

SCHEDULE 1 **S**

Regulation 2(1)

Indicative list of the main pollutants

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.
2. Organophosphorous compounds.
3. Organotin compounds.
4. Substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment.
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
6. Cyanides.
7. Metals and their compounds.
8. Arsenic and its compounds.
9. Biocides and plant protection products.
10. Materials in suspension.
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates).
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as biochemical oxygen demand (BOD), and chemical oxygen demand (COD) etc.).

SCHEDULE 2 **S**

Regulation 2(1)

Hazardous Substances

1. SEPA must identify—
 - (a) substances or groups of substances which are toxic, persistent and liable to bio-accumulate, and other substances or groups of substances which give rise to an equivalent level of concern; and
 - (b) substances or groups of substances which are entering, or liable to enter groundwater.
2. In identifying the substances referred to in paragraph 1, SEPA must take particular account of hazardous substances belonging to the families or groups of pollutants referred to in paragraphs 1 to 6 of Schedule 1 as well as substances belonging to the families or groups of pollutants referred to in paragraphs 7 to 9 of that Schedule, if those are considered to be hazardous.
3. SEPA must publish and maintain a list of the substances identified in accordance with paragraph 1.
4. The list must be published in a manner SEPA considers appropriate to bring it to the notice of persons affected by, likely to be affected by, or interested in the identified substances and SEPA must make copies of the list and a consolidated list available to the public free of charge.

SCHEDULE 3 **S**

Regulations 6 and 21(2)

General binding rules

PART 1 **S**

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
<p>1. The operation of any weir that—</p> <p>(a) is not capable of being operated to control the water level upstream of the weir;</p> <p>(b) does not result in the creation of a height differential between the upstream and downstream water surfaces of more than one metre; and</p> <p>(c) was constructed before 1st April 2006.</p>	<p>The weir must not impede the free passage of salmon and sea trout during periods within which, in the absence of the weir, the flow of the river would be at a level expected to enable migration.</p>
<p>2. The abstraction of less than 10 m³ of water in any one day.</p>	<p>(a) There must be a means of demonstrating that the abstraction is less than 10 m³ in any one day, such as a means of measuring the rate of the abstraction or a means of demonstrating that the maximum volume that could be abstracted cannot exceed 10 m³ in any one day; and</p> <p>(b) water leakage must be kept to a minimum by ensuring all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a state of good repair.</p>
<p>[^{F2}3. The construction, extension or operation of any well, borehole or other works by which water may be abstracted, if such works are—</p> <p>(a) not intended for the purpose of abstraction;</p> <p>(b) intended for the abstraction of less than 10 m³ of water in any one day;</p> <p>(c) intended for the abstraction of less than 150 m³ of water in any period of one year, and the purpose of the abstraction is either—</p> <p>(i) to test for the yield of the borehole or well or the hydraulic properties of the aquifer; or</p> <p>(ii) to sample the water quality;</p> <p>(d) intended to dewater one or more excavations at—</p> <p>(i) a construction site for roads, buildings, pipelines, or other built developments; or</p>	<p>(a) The construction and operation of—</p> <p>(i) subject to paragraphs (b) and (c), any well or borehole; and</p> <p>(ii) any other works,</p> <p>must be such as to avoid the entry of pollutants or water of a different chemical composition into the water environment;</p> <p>(b) drilling fluids may be introduced into a well or borehole if necessary to facilitate the drilling of the well or borehole, provided this does not result in pollution of the water environment;</p> <p>(c) potable water may be introduced into a well or borehole to test the hydraulic properties of the aquifer;</p> <p>(d) when any well or borehole is no longer required, it must be back-filled or sealed to the extent necessary to avoid loss of groundwater from any aquifer and to avoid the entry of pollutants or water of a</p>

[^{F1} Column 1	Column 2
Activity	Rules
<p>(ii) a site at which the maintenance of such developments is being undertaken; or</p> <p>(e) intended for the purpose of undertaking activity 17.</p>	<p>different chemical composition into any body of groundwater; and</p> <p>(e) the depth of any well or borehole beneath the surface of the ground must not exceed 200 metres.]</p>
<p>4. The abstraction from a borehole, and any subsequent discharge of the abstracted water, if the total volume of water abstracted is less than 150 m³ in any period of one year and the purpose of the abstraction is either—</p> <p>(a) to test the yield of the borehole or well or the hydraulic properties of the aquifer; or</p> <p>(b) to sample the water quality.</p>	<p>(a) The abstraction must not cause the entry of pollutants or water of a different chemical composition into any body of groundwater; and</p> <p>(b) when the borehole is not being used for abstraction, it must be back filled or sealed to the extent necessary to avoid loss of groundwater from any aquifer.</p>
<p>5. The dredging of a river, burn or ditch that—</p> <p>(a) [^{F3}has an average bed width of less than one metre along the stretch to be worked,]</p> <p>(b) has been artificially straightened or canalised along the length which is to be worked.</p>	<p>(a) Vegetation on any bank of the river, burn or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification;</p> <p>(b) any vegetation removed must not be disposed of into the channel;</p> <p>(c) the activity must not result in the widening of the [^{F4}bed width of the] river, burn or ditch;</p> <p>(d) all reasonable steps must be taken to prevent the transport of sediments or other matter disturbed by the works into waters beyond the worked stretch;</p> <p>(e) the works must not be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish;</p> <p>(f) all reasonable steps must be taken to avoid increased erosion of the bed or banks of the river, burn or ditch as a result of the works;</p> <p>(g) the bed of the worked stretch must be graded at a shallow angle to tie in with the bed level upstream and downstream and there must be no steps or sudden changes in the angle of the bed slope; and</p> <p>(h) the removed sediment must not be left on the banks such that its placement heightens the banks.</p>

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<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
<p>6. The construction and maintenance—</p> <p>(a) of a minor bridge over a river, burn or ditch;</p> <p>(b) of, or removal of, a temporary bridge over any river, burn or ditch that has a [^{F5}bed] width of less than 5 metres; or</p> <p>(c) of a surface water drainage system outfall which discharges into a river, burn or ditch.</p>	<p>(a) Vegetation on any bank of the river, burn or ditch must be removed or modified only to the extent necessary to carry out the works;</p> <p>(b) any vegetation removed must not be disposed of into the channel;</p> <p>(c) the works must not prevent the free passage of migratory fish;</p> <p>(d) the works must not result in the narrowing of the channel width nor the heightening of either bank;</p> <p>(e) where the activity requires any work in the wetted part of the channel, the works must not be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish;</p> <p>(f) if necessary, a temporary culvert may be installed to facilitate the works but the culvert must not extend more than 10 metres along the length of the river, burn or ditch and must be removed on completion of the works;</p> <p>(g) all reasonable steps must be taken to ensure that the works do not result in increased erosion of the bed or banks of the river, burn or ditch;</p> <p>(h) as far as reasonably practicable, within 12 months of the commencement of the works, the bed and banks of the river, burn or ditch must be reinstated to at least their condition prior to the commencement of the works;</p> <p>(i) for temporary bridges, as far as reasonably practicable, and within 12 months of the removal of the bridge, the bed and banks must be reinstated at least to their condition prior to the commencement of the works;</p> <p>(j) the activity must not result in pollution of the water environment; and</p> <p>(k) any outfall and associated works must be designed and constructed to be no larger than is necessary for the proper operation of the outfall, and in any case must not extend more than 20 metres along the length of the river, burn or ditch.</p>

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
<p>7. The laying of a pipeline or cable by boring beneath the bed and banks of a river, burn or ditch.</p>	<p>(a) The bed and banks must not be altered as a result of the works other than in accordance with paragraphs (b) and (d);</p> <p>(b) vegetation on any bank of the river, burn or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification;</p> <p>(c) any vegetation removed must not be disposed of into the channel; and</p> <p>(d) as far as reasonably practicable, within 12 months of the commencement of the works, the bed and banks of the river, burn or ditch must be reinstated at least to their condition prior to the commencement of the works.</p>
<p>8. Works to control the erosion of a bank of a river, burn or ditch by revetment.</p>	<p>(a) All reasonable steps must be taken to ensure that the works do not result in increased erosion of either bank of the river, burn or ditch;</p> <p>(b) the works must not result in the destabilisation of the bed of the river, burn or ditch upstream or downstream of the works;</p> <p>(c) vegetation on any bank of the river, burn or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification;</p> <p>(d) any vegetation removed must not be disposed of into the channel;</p> <p>(e) revetments must be constructed from one or more of the following: vegetation; [^{F6}biodegradable] geotextiles; wood other than wood treated with preservatives or non-grouted stone rip-rap;</p> <p>(f) the length of any revetment must be no more than 10 metres or one channel width, whichever is greater;</p> <p>(g) if wood or stone rip-rap is used for a revetment, the wood or rip-rap must be placed at the toe of the bank;</p> <p>(h) except for the purpose of repairing an existing revetment, no bank protection works must be undertaken within 5 channel widths or 50 metres (whichever is the greater) of any existing bank</p>

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	<p>protection works on any bank of the river, burn or ditch;</p> <ul style="list-style-type: none"> (i) the works must not result in the heightening [^{F7}or lowering] of either bank; (j) the works must not be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish; and (k) the revetments must be maintained in the state of repair required to avoid increased erosion of the banks or destabilisation of the bed.
<p>[^{F8}9. Operating any vehicle, plant or other equipment in or near any surface water or wetland for the purpose of undertaking any other activity specified in this schedule or for the purpose of maintaining an existing man-made structure in or near any surface water or wetland.</p>	<ul style="list-style-type: none"> (a) Any vehicles, plant or other equipment must only operate in water where it is impracticable for them to operate on dry land; (b) the refuelling of vehicles, plant or other equipment must be undertaken at least 10 metres from any— <ul style="list-style-type: none"> (i) river, burn, canal, ditch or loch, as measured from the top of the bank; (ii) wetland; or (iii) transitional water or coastal water, as measured from the shoreline; (c) any static plant or equipment used within 10 metres of any— <ul style="list-style-type: none"> (i) river, burn, canal, ditch or loch, as measured from the top of the bank; (ii) wetland; or (iii) transitional water or coastal water, as measured from the shoreline; must be positioned on a suitably sized and maintained impervious drip tray with a capacity equal to 110% of the capacity of the fuel tank which is supplying the [^{F9}plant] or equipment; (d) any vehicle, plant or other equipment used in or near surface water or wetland must not leak any oil; (e) the washing of vehicles, plant or other equipment must be undertaken at least 10 metres away from any— <ul style="list-style-type: none"> (i) river, burn, ditch or loch, as measured from the top of the bank; (ii) wetland; or

