



## 2015 CHAPTER 8

### PART 4

#### CONTROLLED RESERVOIRS: OTHER REQUIREMENTS

##### **Incident reporting**

**56.—**(1) The Department may by regulations make provision for the reporting to it 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 the Department 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 person to notify the Department of any incident occurring at the reservoir and to provide the Department with a report on the incident,
- (d) provide for a supervising engineer, an inspecting 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 the Department,
- (f) make provision as to the publishing of incident reports,
- (g) confer powers of entry on any person duly authorised in writing by the Department in connection with its functions under the regulations,

- (h) make provision as to offences,
  - (i) provide that any offence created is triable only summarily,
  - (j) provide 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-consequence 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) If it appears to the Secretary of State that the publication of, or giving access to, any incident report or any information in or relating to an incident report would adversely affect national security, the Secretary of State may by notice served on the reservoir manager concerned and any other person who has prepared the incident report, direct the manager and (as appropriate) the other person—
- (a) not to publish, or not to publish except as specified in the notice, the incident report, a copy of it or any information in or relating to it,
  - (b) not to permit access to the incident report, a copy of it or any information in or relating to it, except as specified in the notice.
- (4) Notice under subsection (3) may also specify requirements as to the storage of the incident report and copies of it in the interests of national security.
- (5) Where notice under subsection (3) states that this subsection applies to any of the information specified in the notice (“the specified information”), the person on whom the notice is served must not give to any other person any indication of the existence of the specified information.
- (6) Any duty of a person under regulations made under subsection (1) to publish an incident report, a copy of such a report or any information in or relating to such a report does not apply to the extent that notice served on the person under subsection (3) requires the person not to do so.
- (7) Before making regulations under subsection (1), the Department must consult—
- (a) the reservoir managers of controlled reservoirs to which they consider the regulations will apply,
  - (b) the Institution of Civil Engineers,
  - (c) such other persons as it considers appropriate.