

## 2011 asp 9

### PART 1

#### RESERVOIRS

#### CHAPTER 7

##### OTHER REQUIREMENTS: CONTROLLED RESERVOIRS

#### 54 Incident reporting

- (1) The Scottish Ministers may by regulations make provision for the reporting to SEPA of incidents occurring at controlled reservoirs which meet criteria specified in, or otherwise determined in accordance with, the regulations.
- (2) The regulations may, in particular—
  - (a) provide that SEPA or another person—
    - (i) may specify the criteria,
    - (ii) is to determine whether a controlled reservoir meets the criteria,
  - (b) define what constitutes an incident by reference to circumstances which adversely affect the safety of a controlled reservoir,
  - (c) require the reservoir manager of a controlled reservoir or other specified person to report incidents occurring at the reservoir,
  - (d) provide for an inspecting engineer, a supervising engineer or other person to determine whether an incident has occurred,
  - (e) require reservoir managers of controlled reservoirs, supervising engineers, inspecting engineers and any other person of a specified description to have regard to guidance issued by SEPA or the Scottish Ministers,
  - (f) make provision for the publishing of incident reports,
  - (g) confer powers of entry on SEPA in connection with its functions under the regulations,
  - (h) create offences,
  - (i) provide that any offence created is triable only summarily,
  - (j) provide for any offence created—

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- (i) which is committed in relation to a controlled reservoir which is, at the time the offence is committed, a high-risk reservoir to be punishable on conviction by a fine not exceeding level 5 on the standard scale,
  - (ii) which is committed in relation to any other controlled reservoir to be punishable on conviction by a fine not exceeding level 4 on the standard scale,
  - (k) make provision in connection with ensuring remedial action is taken following an incident report including provision amending this Act (other than this section) or applying this Act with modifications.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) SEPA,
  - (b) the reservoir managers of controlled reservoirs to which they consider the regulations will apply,
  - (c) the Institution of Civil Engineers,
  - (d) such other persons as they consider appropriate.

## **55 Flood plans**

- (1) The Scottish Ministers may by regulations make provision as to—
- (a) the preparation of flood plans for controlled reservoirs,
  - (b) such other matters in relation to such flood plans as they consider appropriate.
- (2) A “flood plan” for a controlled reservoir is a plan setting out the action to be taken by the reservoir manager of the reservoir to which the plan relates in order to control or mitigate the effects of flooding likely to result from any escape of water from the reservoir.
- (3) Regulations under subsection (1) may include provision—
- (a) as regards who is to prepare a flood plan,
  - (b) requiring the preparation of flood plans for all controlled reservoirs, or controlled reservoirs of such categories as may be determined by the Scottish Ministers or SEPA,
  - (c) allowing a single flood plan to be prepared in respect of two or more controlled reservoirs between which water does (or could) flow,
  - (d) specifying—
    - (i) the form in which a flood plan is to be prepared,
    - (ii) what is to be included in a flood plan,
  - (e) requiring the person preparing a flood plan to have regard to any guidance that may be issued by SEPA or the Scottish Ministers as regards flood plans,
  - (f) requiring flood plans to be produced or submitted to SEPA (whether or not for approval) by such time as either—
    - (i) the regulations specify, or
    - (ii) the Scottish Ministers or SEPA may direct,
  - (g) as regards the approval of flood plans (whether by the Scottish Ministers, SEPA, inspecting engineers or supervising engineers),
  - (h) as regards the review and updating of flood plans,
  - (i) as regards the publication or distribution of copies of—
    - (i) a list of reservoirs in relation to which a flood plan must be prepared by virtue of the regulations,