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<i>Activity</i>	<i>Rules</i>
	<ul style="list-style-type: none"> (iii) transitional water or coastal water, as measured from the shoreline, and water from such washing must not enter any surface water or wetland; (f) vehicles, plant or other equipment must not be operated in a river, burn or ditch during periods in which fish are likely to be spawning in the river, burn or ditch nor during the period between any such spawning and the subsequent emergence of the juvenile fish; (g) vehicles, plant or equipment must not be operated in any part of a river, burn or ditch if there is a reasonable likelihood that, within 50 metres of such an operation, there are freshwater pearl mussels; (h) during forestry operations the operator must not operate machinery in any surface water or wetland; and (i) following the operation of the vehicle, plant or other machinery, any damage caused by the operation to the bed and banks of the surface water must be repaired, including re-establishing vegetation on any areas of bare earth on the banks resulting from the operation, either by covering the area with grass turfs or lining them with a biodegradable geotextile and seeding.
<p>[^{F10}10A. The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed before 1 April 2007, with the exception of run-off from any motorway or trunk road where—</p> <ul style="list-style-type: none"> (i) any one outfall serves a length of road greater than 1km, and (ii) the footprint of the road or its associated infrastructure is enlarged or otherwise altered on or after 1 April 2007. 	<ul style="list-style-type: none"> (a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment, (b) the discharge must not— <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or (iii) contain any water run-off from a construction site, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation,

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<i>f¹</i> Column 1 Activity	Column 2 Rules
<p>10B. The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed on or after 1 April 2007, with the exception of run-off from—</p> <ul style="list-style-type: none"> (i) land of more than 30 hectares which is used for residential premises, (ii) industrial estates, (iii) land used as a motorised vehicle parking area with more than 1,000 parking spaces, (iv) motorways and trunk roads where any one outfall serves a length of road greater than 1km. 	<p>settlement and treatment facilities, must be maintained in good order and repair,</p> <ul style="list-style-type: none"> (e) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system. (a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment, (b) the discharge must not— <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or (iii) contain any water run-off from a construction site, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) the development must be drained by a SUD system equipped to avoid pollution of the water environment, unless— <ul style="list-style-type: none"> (i) the run-off is from a development that is a single dwelling and its curtilage, or (ii) the discharge is to coastal water, (e) the discharge must not contain any water run-off from— <ul style="list-style-type: none"> (i) any fuel delivery areas constructed on or after 1 April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1 April 2007, (ii) vehicle loading or unloading bays constructed on or after 1 April 2007 where potentially polluting matter is handled, or (iii) oil and chemical storage handling and delivery areas constructed on or after 1 April 2007, (f) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation,

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	<p>settlement and treatment facilities, must be maintained in good order and repair,</p> <p>(g) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.</p>
<p>10C. The discharge of water run-off from a quarry or borrow pit constructed on or after 1 January 2022.</p>	<p>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</p> <p>(b) the discharge must not—</p> <p>(i) contain any trade effluent or domestic sewage, or</p> <p>(ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment,</p> <p>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water,</p> <p>(d) the discharge must not contain any water run-off from—</p> <p>(i) any fuel delivery areas constructed on or after 1 April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1 April 2007,</p> <p>(ii) vehicle loading or unloading bays constructed on or after 1 April 2007 where potentially polluting matter is handled, or</p> <p>(iii) oil and chemical storage handling and delivery areas constructed on or after 1 April 2007,</p> <p>(e) the quarry or borrow pit must be drained by a SUD system or equivalent system equipped to avoid pollution of the water environment,</p> <p>(f) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair,</p> <p>(g) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to</p>

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	avoid pollution of the water environment is prevented from entering the drainage system.
<p>10D. The discharge of water run-off from a construction site to the water environment where the site, including any constructed access tracks, does not—</p> <ul style="list-style-type: none"> (i) exceed 4 hectares, (ii) contain a road or track length in excess of 5km, or (iii) include any area of more than 1 hectare or any length of more than 500 metres on ground with a slope in excess of 25°. 	<ul style="list-style-type: none"> (a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment, (b) the discharge must not— <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, or (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) the discharge must not contain any water run-off from any built developments, unless during construction those developments are drained by a SUD system or equivalent system equipped to avoid pollution of the water environment, (e) the discharge must not contain any water run-off from— <ul style="list-style-type: none"> (i) any fuel delivery areas constructed on or after 1 April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1 April 2007, (ii) vehicle loading or unloading bays constructed on or after 1 April 2007 where potentially polluting matter is handled, or (iii) oil and chemical storage handling and delivery areas constructed on or after 1 April 2007, (f) all parts of a construction site on which— <ul style="list-style-type: none"> (i) operations first commenced on or after 1 June 2018, and (ii) any works are to be undertaken, or any vehicles are to be operated or parked, must be drained by a surface water drainage system with capacity to accommodate the maximum volume of run-off that would reasonably be expected to occur from that land during the period of construction, (g) all facilities with which the surface water drainage system is equipped to avoid

<i>[^{F1}Column 1</i>	<i>Column 2</i>
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	<p>pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair,</p> <p>(h) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.]</p>
<p>11. Discharge into a surface water drainage system.</p>	<p>(a) Oil, paint, paint thinners, pesticides, detergents, disinfectants or other pollutants must not be disposed of into a surface water drainage system or onto any surface that drains into a surface water drainage system;</p> <p>(b) any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment must not be disposed of into a surface water drainage system or onto a surface that drains into a surface water drainage system;</p> <p>(c) [^{F11}domestic] sewage or trade effluent must not be discharged into any surface water drainage system; and</p> <p>(d) on construction sites, any area of exposed soil from which the discharge of water run-off to the water environment is authorised under activity [^{F12}10D], and the period of time during which such soil is exposed, must be the minimum required to facilitate the construction works being undertaken at that site.</p>
<p>12. The removal of sediment or any other matter that may have been deposited on the bed of a river, burn or ditch in the area of impounded water upstream of a weir the operation of which is authorised under these Regulations and the return of any sediment that comprises largely or wholly gravel or other coarse sediment to the river, burn or ditch from which it was removed.</p>	<p>(a) Only sediment or other matter within 10 metres upstream of the weir may be removed;</p> <p>(b) the sediment or other matter removed must only include sediment or other matter that could reasonably be expected to have been deposited on the bed of the river, burn or ditch within a period of 3 years preceding the date of the removal;</p> <p>(c) unless it is not reasonably practicable to do so in compliance with paragraph (d), any gravel and coarse sediment that has been removed must be returned to the</p>

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	<p>river, ditch or burn from which it was taken;</p> <p>(d) the return of sediment must:</p> <ul style="list-style-type: none"> (i) be achieved by placing it at the edge of the river, burn or ditch downstream of the weir in such a way and at such a location that high river flows are able to cause it to be redistributed by the river, burn or ditch; (ii) not result in an accumulation of sediment likely to impede the free passage of migratory fish; (iii) not be placed in a wetted part of the river or burn during periods in which fish are likely to be spawning in that part of the river, burn or during the period between any such spawning and the subsequent emergence of the juvenile fish; (iv) be placed in such a way and such a location that the risk of the placement resulting in increased erosion of the bed or banks of the river burn, or ditch is minimised; (v) not contain man-made matter; and (vi) not result in pollution of the water environment; <p>(e) removed sediment must not be deposited in the channel or on the banks of a river, burn or ditch except in accordance with paragraph (c);</p> <p>(f) the removal of sediment must not result in pollution of the water environment;</p> <p>(g) vegetation on any bank of the river, burn or ditch must be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification; and</p> <p>(h) any vegetation removed must not be disposed of into the channel.]</p>
<p>13. For the purpose of ensuring the proper functioning of a closed culvert, abstraction or discharge pipe, the removal of accumulations of sediment or other matter from—</p> <p>(a) the bed of a river, burn or ditch within 10 metres upstream of the point of entry of that river, burn or ditch into a closed culvert;</p>	<p>(a) The removal or return must not result in the bed of the river, burn or ditch upstream of the culvert being lower than the upper surface of the base of the culvert where it joins the river, burn or ditch;</p> <p>(b) the removal or return must not result in there being a vertical step between the</p>

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<p>(b) the bed of a river, burn or ditch within 10 metres downstream of the point of exit of that river, burn or ditch from a closed culvert;</p> <p>(c) the inside of a closed culvert; or</p> <p>(d) the bed of a river, burn or ditch within 5 metres of—</p> <p>(i) an outfall for a surface water drainage system that discharges water run-off from buildings, roads, yards, any other built developments, or construction sites for such developments;</p> <p>(ii) an outfall for a sewage or trade effluent discharge; or</p> <p>(iii) an inlet for a water abstraction,</p> <p>and, if desired, any subsequent return of the removed sediment to the river, burn or ditch from which it was removed.</p>	<p>upper surface of the base of the culvert and the bed of the river, burn or ditch into which it discharges;</p> <p>(c) the removal or return must not be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish;</p> <p>(d) vegetation on any bank of the river, burn or ditch must be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification;</p> <p>(e) any vegetation removed must not be disposed of into the channel;</p> <p>(f) removed sediment and other matter must not be placed on the bank of any river, burn or ditch;</p> <p>(g) subject to paragraph (h), the removed sediment must, where possible, be returned to the river, burn or ditch from which it was removed; and</p> <p>(h) the removed sediment must only be returned to the river, burn or ditch from which it was removed, if—</p> <p>(i) it is returned as close to the location of its removal as is practicable;</p> <p>(ii) it does not result in an accumulation of sediment likely to impede the free passage of migratory fish;</p> <p>(iii) all reasonable steps are taken to avoid increased erosion of the bed or the banks of the river, burn or ditch; and</p> <p>(i) [^{F13}the activity must not result in pollution of the water environment.]</p>
<p>14. The placement of one or more boulders in a river or burn.</p>	<p>(a) The placed boulder or boulders must not occupy more than 10% of the [^{F14}bed] width;</p> <p>(b) the boulder or boulders must not be placed within 20 metres of any other boulder or boulders (whether placed or not), croy, jetty or other in-stream structure occupying more than 10% of the [^{F14}bed] width;</p> <p>(c) no boulder or boulders must be placed in such a way as to extend the width</p>

