



## 2015 CHAPTER 8

### PART 2

#### REQUIREMENTS FOR HIGH-CONSEQUENCE AND MEDIUM-CONSEQUENCE RESERVOIRS

PROSPECTIVE

*Inspections etc. by inspecting engineer*

##### **Inspection timing: general requirements**

**30.**—(1) Subject to subsection (2) and sections 31 and 32, the reservoir manager of a high-consequence or medium-consequence reservoir must secure that it is inspected by an inspecting engineer before the end of the period of one year beginning with the date on which the designation of the reservoir as such takes effect (see sections 19, 20(5) and 21(7)).

(2) Subsection (1) does not apply where the controlled reservoir was, immediately before the designation of it as a medium-consequence reservoir took effect, designated as a high-consequence reservoir.

(3) The reservoir manager of a high-consequence or medium-consequence reservoir must secure that it is inspected by an inspecting engineer at each of the following times—

- (a) at any time recommended by the supervising engineer by virtue of section 26(3),
- (b) subject to section 61, at any time recommended in an inspection report under section 35 (in accordance with section 35(4)(h)).

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(4) The reservoir manager of a high-consequence reservoir must in any event secure that it is inspected by an inspecting engineer before the end of the period of 10 years beginning with the date of the latest inspection.

(5) An “inspecting engineer” is an engineer duly commissioned under section 34 to inspect a high-consequence or medium-consequence reservoir when required by this section or section 31 or 32 or to supervise the taking of a measure referred to in section 34(1)(b).

### **Inspection timing: reservoir subject to pre-commencement inspection report**

**31.—**(1) Subject to subsection (5) and section 32, section 30(1) does not apply where—

- (a) a high-consequence or medium-consequence reservoir is the subject of a pre-commencement inspection report (see section 33(1)),
- (b) the Department is satisfied that—
  - (i) the report contains a recommendation as to when (or by when) the next inspection of the reservoir should take place,
  - (ii) the recommended next inspection would be due after the relevant date and within a period not exceeding 10 years from the date of the inspection to which the report relates.

(2) Where section 30(1) does not apply by virtue of subsection (1), the reservoir manager must secure that the reservoir is inspected by an inspecting engineer at the time, after the relevant date, recommended in the report for the next inspection of the reservoir.

(3) Subject to subsection (5) and section 32, section 30(1) does not apply where—

- (a) a high-consequence or medium-consequence reservoir is the subject of a pre-commencement inspection report,
- (b) the Department is satisfied that the report does not contain a recommendation as to when (or by when) the next inspection of the reservoir should take place.

(4) Where section 30(1) does not apply by virtue of subsection (3), the reservoir manager must secure that the reservoir is inspected by an inspecting engineer before the end of the period of 10 years beginning with the date of the inspection which is the subject of the report.

(5) Where the supervising engineer recommends by virtue of section 26(3) that the reservoir should be inspected at a time which is earlier than is required by subsection (2) or (4), the inspection which is due by virtue of that subsection is not required.

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(6) In this section, and sections 33 and 35, “the relevant date” means the date on which the designation of the controlled reservoir concerned as a high-consequence or medium-consequence reservoir takes effect.

#### **Inspection timing: other qualifications**

**32.**—(1) Where a construction engineer is required by section 43 to be commissioned to supervise relevant works for the purpose of a high-consequence or medium-consequence reservoir being discontinued or abandoned (within the meaning of Part 3) (see sections 41 and 42), any inspection which at the date of the commissioning is due by virtue of section 30 or 31 is not required.

(2) Where a construction engineer is required by section 43 to be commissioned to supervise relevant works for the purpose of a high-consequence or medium-consequence reservoir being constructed or subject to alteration (but not for the purpose of it being discontinued or abandoned) (within the meaning of Part 3)—

- (a) any inspection which at the date of the commissioning is due by virtue of section 30 or 31 is not required,
- (b) the reservoir manager must secure instead that the reservoir is inspected by an inspecting engineer either—
  - (i) before the end of the period of 2 years beginning with the date of the final certificate for the relevant works, or
  - (ii) at such earlier time as may be recommended in the final certificate (in accordance with section 49(2)(b)).

