



## 2015 CHAPTER 8

### PART 2

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

PROSPECTIVE

##### *Supervision by supervising engineer*

##### **Supervision requirement and commissioning of supervising engineer etc.**

**25.**—(1) A high-consequence or medium-consequence reservoir must, at all times, be under the supervision of a supervising engineer.

(2) The reservoir manager of a high-consequence or medium-consequence reservoir must, not later than 6 months after the date on which the designation of the reservoir as such takes effect (see sections 19, 20(5) and 21(7)), commission a supervising engineer.

(3) A “supervising engineer” is an engineer duly commissioned under subsection (2) to supervise the reservoir, at all times, in accordance with section 26.

(4) A reservoir manager who commissions a supervising engineer in accordance with subsection (2) must, not later than 28 days after the commissioning, give notice of it to the Department.

(5) An engineer may be commissioned as a supervising engineer if the engineer is a member of a panel of reservoir engineers established under section 102 who may (by virtue of an order under that section) be

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commissioned under this section as a supervising engineer in relation to the reservoir.

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

**26.**—(1) The supervising engineer must supervise the reservoir, at all times, in accordance with this Act.

(2) The supervising engineer must—

(a) give notice to the reservoir manager of anything that the engineer considers might affect the safety of the reservoir,

(b) monitor compliance by the reservoir manager—

(i) subject to section 61, with any direction in the latest inspection report by virtue of section 35(4)(a) as regards any measure that should be taken in the interests of the safety of the reservoir which is a measure for its maintenance (see section 35(4)(f)),

(ii) with any recommendation in a pre-commencement inspection report for the time being applicable to the reservoir (see section 33(1)) as to a measure that should be taken for its maintenance,

(c) monitor—

(i) any matter specified by virtue of section 35(4)(g) in the latest inspection report as a matter that the inspecting engineer recommends should be monitored by the supervising engineer until the next inspection of the reservoir,

(ii) any matter specified in a pre-commencement inspection report for the time being applicable to the reservoir as a matter that should be watched by a civil engineer until the next inspection of the reservoir (and which does not fall within paragraph (b)(ii)),

(d) monitor any matter specified in a safety report as a matter the construction engineer giving the report recommends should be monitored by the supervising engineer until a final certificate is issued in respect of relevant works (see section 45(1)(c)),

(e) monitor compliance by the reservoir manager with the requirements of—

(i) any preliminary certificate for the time being applicable to the reservoir (see section 47),

(ii) any final certificate for the time being applicable to the reservoir (see section 49),

(f) monitor any matter specified in any such final certificate as a matter that should be monitored by the supervising engineer until the first or next inspection of the reservoir,

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- (g) give notice to the reservoir manager and the Department of any failure to comply with—
    - (i) a direction or recommendation referred to in paragraph (b),
    - (ii) a safety report for the time being applicable to the reservoir,
    - (iii) a preliminary certificate for the time being applicable to the reservoir,
  - (h) give notice to the reservoir manager and the Department of any failure to comply with any requirement of a final certificate for the time being applicable to the reservoir,
  - (i) supervise (or ensure that a nominated representative of the engineer supervises) any proposed draw-down in respect of the reservoir,
  - (j) monitor compliance by the reservoir manager with the requirements of section 37 (recording of water levels etc. and record keeping),
  - (k) undertake, in accordance with the latest inspection report, any additional visit that may be recommended in the report by virtue of section 35(4)(i).
- (3) If the supervising engineer considers at any time that the reservoir should be inspected in accordance with section 35, the engineer must—
- (a) give the reservoir manager a written recommendation to that effect specifying when the inspection should take place,
  - (b) not later than 28 days after giving the written recommendation, give the Department a copy of it.
- (4) The supervising engineer—
- (a) may by written direction require the reservoir manager to carry out a visual inspection of the reservoir at intervals specified by the engineer for the purpose of identifying anything that might affect the safety of the reservoir,
  - (b) must give a copy of any direction given under paragraph (a) to the Department.
- (5) The supervising engineer must give the reservoir manager, at least every 12 months, a written statement of—
- (a) the steps taken by the engineer in relation to the matters referred to in subsection (2)(a) to (h) and (j) and (k),
  - (b) any measure taken by the reservoir manager in the interests of the safety of the reservoir or otherwise to maintain the reservoir,
  - (c) any recommendation by the supervising engineer under subsection (3),
  - (d) any direction by the supervising engineer under subsection (4)(a).