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<p><i>[^{F1}Column 1</i></p> <p><i>Activity</i></p>	<p><i>Column 2</i></p> <p><i>Rules</i></p>
	<p>occupied by in-stream structures to greater than 10% of the [^{F14}bed] width;</p> <p>(d) no boulder or boulders must be placed against the banks of a river or burn unless such placement forms part of works authorised under these Regulations to control the erosion of a bank of a river or burn by revetment;</p> <p>(e) the tops of the boulders must be submerged except during periods of low flows;</p> <p>(f) the placement must not be undertaken during periods in which fish are likely to be spawning in the river or burn nor in the period between any such spawning and the subsequent emergence of the juvenile fish;</p> <p>(g) all reasonable steps must be taken to ensure that the placement does not result in increased erosion of the bed or banks of the river or burn; and</p> <p>(h) boulders must not be placed if there is a reasonable likelihood that, within 50 metres of the intended placement, there are freshwater pearl mussels.</p>
<p>15. The temporary abstraction of groundwater at—</p> <p>(a) a construction site for roads, railways, buildings, pipelines, communication links or other built development; or</p> <p>(b) a site at which the maintenance of such a development is being undertaken,</p> <p>by means of—</p> <p>(i) pumping the groundwater directly from any excavation or excavations on the site; or</p> <p>(ii) pumping the groundwater from any wells or boreholes on the site in order to help dewater any other excavation or excavations on the site,</p> <p>and, if desired, the subsequent discharge of the abstracted groundwater to the water environment.</p>	<p>(a) ^{F15}... groundwater may only be abstracted at the site within a period of 180 days beginning with the first day on which groundwater is abstracted at the site;</p> <p>(b) [^{F16}other than where paragraph (g) (i) applies, groundwater must not be abstracted from any excavations, wells or boreholes that are within 250 metres of any surface water unless the abstracted water is discharged into the surface water at the nearest part of the surface water to the point of abstraction and in accordance with paragraph (f) or (g)(ii), as applicable,]</p> <p>(c) groundwater must not be abstracted from any excavations, wells or boreholes that are within 250 metres of a wetland;</p> <p>(d) groundwater must not be abstracted from any excavations, wells or boreholes that are within 250 metres of an abstraction that is not for the sole purpose of dewatering an excavation;</p>

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<p>(e) all reasonable steps must be taken to ensure that the quantity of sediment in the abstracted water is minimised; ^{F17} ...</p> <p>(f) if the abstracted groundwater [^{F18}is taken directly from an excavation and this water, and] any precipitation or water run-off that has also collected in the excavation, is discharged to the water environment, it must be discharged via a surface water drainage system authorised under these Regulations subject to the consent of the person having operational control of the system;</p> <p>(g) [^{F19}if the abstracted groundwater is taken from a borehole or well, and is discharged to the water environment, it must be—</p> <p>(i) discharged directly back to the same part of the geological formation or the mine workings from which it was abstracted, provided that the abstracted water does not contain any radioactive substance, and that no substances are added to, or otherwise allowed to enter, the abstracted water prior to its return, or</p> <p>(ii) discharged via a surface water drainage system authorised under these Regulations subject to the consent of the person having control of the system,</p> <p>(h) all reasonable steps must be taken to ensure that the discharge of abstracted groundwater does not result in pollution of the water environment.]</p>
<p>16. The direct discharge of pollutants into groundwater as a result of construction or maintenance works in or on the ground which come into contact with groundwater.</p>	<p>(a) No solid or liquid materials coming into contact with groundwater may contain any hazardous substance;</p> <p>(b) despite paragraph (a), drilling fluids used during the works may come into contact with groundwater if necessary to facilitate any drilling provided this does not result in pollution of the water environment; and</p> <p>(c) no materials coming into contact with groundwater as a result of the works may cause pollution of the water environment.</p>

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<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
<p>[^{F20}17. The abstraction and subsequent return of groundwater for the purpose of extracting geothermal energy from the abstracted water or for the purpose of transferring heat to geological formations as part of a cooling system.</p>	<ul style="list-style-type: none"> (a) The abstracted water must be returned to the same part of the geological formation or the mine workings from which it was abstracted; (b) any volume of water may be abstracted but the volume of water abstracted and not returned must not exceed 10 m³ per day; (c) no substances may be added to, or otherwise allowed to enter, the abstracted water prior to its return to the geological formation or the mine workings from which it was abstracted; (d) there must be a means of demonstrating that the net abstraction is not more than 10 m³ in any one day; (e) water leakage must be kept to a minimum by ensuring that all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a good state of repair; and (f) the activity must not be located within 250 metres of any abstraction of water intended for human consumption and must not prevent any abstraction of water which is authorised under these Regulations.
<p>18.</p> <ul style="list-style-type: none"> (a) [^{F21}The storage of fertiliser unless— <ul style="list-style-type: none"> (i) the storage is regulated by a waste management licence in terms of section 35 (waste management licence: general) of the Environmental Protection Act 1990, (ii) it is an activity specified at activities 31, 32 or 34 of column 1 of this schedule.] (b) the application of any fertiliser. 	<ul style="list-style-type: none"> (a) No fertiliser may be stored, including temporarily in a mobile tank or bowser, on land that: <ul style="list-style-type: none"> (i) is within 10 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the top of the bank; (2) wetland; or (3) transitional water or coastal water, as measured from the shoreline; (ii) is within 50 metres of any— <ul style="list-style-type: none"> (1) spring that supplies water for human consumption; or (2) well or borehole that is not capped in such a way so as to prevent the ingress of water; (iii) is waterlogged; (iv) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock,

<i>^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<p>unless the fertiliser is stored in an impermeable container; or</p> <p>(v) is sloping (unless the fertiliser is inorganic or it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes);</p> <p>unless the fertiliser is stored in a building which is constructed and maintained to such a standard as is necessary to prevent run-off or seepage of fertiliser from the building;</p> <p>(b) ^{F22} ...</p> <p>(c) any storage system used to store ^{F23} ... liquid sewage sludge must be maintained in such a condition that no ^{F23} ... sewage sludge escapes from the system;</p> <p>(d) inorganic liquid fertiliser must only be stored in a rigid, impermeable tank that:</p> <p>(i) has a lockable, double valve on the outlet that is closed and locked when the tank is unattended;</p> <p>(ii) is located above ground; and</p> <p>(iii) is protected from vehicle collision;</p> <p>(e) inorganic liquid fertiliser must not be stored in a field unless contained in a tank, bowser or spreading equipment:</p> <p>(i) whose hatches and lids are securely closed and whose outlets are securely closed and locked, except when the fertiliser is being transferred or applied;</p> <p>(ii) that is held on a support in such a way that it cannot become dislodged; and</p> <p>(iii) that is on a support which is stable under the fully loaded weight of the tank or bowser and cannot itself become dislodged;</p> <p>(f) when any inorganic liquid fertiliser, liquid digestate or liquid sewage sludge is being transferred to a tank, bowser or spreading equipment, all reasonable steps</p>

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>must be taken to prevent any spillage or leakage entering the water environment;</p> <p>(g) no organic fertiliser may be applied to land that—</p> <ul style="list-style-type: none"> (i) is within 10 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the top of the bank; (2) wetland; (3) transitional water or coastal water, as measured from the shoreline; or (4) opening into a surface water drainage system; (ii) is within 50 metres of any— <ul style="list-style-type: none"> (1) spring that supplies water for human consumption; or (2) well or borehole that is not capped in such a way so as to prevent the ingress of water; (iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations; (iv) is frozen (except where the fertiliser is farm yard manure), waterlogged, or covered with snow; or (v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes; <p>(h) no inorganic fertiliser may be applied to land that—</p> <ul style="list-style-type: none"> (i) is within 2 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the bank top; (2) wetland; (3) transitional water or coastal water, as measured from the shoreline; or (4) opening into a surface water drainage system; (ii) is within 5 metres of any— <ul style="list-style-type: none"> (1) spring that supplies water for human consumption; or

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<p>(2) well or borehole that is not capped in such a way so as to prevent the ingress of water;</p> <p>(iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations;</p> <p>(iv) is frozen, waterlogged, or covered with snow; or</p> <p>(v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes;</p> <p>(i) fertilisers must not be applied to land:</p> <p>(i) in such amounts that the crop requirement for nitrogen is exceeded;</p> <p>(ii) in excess of the amount required to maintain the soil phosphorus status at acceptable agronomic levels; or</p> <p>(iii) during heavy rainfall or where heavy rainfall is forecast within 24 hours;</p> <p>(j) dewatered digestate or dewatered sewage sludge must be stored:</p> <p>(i) in such a way that it is securely contained so that any escape or run-off is prevented; or</p> <p>(ii) in a heap which is protected from the ingress of water;</p> <p>(k) if dewatered digestate or dewatered sewage sludge is stored in a heap in field, it must be applied to land within 6 months of the commencement of the storage;</p> <p>(l) any equipment used to apply fertiliser must be maintained in a good state of repair; ^{F24} ...</p> <p>(m) fertiliser must be applied on land in such a way and at such times that the risk of pollution of the water environment is minimised.</p> <p>(n) [^{F25}where organic fertilisers are to be applied to land—</p>