#### **Pre-commencement inspection report**

**33.**—(1) A “pre-commencement inspection report” is a document, provided to the Department by the reservoir manager of a high-consequence or medium-consequence reservoir and in respect of which the Department is satisfied as to the following matters—

- (a) that it was prepared by a civil engineer who, at the time of the inspection to which it relates and throughout the preparation and completion of the document, was a member of such panel of civil engineers constituted under section 4(1) of the 1975 Act as the Department considers appropriate,
- (b) that it was prepared sufficiently in accordance with criteria that would have fallen to be applied in relation to an inspection under section 10 of that Act of a reservoir that was subject to that section,
- (c) that it is about an inspection of the reservoir which was carried out before the relevant date, but not more than 8 years before that date.

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(2) The Department must, as soon as is reasonably practicable after receiving a document under subsection (1) and, where it considers it appropriate to do so after consulting an engineer commissioned by it under this subsection, decide whether or not it is satisfied that the document is a pre-commencement inspection report.

(3) An engineer may be commissioned under subsection (2) if the engineer—

(a) is a member of a panel of reservoir engineers established under section 102 who may (by virtue of an order under that section) be commissioned under this section in relation to the reservoir,

(b) is not disqualified by virtue of subsection (4) from being so commissioned in relation to the reservoir.

(4) An engineer is disqualified from being commissioned under subsection (2) in relation to a high-consequence or medium-consequence reservoir if the engineer—

(a) is an employee of any person who is a reservoir manager of the reservoir,

(b) prepared the document provided in pursuance of subsection (1).

(5) The Department must serve on the reservoir manager notice—

(a) specifying its decision under subsection (2),

(b) where its decision is that the document is not a pre-commencement inspection report, specifying the reasons for the decision,

(c) giving information about the right under Schedule 1 to apply for a review by the Department of its decision under subsection (2), the procedure for making such an application and the period within which an application may be made.

(6) Schedule 1 makes provision in relation to review of a decision under subsection (2).

#### **Commissioning of inspecting engineer etc.**

**34.—**(1) The reservoir manager of a high-consequence or medium-consequence reservoir must commission an inspecting engineer—

(a) to inspect the reservoir when inspection of it is required by section 30, 31 or 32,

(b) to supervise the taking of any measure as mentioned in section 35(4)(e) or the taking of a pre-commencement safety recommendation.

(2) The reservoir manager must, not later than 28 days after the commissioning, give notice of it to the Department.

(3) A “pre-commencement safety recommendation” is a recommendation in a pre-commencement inspection report as to a measure the civil engineer

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who prepared the report considered to be required in the interests of the safety of the reservoir.

(4) An engineer may be commissioned as an inspecting engineer if the engineer—

- (a) is a member of a panel of reservoir engineers established under section 102 who may (by virtue of an order under that section) be commissioned under this section as an inspecting engineer in relation to the reservoir,
- (b) is not disqualified by virtue of subsection (5) from being so commissioned in relation to the reservoir.

(5) An engineer is disqualified from being commissioned as an inspecting engineer in relation to a high-consequence or medium-consequence reservoir if the engineer—

- (a) is an employee of any person who is a reservoir manager of the reservoir,
- (b) has previously been a construction engineer in relation to the reservoir.

#### **Duties etc. in relation to inspection**

**35.**—(1) An inspecting engineer must—

- (a) inspect the reservoir,
- (b) give the reservoir manager, not later than 6 months after the completion of the inspection, an inspection report prepared in accordance with this section.

(2) The reservoir manager must give the inspecting engineer a copy of—

- (a) the latest report (if any),
- (b) any pre-commencement inspection report certificate, interim inspection compliance certificate or inspection compliance certificate for the time being applicable to the reservoir,
- (c) any final certificate for the time being applicable to the reservoir.

(3) A “pre-commencement inspection report certificate” is a certificate—

- (a) stating that a measure recommended in the pre-commencement report as a measure that should be taken in the interests of the safety of the reservoir has been taken,
- (b) signed and issued before the relevant date by a civil engineer who, at the time of signing, was a member of such panel of civil engineers constituted under section 4(1) of the 1975 Act as the Department considers appropriate.

