

SCHEDULE 1

STOP NOTICES

Compensation

5.—(1) Subject to sub-paragraph (2), where a reservoir manager suffers loss as the result of the issue of a stop notice, the reservoir manager may make a claim for compensation.

(2) Sub-paragraph (1) applies only in the case where the loss suffered by the reservoir manager as the result of the issue of a stop notice is attributable to a requirement imposed by the stop notice which is either subsequently—

- (a) withdrawn because SEPA decides that the requirement should not have been imposed when the notice was given; or
- (b) quashed by the Scottish Ministers, on determining an appeal under paragraph 3(1).

(3) The claim for compensation must—

- (a) be made in writing to SEPA;
- (b) detail the loss suffered by the reservoir manager as the result of the issue of the stop notice;
- (c) specify the amount of compensation claimed in respect of that loss; and
- (d) be made within a period of 2 months beginning with the date on which the loss was suffered.

(4) Where a reservoir manager makes a claim for compensation, SEPA must, within a period of 28 days beginning with the day on which the claim is made, make a decision—

- (a) as to whether or not to award compensation; and
- (b) if the decision is to award compensation, as to the amount of the compensation.

(5) SEPA must, within a period of 14 days beginning with the day on which it makes a decision under sub-paragraph (4), give the reservoir manager notice of the decision in writing and where the decision is not to award compensation or, as the case may be, to award an amount of compensation which is less than the amount claimed, it must give reasons for that decision.

(6) The reservoir manager may appeal to the Scottish Ministers against—

- (a) a decision of SEPA not to award compensation; or
- (b) a decision of SEPA as to the amount of the compensation.

(7) The appeal must be made within a period (“the appeal period”) of 2 months beginning with the relevant day.

(8) Where the reservoir manager is, in accordance with sub-paragraph (5), informed of a decision of SEPA to award an amount of compensation and—

- (a) no appeal is made under sub-paragraph (6) within the appeal period; or
- (b) any such appeal is withdrawn before the end of the appeal period,

SEPA must pay to the reservoir manager the amount within a period of 28 days beginning with the day after the last day of the appeal period.

(9) Where—

- (a) an appeal is made under sub-paragraph (6) within the appeal period; and
- (b) on determining the appeal, the Scottish Ministers—
 - (i) affirm a decision of SEPA to award an amount of compensation (“the affirmed amount”); or

- (ii) otherwise direct SEPA to award an amount of compensation (or an alternative amount) (“the directed amount”),

SEPA must pay to the reservoir manager the affirmed amount or, as the case may be, the directed amount, within a period of 28 days beginning with the day after the day on which the Scottish Ministers affirm the decision to award the affirmed amount or, as the case may be, otherwise direct SEPA to award the directed amount.

(10) For the purposes of sub-paragraph (6), a failure by SEPA, before the end of the period of 42 days beginning with the day on which the claim (to which the appeal relates) is made, to—

- (a) make a decision—
 - (i) as to whether or not to award compensation; and
 - (ii) if the decision is to award compensation, as to the amount of the compensation; and
- (b) comply with sub-paragraph (5),

is to be treated as a decision of SEPA not to award compensation.

(11) In sub-paragraph (7), “the relevant day”—

- (a) in a case where sub-paragraph (10) applies, is the first day on which the failure in question is treated as a decision of SEPA not to award compensation; and
- (b) in other cases, is the day on which SEPA, in accordance with sub-paragraph (5), gives the reservoir manager notice of the decision in question.