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<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<ul style="list-style-type: none"> (i) a risk assessment must be carried out in respect of that land, including the preparation of a map of the farm which clearly shows— <ul style="list-style-type: none"> (1) the delineation of every field, (2) the area of every field in hectares, (3) the location of all surface water, springs, wells, boreholes storage tanks or any other structures sunk into underground strata for the purpose of providing a water supply, (4) any area of land with a slope of 12 degrees or more, (5) the location of any field heaps, (6) areas where organic fertiliser must not be applied in accordance with paragraph (g) (i), (ii), (iii) and (v), and (7) any other area of high risk to the water environment, (ii) the person carrying out the application of organic fertilisers must be provided with the map for the area to which fertiliser is being applied, (iii) field heaps of organic fertilisers must not be located in any area identified on the map in accordance with paragraph (i)(3), (6) or (7),] (o) [^{F26}slurry and liquid digestate must be applied using precision equipment.]
<p>19. Keeping of livestock.</p>	<ul style="list-style-type: none"> (a) Significant erosion or poaching of any land that is within 5 metres of any— <ul style="list-style-type: none"> (i) river, burn, ditch, or loch as measured from the top of the bank; (ii) wetland; (iii) spring that supplies water for human consumption; (iv) well or borehole that is not capped in such a way so as to prevent ingress of water; or (v) transitional water or coastal water, as measured from the shoreline, must be prevented;

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<ul style="list-style-type: none"> (b) livestock must be prevented from entering any land that is within 5 metres of any spring that supplies water for human consumption or within 5 metres of any well or borehole that is not capped in such a way so as to prevent ingress of water; (c) livestock feeders must not be positioned within 10 metres of any— <ul style="list-style-type: none"> (i) river, burn, ditch, or loch, as measured from the top of the bank; (ii) wetland; (iii) spring that supplies water for human consumption; (iv) well or borehole that is not capped in such a way so as to prevent ingress of water; or (v) transitional water or coastal water, as measured from the shoreline; and (d) run-off from land on which livestock congregate to access watering points or feeders must be intercepted (by means of a sufficient buffer zone or otherwise) such that any faeces, urine or soil in the run-off are prevented from entering any spring, well, borehole, surface water or wetland.
<p>20. Cultivation of land.</p>	<ul style="list-style-type: none"> (a) No land may be cultivated for crops that is— <ul style="list-style-type: none"> (i) within 2 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the top of the bank; (2) wetland; or (3) transitional water or coastal water, as measured from the shoreline; (ii) within 5 metres of any— <ul style="list-style-type: none"> (1) spring that supplies water for human consumption; or (2) well or borehole that is not capped in such a way so as to prevent the ingress of water; or (iii) waterlogged; (b) moling of land must not be carried out on slopes that: <ul style="list-style-type: none"> (i) have an overall gradient in excess of 4.5°; and

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<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
<p>21. Without prejudice to the operation of [^{F27}activities 10A, 10B, 10C and 10D, and the rules related to them], the discharge of water run-off via a surface water drainage system to the water environment as a result of rural land activities.</p>	<ul style="list-style-type: none"> (ii) slope towards any surface water or wetland; and (c) land must be cultivated in a way that minimises the risk of pollution to any surface water or wetland.]
<p>[^{F28}22. The discharge of surface water from waterbound roads and tracks to the water environment, including during the construction and maintenance of such roads and tracks.</p>	<ul style="list-style-type: none"> (a) Water must be discharged in a way which minimises the risk of pollution of any river, burn, ditch, wetland, loch, transitional water or coastal water; and (b) no discharge from drainage may result in the destabilisation of the banks or bed of the receiving river, burn, ditch, wetland, loch, transitional water or coastal water.
<p>[^{F29}23. The storage and application of pesticides that are plant protection products.</p>	<ul style="list-style-type: none"> (a) The preparation of pesticide for application and the filling, cleaning or maintenance of pesticide sprayers or other devices used to apply pesticides: <ul style="list-style-type: none"> (i) must be undertaken in a manner which prevents any spillages, runoff or washings from entering any surface water or wetland; and (ii) must not be undertaken within 10 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the top of the bank; (2) wetland; (3) transitional water or coastal water, as measured from the shoreline; or (4) opening into a surface water drainage system; (b) pesticide sprayers and other devices used to apply pesticides must be maintained in a good state of repair, such that there is no leakage of pesticide from any part of the equipment and the sprayer

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<p>is calibrated to accurately deliver the required application rate;</p> <p>(c) pesticide sprayers and other devices used to apply pesticide must not be filled with water taken from any river, burn, ditch, wetland or loch unless:</p> <p>(i) a device preventing back siphoning is fitted to the system; or</p> <p>(ii) the water is first placed in an intermediate container;</p> <p>(d) pesticide-treated plants must not be stored or soaked in any river, burn, ditch, wetland or loch;</p> <p>(e) pesticide must be applied in accordance with the terms and instructions of the relevant product approval;</p> <p>(f) unless in accordance with paragraph (g), pesticide must not be applied in, onto or over ground or allowed to drift onto or over ground—</p> <p>(i) that is frozen, snow covered or waterlogged, except where the application in, onto or over waterlogged ground is necessary for the purpose of controlling fungal disease and all precautions are taken to minimise the risk of pesticide entering any river, burn, ditch, wetland, loch, transitional water or coastal water;</p> <p>(ii) that is within 1 metre of any river, burn, ditch, wetland or loch, as measured from the top of the bank, or within 1 metre of any transitional water or coastal water as measured from the shoreline;</p> <p>(iii) that is sloping, unless it is ensured that any run-off of pesticide is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes;</p> <p>(iv) that is within 50 metres of any spring that supplies water for human consumption;</p> <p>(v) that is within 50 metres of any well or borehole unless the well</p>

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>or borehole is capped in such a way as to prevent the ingress of the pesticide;</p> <ul style="list-style-type: none"> (vi) that has an impermeable surface which drains directly into a surface water drainage system, unless measures are taken to minimise the risk of pesticides entering the drainage system; or (vii) along roads, railway lines, permeable surfaces or other infrastructure, unless measures are taken to minimise the risk of pollution of any river, burn, ditch, wetland, loch, transitional water, coastal water or surface water drainage system; and <p>(g) pesticide may be applied within 1 metre of any river, burn, ditch or loch, as measured from the top of the bank; within 1 metre of any wetland; or within 1 metre of any transitional water or coastal water as measured from the shoreline where—</p> <ul style="list-style-type: none"> (i) they are specifically approved for aquatic use under Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC and are applied in accordance with the terms of that approval; (ii) the application is for the sole purpose of controlling an invasive species of plant outwith its native range; (iii) no pesticide enters the river, burn, ditch, wetland, loch, transitional water or coastal water; (iv) the ground over or onto which pesticide is applied is not frozen snow covered or waterlogged; (v) the ground over or onto which plant protection product is applied is not an impermeable surface which drains directly into a surface water drainage system unless measures are taken to minimise the risk of

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<p>pesticide entering the drainage system;</p> <ul style="list-style-type: none"> (vi) the ground over or onto which pesticide is applied is not within 50 metres of any spring that supplies water for human consumption; (vii) the ground over or onto which pesticide is applied is not within 50 metres of any well or borehole unless the well or borehole is capped in such a way as to prevent the ingress of the pesticide; (viii) the application, including the method used, is designed to minimise damage to other, non-target, vegetation; (ix) all necessary steps are taken to ensure that the application does not result in increased erosion of the banks of the river, burn, or loch or the shoreline of the transitional water or coastal water; and (x) there is no abstraction of water intended for human consumption from the— <ul style="list-style-type: none"> (1) river, burn or ditch, within 250 metres downstream of the application; or (2) the loch or wetland within 250 metres of the application; <p>(h) application of pesticide must be carried out in such a way, and at such times, that the risk of pollution of any river, burn, ditch, wetland, loch, transitional water or coastal water is minimised and, in particular, pesticide must not be applied—</p> <ul style="list-style-type: none"> (i) during rainfall; or (ii) during conditions when there is a risk that spray will drift or be blown outwith the target area; <p>(i) pesticide, including any used packaging that has been stored in contact with pesticide, must not be stored—</p> <ul style="list-style-type: none"> (i) within 10 metres of any— <ul style="list-style-type: none"> (1) river, burn, ditch or loch, as measured from the top of the bank; (2) wetland; or

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<ul style="list-style-type: none"> (3) transitional water or coastal water, as measured from the shoreline; (ii) within 50 metres of any spring that supplies water for human consumption; or (iii) within 50 metres of any well or borehole (unless the well or borehole is capped in such a way as to prevent the ingress of any pesticide), unless the pesticide or used packaging is stored in such a way that any leakage or spillage and any exposed pesticide on used packaging cannot reach any river, burn, ditch, wetland, loch, transitional water, coastal water or any opening into a surface water drainage system, including by being transported in rainwater runoff; (j) pesticide, including any used packaging that has been stored in contact with pesticide, must not be stored on an impermeable surface draining to a surface water drainage system.
<p>24. Operating sheep dipping facilities; and operating sheep handling facilities where:</p> <ul style="list-style-type: none"> (a) sheep are held immediately after dipping; (b) pour-on parasite treatments are applied; or (c) sheep are held immediately after the application of pour-on treatments. 	<ul style="list-style-type: none"> (a) Sheep must be prevented from having access to any surface water or wetland while there is a risk of transfer of sheep dip fluid or any pour-on parasite treatment from their fleece to such places; (b) no mobile sheep dipping facility, or part of any sheep dipping facility constructed on or after 1st April 2008 or sheep handling facility used for pour-on treatments constructed on or after 1st January 2018 may be located within 50 metres of any— <ul style="list-style-type: none"> (i) river, burn, ditch; or loch as measured from the top of the bank; (ii) wetland; (iii) transitional water or coastal water, as measured from the shoreline; or (iv) well, spring or borehole; (c) sheep dipping facilities must not discharge underground and must not leak or overspill;