(4) The inspection report—

- (a) must—

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- (i) specify any measure the inspecting engineer considers should be taken in the interests of the safety of the reservoir (including any such measure for the maintenance of the reservoir),
  - (ii) direct the reservoir manager to ensure that the measure is taken,
- (b) may—
  - (i) specify any matter that the inspecting engineer considers relevant to the maintenance of the reservoir (but in relation to which the engineer does not specify a measure (as to safety) under paragraph (a)),
  - (ii) include any recommendation as regards the matter,
- (c) must specify whether any measure specified in the inspection report was specified in the latest report,
- (d) if any measure specified in the latest report has not been taken and the measure is not specified in the inspection report, must specify why the engineer considers the measure should no longer be taken,
- (e) must direct the reservoir manager to ensure that any measure which both—
  - (i) is specified in the inspection report as a measure that should be taken in the interests of the safety of the reservoir, and
  - (ii) is not a measure for its maintenance,is taken under the supervision of the inspecting engineer or, where permitted (by section 36(2)(a)) the other qualified engineer, and within the period of time specified in the inspection report,
- (f) must direct the reservoir manager to ensure that any measure which both—
  - (i) is specified in the inspection report as a measure that should be taken in the interests of the safety of the reservoir, and
  - (ii) is a measure for its maintenance,is monitored by the supervising engineer,
- (g) must specify any other matter that the inspecting engineer recommends should be monitored by the supervising engineer until the next inspection,
- (h) must specify when the inspecting engineer recommends the next inspection of the reservoir should take place,
- (i) if the inspecting engineer considers that the supervising engineer should visit the reservoir more frequently than is required of the supervising engineer by virtue of regulations made under section 27(1), must specify at what intervals, when, or in what circumstances, any additional visit should take place.

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(5) An inspecting engineer must, not later than 28 days after giving an inspection report under this section, give a copy of it to—

- (a) the Department,
- (b) the supervising engineer (if a different person).

(6) In this section and section 36—

- (a) references to “the inspecting engineer” are references to the engineer duly commissioned for the time being as such under section 34 in relation to the reservoir,
- (b) references to “the latest report” are references to the inspection report of the latest inspection (if any) of the reservoir carried out under this section or the pre-commencement inspection report (if any) in relation to the reservoir (whichever is the later),
- (c) references to “the reservoir manager” are references to the reservoir manager of the reservoir which is being inspected.

(7) In this Act, references to “the other qualified engineer”, “any other qualified engineer” or “other qualified engineer” are references to any engineer duly commissioned for the time being as such under section 36(2)(a) in relation to the reservoir; and references to “other qualified engineers” are to be construed accordingly.

### **Inspection reports: compliance**

**36.—**(1) The reservoir manager must ensure that the following are complied with—

- (a) (subject to section 61) any direction in an inspection report given to the manager under section 35,
- (b) any pre-commencement safety recommendation.

(2) The reservoir manager—

- (a) may commission any other qualified engineer (being a person eligible to be commissioned as an inspecting engineer for the reservoir) to supervise the taking of—
  - (i) any measure specified in the inspection report prepared in accordance with section 35 as a measure that should be taken in the interests of the safety of the reservoir and which is not a measure for its maintenance,
  - (ii) any pre-commencement safety recommendation.

- (b) must, as soon as is reasonably practicable after such commissioning, give notice of it to the Department.

(3) Not later than 28 days after being satisfied that a measure which is directed (or recommended) as mentioned in subsection (1) has been taken—

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- (a) the inspecting engineer, or
  - (b) in relation to any such measure which the other qualified engineer is (and may be) commissioned to supervise, the other qualified engineer,
- must give to the reservoir manager an interim inspection compliance certificate.
- (4) An interim inspection compliance certificate must specify—
- (a) the inspection report (or pre-commencement inspection report) to which it relates,
  - (b) the measure taken,
  - (c) any measure that has yet to be taken.
- (5) The inspecting engineer or (as appropriate) the other qualified engineer must, not later than 28 days after being satisfied that all of the measures directed in the inspection report (or all pre-commencement safety recommendations) have been taken, give the reservoir manager an inspection compliance certificate.
- (6) The engineer giving an inspection compliance certificate must take an interim compliance certificate given by another engineer under this Act or a pre-commencement inspection report certificate a copy of which is given to the engineer under section 35(2), to be conclusive of the measure specified in it (as a measure taken) as having been taken.
- (7) An inspection compliance certificate must specify—
- (a) the inspection report (or pre-commencement inspection report) to which it relates,
  - (b) that all of the measures directed in the inspection report (or all pre-commencement safety recommendations) have been taken.
- (8) The inspecting engineer or (as appropriate) the other qualified engineer must, not later than 28 days after giving the reservoir manager an interim inspection compliance certificate or an inspection compliance certificate under this section, give the Department a copy of it.

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