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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 19**

**The Water Environment (Remedial Measures) (Scotland) Regulations 2016**

**PART 1**

Interpretation etc.

**Citation and commencement**

1. These Regulations may be cited as the Water Environment (Remedial Measures) (Scotland) Regulations 2016 and come into force on 1st April 2016.

**Interpretation**

2.—(1) In these Regulations—

“the 2004 Regulations” means the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(1);

“the 2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011(2);

“appropriate person” means the Scottish Ministers, a responsible authority or Network Rail;

“the Act” means the Water Environment and Water Services (Scotland) Act 2003;

“artificial structure” means any structure or item (including a bridge, canal, culvert, fitting, pipe, rail-crossing, road, wall and any connected or related apparatus);

“environmental objective” means any of the environmental objectives set out (as a summary or otherwise) in a river basin management plan;

“hydromorphological characteristics” include hydrological regimes, river continuity, morphological conditions and tidal regimes;

“information notice” is to be construed in accordance with regulation 9;

“land” includes land covered by water, and any works, plant or fixed machinery, building or other structure in, on or over land;

“Network Rail” includes Network Rail Infrastructure Limited and an associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(3)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

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(1) S.I. 2004/99, as amended by S.I. 2005/2035, S.I. 2008/1097, S.I. 2011/556, S.I. 2011/1043, S.S.I. 2011/228 and S.S.I. 2013/1675.

(2) S.S.I. 2011/209, as amended by S.S.I. 2013/176, S.S.I. 2013/323 and S.S.I. 2015/211.

(3) 2006 c.46.

“Network Rail Infrastructure Limited” means Network Rail Infrastructure Limited, a company limited by shares and incorporated under the Companies Act 1985(4), whose registered company number is 02904587;

“responsible authority” means any public body or office holder designated as a responsible authority for the purposes of section 2 of the Act(5);

“remedial measures” means action (which may include the carrying out of operations or works in relation to any land or body of water) with a view to—

- (a) improving the hydromorphological characteristics of a body of water; or
- (b) restoring (in full or in part) the hydromorphological characteristics that, in the opinion of SEPA, a body of water (other than an artificial water body) would have if those characteristics had not been changed as a result of physical alterations by human activity;

“remedial measures notice” is to be construed in accordance with regulation 3;

“revocation notice” is to be construed in accordance with regulation 7;

“river basin management plan” means, as the case may be—

- (a) a river basin management plan approved by the Scottish Ministers under section 13 (including that section as applied by section 14(4)) of the Act(6);
- (b) a river basin management plan for the Solway Tweed River Basin District approved under paragraph 10 of Schedule 1 to the 2004 Regulations;

“serve” means serve in writing and “served” is to be construed accordingly;

“Solway Tweed River Basin District” means the area identified as a river basin district by regulation 3(1) of the 2004 Regulations; and

“variation notice” is to be construed in accordance with regulation 6.

(2) Where anything under these Regulations is to be done “in writing” that includes an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000(7) which is capable of being reproduced (and “written” is to be construed accordingly).

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(4) 1985 c.6.

(5) S.S.I. 2011/368, as amended by S.S.I. 2015/323.

(6) The objectives which are required to be set under section 9(1)(a)(i) of the Act are (by virtue of section 9(7) of the same Act) those required to comply with Article 4 (environmental objectives) and paragraphs 2 and 3 of Article 7 (requirements in relation to water used for the abstraction of drinking water) of Directive 2000/60/EC (OJ L 327, 22.12.2000, p.1), as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p.1), Directive 2008/32/EC (OJ L 81, 20.3.2008, p.60), Directive 2008/105/EC (OJ L 348, 24.12.2008, p.84), Directive 2009/31/EC (OJ L 140, 5.6.2009, p.114) and Directive 2013/39/EU (OJ L 226, 24.8.2013, p.1).

(7) 2000 c.7. Section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).