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<p>(d) sheep dipping facilities must not be filled with water taken from the water environment unless—</p> <ul style="list-style-type: none"> (i) a device preventing back siphoning is fitted to the system; or (ii) the water is first placed in an intermediate container; and <p>(e) without prejudice to the continued requirement to obtain specific authorisation for the disposal of sheep dip under these Regulations, sheep dip facilities must be emptied within 24 hours following completion of dipping.]</p>
<p>[^{F30}25. The placement of trees or parts of trees in any river, burn or ditch to protect eroding banks.</p>	<ul style="list-style-type: none"> (a) Other than in accordance with paragraph (e), the trees or parts of trees must be placed only in or along eroding banks; (b) the placement must result in an arrangement of live or dead tree stems, branches or roots which, as the water flows through the arrangement, flex or bend and impede its flow with the effect of cushioning the bank from the force of the river, burn or ditch; (c) the placed trees or parts of trees must be tied, keyed or staked into the bank or bed of the river, burn or ditch so as to secure them in place; (d) the placed trees or parts of trees must: <ul style="list-style-type: none"> (i) follow the line of the toe of the eroded bank at the time of the placement; and (ii) be graded into the existing lines of the banks at either end of the eroded bank; (e) the placement may extend beyond the upstream and downstream ends of an eroding bank only to the extent necessary to: <ul style="list-style-type: none"> (i) prevent [^{F31}any part of the river, burn or ditch] from going around the placements and eroding the bank behind them; or (ii) wetland; (f) ensure the line of the placements is graded smoothly into the existing lines of the banks at either end of the eroded bank;

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<p><i>[^{F1}Column 1</i></p> <p><i>Activity</i></p>	<p><i>Column 2</i></p> <p><i>Rules</i></p>
	<ul style="list-style-type: none"> (i) the angle of an eroding bank may only be reduced for the purpose of enabling the establishment and growth of [^{F32}trees or the placement of trees or parts of trees]; and (ii) stones may be placed at the toe of the bank for the purpose of preventing the bank being undercut before the [^{F33}trees have] become established, provided that any stones used are no larger than the largest stones that have been deposited on the channel bed within 500 metres of the eroding bank; (g) all reasonable steps must be taken whilst placing the trees or parts of trees to:— <ul style="list-style-type: none"> (i) prevent any exposed soil or other sediments from entering the river, burn or ditch; and (ii) where soil or other sediments do enter the river, burn or ditch, prevent these from being transported beyond the part of the bank being protected; (h) once the trees or parts of trees have been placed, any areas of bare earth on the banks resulting from the works must be re-vegetated to minimise the risk of soil erosion, either by covering with grass turfs or lining with a biodegradable geotextile and seeding; and (i) where the trees or parts of trees need to be placed on the wetted part of the bed of the river, burn or ditch or their placement would otherwise be likely to disturb the wetted part of the bed of the river, burn or ditch they must not be placed if there is a reasonable likelihood that there are freshwater pearl mussels in the part of the river, burn or ditch that would be affected.
<p>26. The storage of oil in a portable container with a capacity of less than 200 litres.</p>	<p>The container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use.</p>
<p>27. The storage of oil on premises used [^{F34}as a private dwelling] (except where the premises is a vehicle or vessel), where the oil is—</p>	<p>(a) The container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use; and</p>

<i>f¹</i> Column 1	Column 2
Activity	Rules
<ul style="list-style-type: none"> (a) stored in a container with a capacity of 2,500 litres or less; and (b) where the oil is used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities; 	<ul style="list-style-type: none"> (b) any container which is installed or altered must comply with the requirements of any applicable regulations under the Building (Scotland) Act 2003
<p>28. The storage of oil on premises other than:</p> <ul style="list-style-type: none"> (a) where the premises is a vehicle or vessel; (b) where the storage is: <ul style="list-style-type: none"> (i) an activity specified at activities 26 or 27 of Column 1 of this schedule; or (ii) otherwise authorised under these Regulations; (c) in a container which is wholly underground (unless situated wholly within a building underground); 	<ul style="list-style-type: none"> (a) The oil must be stored in a container which is of sufficient strength and structural integrity, and has been installed so as to ensure that it is unlikely to burst or leak in its ordinary use; (b) the container must be situated within a secondary containment system which: <ul style="list-style-type: none"> (i) subject to paragraph (e), must have a capacity of not less than 110% of the container’s storage capacity or, if there is more than one container within the system, of not less than 110% of the largest container’s storage capacity, or 25% of the aggregate storage capacity, whichever is greater; (ii) it must be positioned, or other steps taken, so as to minimise any risk of damage to it by impact so far as is reasonably practicable; (iii) its base and walls must be impermeable to water and oil; (iv) its base and walls must not be penetrated by any valve, pipe or other opening which is used for draining the system; and (v) if a fill pipe or draw off pipe penetrates its base or any of its walls, all points at which the pipe meets the base or wall must be adequately sealed to prevent oil escaping from the system; (c) any valve, filter, sight gauge, vent pipe or other equipment ancillary to the container (other than a fill pipe or draw off pipe or a pump) must be situated within the secondary containment system; (d) if the connection point to a fill pipe is not within the secondary containment system, a drip tray must be used to catch any oil spilled when the container is being filled with oil;

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>(e) where any drum is used for the storage of the oil in conjunction with a drip tray as a secondary containment system, it is sufficient if the tray has a capacity of not less than 25% of:</p> <ul style="list-style-type: none"> (i) the drum’s storage capacity; or (ii) if there is more than one drum used at the same time with the tray, the aggregate storage capacity of the drums; <p>(f) where a fixed tank is used for storing oil:</p> <ul style="list-style-type: none"> (i) any sight gauge must be properly supported and fitted with a valve which closes automatically when not in use; (ii) any fill pipe, draw off pipe or overflow pipe must: <ul style="list-style-type: none"> 1. be positioned or other steps taken, so as to minimise any risk of damage by impact so far as is reasonably practicable; 2. if made of materials which are liable to corrosion, be adequately protected against corrosion; and 3. not be permeable to hydrocarbon vapours; (iii) if underground, any fill pipe, draw off pipe or overflow pipe must: <ul style="list-style-type: none"> 1. have no mechanical joints, except at a place where such joints are accessible for inspection by removing a hatch or cover; 2. be adequately protected from physical damage; 3. have adequate facilities for detecting any leaks; 4. if fitted with a leakage detection device which is continuously to monitor for leaks the detection device must be maintained in working order and tested at the appropriate intervals, and at least every 5 years, to ensure that it works properly; and

<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>5. if not fitted with a leakage detection device, must be tested for leaks before it is first used and further tests for leaks must be performed in the case of pipes which have mechanical joints, at least once every 5 years, and in other cases, at least once in every 10 years;</p> <p>(iv) if above ground, any fill pipe, draw off pipe or overflow pipe must be properly supported;</p> <p>(v) the tank must be fitted with an automatic overfill prevention device (which may include an alarm sounding device) if the filling operation is controlled from a place where it is not reasonably practicable to observe the tank or any vent pipe;</p> <p>(vi) where a screw fitting or other fixed coupling is fitted, it must be maintained in good condition and used whenever the tank is being filled with oil;</p> <p>(vii) where oil from the tank is delivered through a flexible pipe which is permanently attached to the container or delivery pump:</p> <ol style="list-style-type: none"> 1. the pipe must be fitted with a tap or valve at the delivery end which closes automatically when not in use; 2. the tap or valve must not be capable of being fixed in the open position unless the pipe is fitted with an automatic shut off device; 3. the pipe must— <ol style="list-style-type: none"> (a) be enclosed in a secure cabinet (equipped with a drip tray) which is locked shut when not in use; or (b) ^{F35}... have a lockable valve where it leaves the container which is

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<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Rules</i>
	<p>locked shut when not in use; or</p> <p>(c) [^{F36}be situated in premises which] have appropriate security to prevent unauthorised access; and</p> <p>4. [^{F37}where sub-paragraph 3(b) or (c) applies,] the pipe must be kept within the secondary containment system or positioned above an area which drains to a suitable oil interceptor when not in use;</p> <p>(viii) any pump must be:</p> <ol style="list-style-type: none"> 1. fitted with a non-return valve [^{F38}or an isolating device] in its feed line; 2. positioned or other steps must be taken, so as to minimise any risk of damage to it so far as is reasonably practicable; and 3. protected from unauthorised use; and <p>(ix) any permanent vent pipe, tap or valve through which oil can be discharged from the tank to the open must be:</p> <ol style="list-style-type: none"> 1. Situated within the secondary containment system; 2. arranged so that any oil discharged from the tank other than to its intended destination is contained within the system; and 3. in the case of a tap or valve, fitted with a lock and locked shut when not in use; and <p>(g) where a mobile bowser is used for storing oil:</p> <ol style="list-style-type: none"> (i) any tap or valve permanently fixed to the bowser through which oil can be discharged to the open must be fitted with a lock and locked shut when not in use; (ii) where oil is delivered through a flexible pipe which is permanently attached to the mobile bowser:

<i>f¹</i> Column 1 Activity	Column 2 Rules
	<ol style="list-style-type: none"> 1. the pipe must be fitted with a manually operated pump or a valve at the delivery end which automatically closes when not in use; 2. the pump or valve must be provided with a lock and locked shut when not in use; and 3. the pipe must be fitted with a lockable valve at the end where it leaves the container and must be locked shut when not in use; and <p>(iii) any sight gauge must be secured to the mobile bowser and be fitted with a valve or tap which must be locked in the shut position when not in use.]</p>
<p>[^{F39}29. The making and storage of silage in bales or bulk bags.</p>	<ol style="list-style-type: none"> (a) The bales or bulk bags must not be stored, opened, or unwrapped within 10 metres of any— <ol style="list-style-type: none"> (i) river, burn, ditch or loch, as measured from the top of the bank, (ii) wetland, (iii) transitional water or coastal water, as measured from the shoreline, or (iv) opening into a surface water drain which silage effluent could enter if it were to escape, (b) the bulk bags must— <ol style="list-style-type: none"> (i) have an impermeable membrane, (ii) be resealed when not in use, to prevent the escape of silage effluent, (iii) incorporate a facility to enable the removal of any excess effluent without spillage, and (iv) be situated on a firm level surface, (c) the bales must be wrapped and sealed into impermeable membranes or enclosed in impermeable bags.
<p>30. The treatment of silage effluent which consists mainly of rainwater by draining it from a silo through a constructed farm wetland.</p>	<p>Silage effluent which consists mainly of rainwater may be drained through a constructed farm wetland only if—</p> <ol style="list-style-type: none"> (a) the silo is open for use, (b) the drainage of the silage effluent from the silo to the constructed farm wetland is