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(6) The supervising engineer must, not later than 28 days after giving a written statement under subsection (5), give the Department a copy of the statement.

(7) The supervising engineer must—

- (a) give the reservoir manager information for the purpose of enabling the manager to contact the engineer (or in the event of the supervising engineer being unavailable, a nominated representative of the engineer),
- (b) not later than 28 days after giving the reservoir manager such information, give the information to the Department.

(8) Where the reservoir is the subject of a pre-commencement inspection report and inspection of it is not yet due under section 31, the reservoir manager must give the supervising engineer a copy of—

- (a) the report,
- (b) any pre-commencement inspection report certificate (see section 35(3)),
- (c) where the reservoir manager is unable to give a copy of a pre-commencement inspection report certificate, any other document dated before the relevant date which the reservoir manager considers relevant to the taking of a pre-commencement safety recommendation (see section 34(3)).

(9) In this section—

- (a) “draw-down” means any intentional reduction in the water level except where done in accordance with the routine operation of the reservoir,
- (b) references to “the reservoir manager” are references to the reservoir manager of the reservoir which is being supervised in accordance with this section,
- (c) “the relevant date” has the same meaning as in section 31(6).

(10) In this section and sections 27 to 31, 35 and 37, references to “the supervising engineer” are references to the engineer duly commissioned for the time being as such under section 25 in relation to the reservoir and are to be construed as including a nominated representative of the supervising engineer under subsection (7)(a) who is acting as such in the event of the supervising engineer being unavailable.

### **Regulations as to visits by supervising engineer**

27.—(1) The Department may by regulations make provision—

- (a) for there to be a standard frequency of visits that must be made by a supervising engineer to a high-consequence or medium-consequence reservoir,

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- (b) for the standard frequency to be different according to whether or not the Department considers that a high-consequence or medium-consequence reservoir is of an acceptable standard as regards how it is being maintained,
- (c) for the Department to decide whether it considers that a high-consequence or medium-consequence reservoir is of an acceptable standard as regards how it is being maintained, taking account (as appropriate) of the following—
  - (i) whether or not a pre-commencement inspection report contains a pre-commencement safety recommendation,
  - (ii) whether or not an inspection report specifies any measure that should be taken in the interests of the safety of the reservoir or any other matter that the inspecting engineer recommends should be monitored by the supervising engineer until the next inspection of the reservoir,
  - (iii) any inspection compliance certificate,
  - (iv) any written statement by the supervising engineer under section 26(5) currently applicable and copied to the Department by virtue of section 26(6).
- (2) Regulations making provision referred to in subsection (1)(c) must—
  - (a) require the Department to notify the reservoir manager of a high-consequence or medium-consequence reservoir of its decision as to whether or not it considers that the reservoir is of an acceptable standard as regards how it is being maintained and accordingly the standard frequency of visits that must be made to it by the supervising engineer,
  - (b) provide that the reservoir manager may appeal to the Water Appeals Commission against the decision specified in the notice,
  - (c) provide that the Commission may confirm or quash the decision,
  - (d) provide that the decision in respect of which an appeal is made continues to have effect pending a decision being made in the appeal.
- (3) In subsection (1)(c)(ii), “the inspecting engineer” has the same meaning as in sections 35 and 36 (see section 35(6)(a)).

#### **Visual inspection directed under section 26(4)(a): further provision**

**28.—**(1) The reservoir manager must comply with any direction under section 26(4)(a).

(2) The reservoir manager must—

- (a) maintain a written record of each visual inspection carried out in pursuance of a direction under section 26(4)(a),

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- (b) make the record available on request to the supervising engineer,
- (c) give notice to the supervising engineer and the Department of anything identified during any such visual inspection which might affect the safety of the reservoir.

(3) Notice under subsection (2)(c) must be given as soon as is reasonably practicable after the visual inspection during which the thing was identified.

**Nominated representative under section 26(7)(a): further provision**

**29** A nominated representative of the supervising engineer under section 26(7)(a)—

- (a) must be eligible to be commissioned as a supervising engineer for the reservoir,
- (b) while acting as the nominated representative of the engineer in the event of the supervising engineer being unavailable, has the powers of and is subject to the obligations of the supervising engineer.

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