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- (ii) flood plans,
  - (j) in connection with the testing of flood plans,
  - (k) in connection with the referral of matters to a referee,
  - (l) requiring the reservoir manager of the reservoir to which a flood plan relates, so far as it is practicable to do so, to take action set out in the plan relating to the reservoir in the event of an emergency,
  - (m) providing that SEPA may, in circumstances specified in the regulations, do anything that another person is required to do under the regulations and may recover the expenses of doing so from the person,
  - (n) conferring powers of entry on SEPA in connection with its functions under the regulations,
  - (o) making provision in connection with paragraphs (k), (m) and (n) amending this Act (other than this section) or applying this Act with modifications,
  - (p) creating offences,
  - (q) providing that any offence created is triable only summarily,
  - (r) providing for any offence created—
    - (i) which is committed in relation to a controlled reservoir which is, at the time the offence is committed, a high-risk reservoir to be punishable on conviction by a fine not exceeding level 5 on the standard scale,
    - (ii) which is committed in relation to any other controlled reservoir to be punishable on conviction by a fine not exceeding level 4 on the standard scale.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) SEPA,
  - (b) the reservoir managers of reservoirs for which they consider a flood plan will require to be prepared under the regulations,
  - (c) the Institution of Civil Engineers,
  - (d) such other persons as they consider appropriate.

## **56 Maintenance of records**

- (1) The reservoir manager of a controlled reservoir must maintain a record of relevant documents.
- (2) The record must include all of the relevant documents.
- (3) Where the reservoir is a low-risk reservoir, the record must in addition contain information about repairs to the reservoir in such form as the Scottish Ministers may require by regulations.
- (4) The relevant documents are—
- (a) any of the following which is given to the reservoir manager (or copied to the manager pursuant to section 68)—
    - (i) a safety report, safety measure certificate, preliminary certificate, construction certificate or final certificate,
    - (ii) an inspection report, interim inspection compliance certificate or inspection compliance certificate,
    - (iii) a notice under section 50(2)(a) or (g), recommendation under section 50(3) or statement under section 50(8) (by a supervising engineer),

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- (b) any drawings and descriptions of works annexed to construction certificates given in respect of the reservoir under the 1975 Act, drawings and descriptions annexed to certificates given under the Reservoirs (Safety Provisions) Act 1930 (c.51), charts, graphs and plans, and
- (c) any flood plan produced in respect of the reservoir in pursuance of regulations made under section 55.

## **57 Display of emergency response information**

- (1) The reservoir manager of a controlled reservoir must ensure that emergency response information is displayed at or near the reservoir.
- (2) Emergency response information is such information about the reservoir and the reservoir manager as may be specified by order by the Scottish Ministers.
- (3) The information that may be specified under subsection (2) includes in particular—
  - (a) the name of the reservoir (if any),
  - (b) any registration number in the controlled reservoirs register relating to the reservoir,
  - (c) the reservoir manager's name and address and information for the purpose of enabling a person to contact the reservoir manager in the event of an emergency,
  - (d) where the reservoir is a high-risk reservoir or medium-risk reservoir, information for the purpose of enabling a person to contact SEPA in the event of an emergency.
- (4) SEPA may give directions to reservoir managers of controlled reservoirs as to—
  - (a) the manner in which emergency response information is to be displayed,
  - (b) the location at which it is to be displayed.
- (5) Directions under subsection (4) may be general or specific.
- (6) The reservoir manager must comply with any directions by SEPA under subsection (4).

## **58 Offences: record keeping, display of emergency response information**

- (1) Failure by the reservoir manager of a controlled reservoir to comply with any of the following requirements under this Chapter is an offence—
  - (a) the requirements of section 56 (maintenance of records),
  - (b) the requirements of section 57(1) and (6) (display of emergency response information).
- (2) A reservoir manager guilty of an offence under subsection (1)—
  - (a) in relation to a controlled reservoir which is, at the time the offence is committed, a high-risk reservoir is liable on summary conviction to a fine not exceeding level 5 on the standard scale,
  - (b) in relation to any other controlled reservoir is liable on summary conviction to a fine not exceeding level 4 on the standard scale.