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>direct and through a separate channel or pipe from the base of the silo, (c) no crop is added to the silo whilst it is open.</p>
<p>31. The making and storage of silage other than in bales or bulk bags.</p>	<p>(a) Silage must be made and stored in a silo which— (i) complies with paragraphs (b) to (g), (ii) if constructed, or substantially reconstructed or enlarged, on or after 1 September 1991, in addition to paragraph (a)(i), complies with paragraphs (h) to (j) (iii) if new (including a silo constructed from used materials), or substantially reconstructed or enlarged, on or after 1 January 2022, has a life expectancy of at least 20 years, with proper maintenance, from its construction, reconstruction or enlargement, (b) the base of the silo must be constructed with channels to collect silage effluent from the silo, and with channels or pipes which must drain any such silage effluent to an effluent tank, (c) the capacity of the effluent tank must be at least— (i) for a silo with a capacity of less than 1500m³, 20 litres for every 1m³ of silo capacity, or (ii) for a silo with a capacity of 1500m³ or greater, 30,000 litres, plus 6.7 litres for every 1m³ of silo capacity over 1500m³, (d) where the effluent collection system associated with the silo incorporates a system of pumps and sumps, it must be fitted with an automatic overflow prevention device with a dedicated electrical supply and an alarm, (e) the base of the silo, the base and walls of its effluent tank and channels, and the walls of any pipes must be impermeable, (f) the base and any walls of the silo, its effluent tank and channels, and the walls of any pipes must, so far as reasonably practicable, be resistant to attack by silage effluent and, where the walls are made of earth, they must be lined with an</p>

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<p>impermeable membrane of 1000 gauge polyethylene or a material of at least equivalent impermeability and durability,</p> <p>(g) if the silo has retaining walls which are not made of earth, the stored silage level within that silo once compacted must be no greater than the height of the retaining wall,</p> <p>(h) the base of any silo constructed, or substantially reconstructed or enlarged, on or after 1 September 1991 must, in addition to paragraph (b)—</p> <p>(i) comply with British Standard EN 1992-3:2006 and British Standard EN-1-1-2004 +A1:2014 (for concrete bases), or British Standard EN 13108-4:2016 (for hot-rolled asphalt bases),</p> <p>(ii) where the silo has retaining walls made other than of earth, extend beyond those walls,</p> <p>(i) where any part of an effluent tank constructed, or substantially reconstructed or enlarged, on or after 1 September 1991 is installed below ground level, it must be designed and constructed in accordance with the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-22:2003+A1:2013,</p> <p>(j) a silo constructed, or substantially reconstructed or enlarged, on or after 1 September 1991, which has retaining walls which are not made of earth, must have retaining walls capable of withstanding the minimum wall loadings calculated in accordance with the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-22:2003+A1:2013,</p> <p>(k) a silo constructed (including from used materials), or substantially reconstructed or enlarged, on or after 1 January 2022, which has retaining walls which are not made of earth, must have the maximum loadings of the silo visibly displayed on it,</p>

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<ul style="list-style-type: none"> (l) a silo, its effluent tank, channels and any associated pipes constructed on or after 1 January 2022 must not be situated within 10 metres of any surface water or opening into a surface water drain which silage effluent could enter if it were to escape, (m) the silo, its effluent tank, channel and pipes must be operationally maintained to be free of any structural defects during its lifecycle, (n) the silo must not be filled beyond the drainage channel, (o) where a silo or effluent tank is to be constructed or to be substantially rebuilt or enlarged— <ul style="list-style-type: none"> (i) the operator must notify SEPA no later than 30 days prior to commencing the works, (ii) the notification under sub-paragraph (i) must be accompanied by an engineering plan for the works to be carried out, (iii) the operator must retain the engineer’s final sign-off certificate for the works for the lifetime of the silo or effluent tank, for inspection by SEPA on request.
<p>32. The storage of slurry.</p>	<ul style="list-style-type: none"> (a) Where slurry is produced on the farm by housed livestock, the slurry must be stored in a slurry storage system, liquid digestate storage system, or slurry bags which have sufficient capacity to store the total quantity of slurry likely to be produced in— <ul style="list-style-type: none"> (i) 26 weeks by housed pigs, or (ii) 22 weeks by housed cattle, taking account of any additional inputs to or exports from the storage as described in paragraph (c), (b) the total quantity of slurry referred to in paragraph (a) is to be calculated by adding up the figures produced for each type of livestock, as applicable, in accordance with the formula for housed pigs or housed cattle, contained in regulation 7(2) of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<p>(c) in calculating the minimum storage capacity necessary to comply with paragraph (a), the following figures must be included in respect of the relevant 26 or 22 week period—</p> <ul style="list-style-type: none"> (i) the quantity of any rainfall (including any fall of snow, hail or sleet) that is likely to enter the system (directly or indirectly) including from dungsteeds, silage pits or dirty yards, (ii) the quantity of any cleaning water that is likely to enter the system or slurry bag, (iii) the likely quantity of any imported slurries and liquid digestate added to the system or slurry bag, (iv) the quantity of any slurry exported off farm, <p>(d) where slurry is imported onto the farm, there must be sufficient storage capacity on the farm to store the quantities imported during periods when application is not authorised under activity 18 of column 1 of this schedule or would not comply with the requirements of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,</p> <p>(e) the capacity of any facility used for the temporary storage of slurry before it is transferred to a slurry storage tank must be the equivalent of at least 1.5% of the minimum on farm storage capacity in accordance with paragraph (a),</p> <p>(f) the slurry storage system must—</p> <ul style="list-style-type: none"> (i) comply with paragraphs (g) to (l), (ii) where constructed, or substantially reconstructed or enlarged, on or after 1 September 1991, comply, in addition to paragraph (f)(i), with paragraphs (m) and (n), (iii) if new (including systems constructed from used materials), substantially reconstructed or enlarged, on or after 1 January 2022, have a life expectancy of at least 20 years with proper maintenance, from its construction, reconstruction or enlargement,

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<ul style="list-style-type: none"> <li data-bbox="804 456 1326 674">(g) the base and walls of any slurry storage tank, any channels and reception pit, and the walls of any pipes, must be impermeable (except where the conditions in paragraph (j) are complied with) and free from any cracks or structural defects, <li data-bbox="804 680 1326 898">(h) where slurry flows into a channel before discharging into a reception pit, and the flow is controlled by means of a sluice or valve, the capacity of the reception pit must be sufficient to store the maximum quantity of slurry which can be released by opening the sluice or valve, <li data-bbox="804 904 1326 1025">(i) the slurry storage tank, channels, pipes, valves, and reception pit must be operationally maintained to be free of any structural defects during their lifecycle, <li data-bbox="804 1032 1326 1406">(j) where the walls of the slurry storage tank are not impermeable— <ul style="list-style-type: none"> <li data-bbox="868 1093 1326 1279">(i) the base of the tank must extend beyond its walls and be provided with channels designed and constructed so as to collect any slurry which may escape from the tank, <li data-bbox="868 1285 1326 1406">(ii) the tank must have adequate provision to collect, drain and store slurry from the channels to a slurry storage system, <li data-bbox="804 1413 1326 1883">(k) where the slurry storage tank or reception pit is fitted with a drainage pipe— <ul style="list-style-type: none"> <li data-bbox="868 1473 1326 1659">(i) there must be two valves in series on the pipe and each valve must be capable of stopping the flow of slurry through the pipe and must be kept shut and locked in that position when not in use, <li data-bbox="868 1666 1326 1883">(ii) sub-paragraph (i) does not apply in relation to a slurry storage tank which drains through the pipe into another slurry storage tank of equal or greater capacity or where the tops of the tanks are at the same level, <li data-bbox="804 1890 1326 2040">(l) where a slurry storage system has walls which are made of earth, the system must not be filled to a level which allows less than 750 millimetres of freeboard, and in all other cases the slurry storage tank

<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>must not be filled to a level which allows less than 300 millimetres of freeboard,</p> <p>(m) the base and walls of any slurry storage tank, channels and reception pit, valves, and the walls of any pipes, constructed, or substantially reconstructed or enlarged, on or after 1 September 1991 must be protected against corrosion in accordance with paragraph 7.2 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,</p> <p>(n) the base and walls of any slurry storage tank and any reception pit constructed, or substantially reconstructed or enlarged, on or after 1 September 1991, must be capable of withstanding characteristic loads calculated on the assumptions and in the manner as set out in paragraph 5 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,</p> <p>(o) any slurry storage system, constructed, or substantially reconstructed or enlarged, on or after 1 January 2022, which has walls made of earth, must be lined with an impermeable sheet material which, with proper maintenance, slurry cannot permeate for a period of at least 20 years,</p> <p>(p) a slurry storage system constructed on or after 1 January 2022 must not be situated within 10 metres of any surface water or opening into a surface water drain which slurry could enter into if it were to escape,</p> <p>(q) a slurry bag may only be used to store slurry if—</p> <ul style="list-style-type: none"> (i) the bag is constructed of impermeable material of sufficient strength and structural integrity such that it is unlikely to burst or leak in its ordinary use, and (ii) it is situated in a bund which complies with the following requirements— <ul style="list-style-type: none"> (1) the bund must be of at least equivalent capacity to the slurry bag,

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<ul style="list-style-type: none"> (2) the bund must be lined with an impermeable sheet material which, with proper maintenance, slurry cannot permeate for a period of at least 20 years, (3) the bund must have a means of removing rainwater, and (4) other than as necessary to allow rainwater to be removed, the base and walls of the bund must not be penetrated by any valve, pipe or other opening, <p>(r) where a slurry storage system (including a reception pit or channels) is to be constructed or to be substantially rebuilt or enlarged—</p> <ul style="list-style-type: none"> (i) the operator must notify SEPA no later than 30 days prior to commencing the works, (ii) the notification under sub-paragraph (i) must be accompanied by an engineering plan for the works to be carried out, (iii) the operator must retain the engineer’s final sign-off certificate for the works for the lifetime of the slurry storage system, for inspection by SEPA on request, <p>(s) slurry may be stored in a liquid digestate storage system which complies with the rules in column 2 of activity 34 of this schedule in relation to the storage of liquid digestate.</p>
<p>33. The treatment of slurry which consists mainly of rainwater and washings by draining through a constructed farm wetland.</p>	<p>(a) Slurry may be drained through a constructed farm wetland only if it consists mainly of rainwater and washings which derive from—</p> <ul style="list-style-type: none"> (i) a midden which mainly contains farm yard manure and is situated where its contents can be affected directly by precipitation, (ii) any uncovered yard, used by livestock to move from one area to another but not including areas covered by paragraph (b), (iii) a yard which is used for the gathering or holding of livestock

<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>no more than once a week and which can be directly affected by precipitation,</p> <p>(b) slurry must not be drained through a constructed farm wetland from areas—</p> <p>(i) where livestock are gathered or held more than once a week, or</p> <p>(ii) used for livestock movement or holding prior to, during or after being—</p> <p>(1) milked,</p> <p>(2) housed, or</p> <p>(3) fed,</p> <p>(c) slurry which contains pesticide must not be drained through a constructed farm wetland,</p> <p>(d) all reasonable steps must be taken to ensure that the drainage of slurry through a constructed farm wetland does not cause pollution of the water environment.</p>
<p>34. Storage of liquid digestate unless the storage is regulated by—</p> <p>(a) a waste management licence in terms of section 35 of the Environmental Protection Act 1990,</p> <p>(b) the registration of a registered exemption under the Waste Management Licensing (Scotland) Regulations 2011,</p> <p>(c) a permit in terms of regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012.</p>	<p>(a) Where liquid digestate is produced on the farm, it must be stored in a liquid digestate storage system, slurry storage system or slurry bag which has sufficient capacity to accommodate the volume of liquid digestate produced during periods when application is not authorised under activity 18 of column 1 of this schedule or would not comply with the requirements of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,</p> <p>(b) where liquid digestate is imported onto a farm, it must be stored in a liquid digestate storage system, slurry storage system or slurry bag which has sufficient capacity to store the quantities imported during periods when application is not authorised under activity 18 of column 1 of this schedule or would not comply with the requirements of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,</p> <p>(c) in calculating the required storage capacity, the following figures must be included—</p> <p>(i) the quantity of any rainfall (including any fall of snow, hail or sleet that is likely to enter the</p>

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<i>f¹</i> Column 1 Activity	Column 2 Rules
	<p>system or slurry bag (directly or indirectly) including from dungsteeds, silage pits or dirty yards,</p> <ul style="list-style-type: none"> (ii) the quantity of any cleaning water that is likely to enter the system or slurry bag, (iii) the quantity of any slurry from housed livestock, (iv) the likely quantity of any imported slurries and liquid digestate added to the system or slurry bag, (v) the quantity of any liquid digestate exported off farm, <p>(d) a liquid digestate storage system must,</p> <ul style="list-style-type: none"> (i) comply with paragraphs (e) to (k), (ii) if new (including systems constructed from used materials), or substantially reconstructed or enlarged, on or after 1 January 2022, have a life expectancy of at least 20 years, with proper maintenance, from its construction, reconstruction or enlargement, <p>(e) the base and walls of the liquid digestate storage tank and the walls of any feedstock tank, channels and pipes must be impermeable,</p> <p>(f) the base and walls of the liquid digestate storage tank and feedstock tank, valves and the walls of any pipes must be protected against corrosion in accordance with paragraph 7.2 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,</p> <p>(g) the base and walls of the liquid digestate storage tank and any feedstock tank must be capable of withstanding characteristic loads calculated on the assumptions and in the manner as set out in paragraph 5 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,</p> <p>(h) the liquid digestate storage system must not be situated within 10 metres of any surface water or opening into a surface</p>

<i>f¹</i> Column 1	Column 2
Activity	Rules
	<p>water drain which liquid digestate could enter if it were to escape,</p> <p>(i) the liquid digestate tank, pipes, valves and feedstock tank must be operationally maintained to be free of any structural defects during their lifecycle,</p> <p>(j) where the liquid digestate storage tank is fitted with a drainage pipe—</p> <p>(i) there must be two valves in series on the pipe and each valve must be capable of stopping the flow of liquid digestate through the pipe and must be kept shut and locked in that position when not in use,</p> <p>(ii) sub-paragraph (i) does not apply in relation to a liquid digestate storage tank which drains through the pipe into another liquid digestate storage tank of equal or greater capacity or where the tops of the tanks are at the same level,</p> <p>(k) where a liquid digestate storage system includes a lagoon with walls which are made of earth, the lagoon must not be filled to a level which allows less than 750 millimetres of freeboard, and in all other cases the liquid digestate storage tank must not be filled to a level which allows less than 300 millimetres of freeboard,</p> <p>(l) where a liquid digestate storage system constructed, or substantially reconstructed or enlarged, on or after 1 January 2022 includes a lagoon with walls which are made of earth, the lagoon must be lined with an impermeable sheet material which, with proper maintenance, liquid digestate cannot permeate for a period of at least 20 years,</p> <p>(m) a slurry bag may only be used to store liquid digestate if—</p> <p>(i) the bag is constructed of impermeable material, is of sufficient strength and structural integrity, and is unlikely to burst or leak in its ordinary use, and</p> <p>(ii) it is situated in a bund which complies with the following requirements—</p>

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<i>F1</i> Column 1 Activity	Column 2 Rules
	<ul style="list-style-type: none"> (1) the bund must be of at least equivalent capacity to the slurry bag, (2) the bund must be lined with an impermeable sheet material which, with proper maintenance, liquid digestate cannot permeate for a period of at least 20 years, (3) the bund must have a means of removing rainwater from it, (4) other than as necessary to allow rainwater to be removed, the base and walls of the bund must not be penetrated by any valve, pipe or other opening, <p>(n) where a liquid digestate storage system is to be constructed or to be substantially rebuilt or enlarged—</p> <ul style="list-style-type: none"> (i) the operator must notify SEPA no later than 30 days prior to commencing the works, (ii) the notification under subparagraph (i) must be accompanied by an engineering plan for the works to be carried out, and (iii) the operator must retain for the lifetime of the liquid digestate storage system, for inspection by SEPA on request, the engineer’s final sign-off certificate for the works, <p>(o) liquid digestate may be stored in a slurry storage system which complies with the requirements in column 2 of activity 32 of this schedule in relation to the storage of slurry.]]</p>

Textual Amendments

- F1** Sch. 3 Pt. 1 table substituted (1.7.2013) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/176\)](#), regs. 1, 2(4)(a), **sch.**
- F2** Sch. 3 Pt. 1 entry 3 substituted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(a)**
- F3** Words in sch. 3 Pt. 1 entry 5 substituted (1.1.2022) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/412\)](#), regs. 1(2), **3(4)(a)(i)**
- F4** Words in sch. 3 Pt. 1 entry 5 inserted (1.1.2022) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/412\)](#), regs. 1(2), **3(4)(a)(ii)**

- F5** Word in sch. 3 Pt. 1 entry 6 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(b)**
- F6** Word in sch. 3 Pt. 1 entry 8 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(c)(i)**
- F7** Words in sch. 3 Pt. 1 entry 8 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(c)(ii)**
- F8** Sch. 3 Pt. 1 entries 9-12 substituted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(b)**
- F9** Word in sch. 3 Pt. 1 entry 9 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(d)**
- F10** Sch. 3 Pt. 1 entries 10A-10D substituted for entry 10 (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(e)**
- F11** Word in sch. 3 Pt. 1 entry 11 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(f)(i)**
- F12** Word in sch. 3 Pt. 1 entry 11 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(f)(ii)**
- F13** Words in sch. 3 Pt. 1 entry 13 substituted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(c)**
- F14** Word in sch. 3 Pt. 1 entry 14 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(g)**
- F15** Words in sch. 3 Pt. 1 entry 15 deleted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(d)(i)**
- F16** Words in sch. 3 Pt. 1 entry 15 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(h)(i)**
- F17** Word in sch. 3 Pt. 1 entry 15 omitted (1.1.2022) by virtue of The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(h)(ii)**
- F18** Words in sch. 3 Pt. 1 entry 15 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(h)(iii)**
- F19** Words in sch. 3 Pt. 1 entry 15 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(h)(iv)**
- F20** Sch. 3 Pt. 1 entries 17-20 substituted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(e)**
- F21** Words in sch. 3 Pt. 1 entry 18 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(i)**
- F22** Words in sch. 3 Pt. 1 entry 18 omitted (1.1.2022) by virtue of The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), 3(4)(ii)(aa)
- F23** Words in sch. 3 Pt. 1 entry 18 omitted (1.1.2022) by virtue of The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), 3(4)(ii)(bb)
- F24** Word in sch. 3 Pt. 1 entry 18 omitted (1.1.2022) by virtue of The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), 3(4)(ii)(cc)
- F25** Words in sch. 3 Pt. 1 entry 18 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), 3(4)(ii)(dd)
- F26** Words in sch. 3 Pt. 1 entry 18 inserted (1.1.2023) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(3), **3(4)(j)** (with reg. 4)
- F27** Words in sch. 3 Pt. 1 entry 21 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(k)**
- F28** Words in sch. 3 Pt. 1 entry 22 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(l)**
- F29** sch. 3 Pt. 1 entries 23, 24 substituted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(f)**
- F30** Words in sch. 3 Pt. 1 entry 25 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(m)(i)**

- F31** Words in sch. 3 Pt. 1 entry 25 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(m)(ii)**
- F32** Words in sch. 3 Pt. 1 entry 25 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(m)(iii)**
- F33** Words in sch. 3 Pt. 1 entry 25 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(m)(iv)**
- F34** Words in sch. 3 Pt. 1 entry 27 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(n)**
- F35** Words in sch. 3 Pt. 1 entry 28 omitted (1.1.2022) by virtue of The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(o)(i)(aa)**
- F36** Words in sch. 3 Pt. 1 entry 28 substituted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(o)(i)(bb)**
- F37** Words in sch. 3 Pt. 1 entry 28 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(o)(ii)**
- F38** Words in sch. 3 Pt. 1 entry 28 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(o)(iii)**
- F39** Sch. 3 Pt. 1 entries 29-34 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(4)(p)** (with regs. 5-7)

PART 2 **S**

S

In this Schedule—

“application” means the spreading, spraying, incorporating or injecting into or onto land;

[^{F40c}“bed width” means the straight line distance that is between the opposite bank toes of a river burn or ditch, and which spans the bed of the river, burn or ditch, including any exposed bars and vegetated islands,]

[^{F41c}“buffer zone” means an area of land, where no storage or application of fertiliser or pesticide takes place, which intercepts (or would intercept) run-off from the storage or application of fertiliser or pesticide to prevent it from entering the water environment;]

“channel width” means the straight line distance that is between opposite bank tops of a river, burn or ditch and which spans the bed of a river, burn or ditch, including any exposed bars and vegetated islands;

[^{F40c}“constructed farm wetland” means a series of ponds for the treatment of slurry or silage effluent consisting mainly of rainwater, which have been constructed in such a manner that any discharge from the ponds does not pollute the water environment,]

[^{F42c}“container” means a single or double skinned fixed tank, a drum, a mobile bowser or (even if not connected to fixed pipe or fixed pipework) an intermediate bulk container;]

“crop” includes any plant grown for a commercial purpose;

“cultivation” includes the preparation of land prior to planting, and the harvesting of any crop;

[^{F43c}“dewatered” in relation to digestate or sewage sludge means digestate or sewage sludge which—

- (a) has had liquid removed from it so that it consists of at least 20% dry material; and
- (b) is capable of being stacked in a free standing heap without slumping and without liquid draining from the heap;]

“ditch” means an open channel which collects and conveys drainage water from surface or subsurface drainage to the wider surface water environment;

[^{F40cc}“domestic sewage” has the same meaning as in section 59 of the Sewerage (Scotland) Act 1968,]

[^{F40cc}“draff” means the residue of grain after fermentation of the grain in a brewing or distilling process,]

[^{F40cc}“draw off pipe” means a pipe used to withdraw oil from a container,]

[^{F44cc}“drum” means an oil drum or similar container used for storing oil;

“eroding bank” means any bank of a river, ditch or burn which is being eroded by the action of the river, ditch or burn;]

[^{F40cc}“farm” means land occupied as a unit for agricultural purposes,]

“farm yard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of livestock (excepting such arising from the keeping of birds for the production of food) [^{F45}and includes digestate fibrous residue];

“fertiliser” means any substance containing nutrients which is utilised on land to enhance plant growth, but excludes forestry brash;

[^{F40cc}“fill pipe” means a pipe used to deliver oil into a container,]

[^{F46cc}“fixed tank” includes an intermediate bulk container which is connected to fixed pipework;]

[^{F40cc}“forage crop” means any crop grown as food for livestock or for use in energy production,]

“forest” means land of an area of more than 0.5 hectares—

- (a) with a tree canopy cover of more than 20 percent;
- (b) which is planted with trees, which trees collectively have the capacity to provide a tree canopy cover of more than 20 percent; or
- (c) which meets all of the following criteria:
 - (i) it was used in the last 5 years as land described in paragraph (a);
 - (ii) it is to remain fallow of trees for a maximum of 4 consecutive years; and
 - (iii) when replanted with trees it will be replanted as land described in paragraph (b);

“forestry operations” means operations carried out on land with a tree canopy cover of more than 10 per cent over an area of more than 0.5 hectares;

[^{F40cc}“housed” means kept permanently or overwintered, indoors or outside, on a collection based slurry system,]

[^{F40cc}“impermeable sheet material” means—

- (a) synthetic rubbers, EPDM (ethylene propylene diene monomer rubber) and butyl,
- (b) plastics, including polyvinyl chloride, low density polyethylene and high density polyethylene, and
- (c) reinforced geomembranes,]

[^{F47cc}“invasive species of plant outwith its native range” has the same meaning as in the Wildlife and Countryside Act 1981;]

[^{F40cc}“liquid digestate” means—

- (a) whole digestate,
- (b) the liquid fraction, or

(c) any run-off from the storage of fibrous residue, resulting from an anaerobic digestion process of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process,]

[^{F40c}“liquid digestate storage system” means—

- (a) a liquid digestate tank,
- (b) any feedstock tank used in connection with the liquid digestate tank, and
- (c) any channels and pipes used in connection with the liquid digestate tank or feedstock tank,]

[^{F40c}“liquid digestate tank” includes a lagoon or tower used for the storage of liquid digestate,]

[^{F40c}“livestock” means any animal kept for use or profit as part of a commercial enterprise,]

“minor bridge” means a bridge having no part of its structure within the channel of a river, burn or ditch and constructed for the purpose of supporting a footpath, cycle route or single track road;

“moling” means a cultivation method if an implement is used to open a conduit within the soil along which water may flow;

[^{F48c}“oil” means any kind of oil other than solid products such as uncut bitumen and includes fuel oil, waste oil, biofuel mixtures, vegetable oil, plant oil, lubricant oil and hydraulic oil,]

“pesticide” has the same meaning as in section 16 of the Food and Environment Protection Act 1985 (control of pesticides etc.) ^{M1};

[^{F49c}“plant protection products” means products, in the form in which they are supplied to the user, consisting of, or containing, active substances, safeners or synergists, and intended for one of the following uses:

- (i) protecting plants or plant products against all harmful organisms or preventing the action of such organisms, unless the main purpose of these products is considered to be for reasons of hygiene rather than for the protection of plants or plant products;
- (ii) influencing the life processes of plants, such as substances influencing their growth, other than as a nutrient;
- (iii) preserving plant products;
- (iv) destroying undesired plants or parts of plants, except algae unless the products are applied on soil or water to protect plants; or
- (v) checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants;]

[^{F40c}“precision equipment” means equipment capable of low emission, accurate application techniques including a dribble bar or band spreader, trailing hose, trailing shoe or direct injection,]

[^{F40c}“private dwelling” means any part of a building used or intended to be used as a dwelling,]

[^{F40c}“radioactive substance” has the same meaning as in paragraph 4 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018,]

[^{F40c}“reception pit” means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank,]

“revetment” means a modification to a bank of a river, burn or ditch that increases the resistance of the bank to lateral erosion;

“rip rap” means irregular shaped stones placed along a bank of a river, burn or ditch for the purpose of increasing the resistance of the bank to erosion;

“rural land use activities” means agricultural, forestry or leisure activity;

[^{F50}“secondary containment system” means a drip tray, an area surrounded by a bund or catchpit, or any other system for preventing oil which is no longer in its container from escaping from the place where it is stored;]

“sewage” has the same meaning as in section 59 of the Sewerage (Scotland) Act 1968 (interpretation)^{M2};

[^{F40}“silage” means any forage crop (including draff) which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both,]

[^{F40}“silage effluent” means—

- (a) effluent produced from any forage crop which is being made or has been made, into silage,
- (b) a mixture consisting wholly of or containing such effluent, rainwater or groundwater emanating from a silo, silage effluent collection system or drain,]

[^{F40}“silo” means any structure used for making or storing silage,]

[^{F40}“slurry” includes—

- (a) excreta, including any liquid fraction, produced by livestock whilst in a yard or building (including woodchip corrals), and
- (b) a mixture consisting wholly of or containing such excreta, bedding, feed residues, rainwater and washings from a building or yard used by livestock, dungsteeds or middens, high level slatted buildings and weeping wall structures or any combination of these, provided such excreta is present,]

[^{F40}“slurry storage system” means—

- (a) a slurry storage tank,
- (b) any reception pit and any effluent tank used in connection with the slurry storage tank, and
- (c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank,]

[^{F40}“slurry storage tank” includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry,]

“SUD system” has the same meaning as in the Sewerage (Scotland) Act 1968;

“surface water drainage system” means a system, such as a SUD system that is used to collect and drain water run off from one or more premises and transport it to, and discharge it into, the water environment, and may include, among other things, any surface water sewers and associated inlets, outfalls, gullies, manholes, oil interceptors, silt traps, and attenuation, settlement and treatment facilities;

“temporary bridge” means any bridge which will be removed within a period of 12 months beginning with the date on which its construction commences;

“trade effluent” has the same meaning as in section 59 of the Sewerage (Scotland) Act 1968;

[^{F51}“trees or parts of trees” includes any root wads, brash, stakes made of live willow and willow spiling but does not include timber products or wood prepared for use in building or carpentry;]

[^{F40}“trunk road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984];

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

“uncultivated land” means land which has not been ploughed, rotovated or improved by management practices, but excludes land mounded for the purpose of planting riparian woodland);

“water for human consumption” means water that may be ingested by humans, used in the preparation of food or drink, or used in the cleaning of materials involved in the storage or consumption of food or drink;

[^{F52}“water run-off” means any water from rainfall or any meltwater from ice or snow flowing over or horizontally through the surface of the ground and any matter picked up by that water as it does so;]

“waterbound road” means a road [^{F53}or track] constructed of coarse stone and fine aggregate to form a tightly bound semi-impervious surface;^{F54}...

“waterlogged” means soil which is at water retaining capacity, except in a forest where it means where water is visible on the soil surface.

[^{F55}“well” includes a permeable underground collection tank; and

“willow spiling” means live willow rods woven between live willow uprights driven into the bank or bed of a watercourse.]

Textual Amendments

- F40** Words in sch. 3 Pt. 2 inserted (1.1.2022) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/412\)](#), regs. 1(2), **3(5)(b)**
- F41** Words in sch. 3 Pt. 2 inserted (1.7.2013) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/176\)](#), regs. 1, **2(4)(b)**
- F42** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(i)**
- F43** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(ii)**
- F44** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(iii)**
- F45** Words in sch. 3 Pt. 2 inserted (1.1.2022) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/412\)](#), regs. 1(2), **3(5)(a)**
- F46** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(iv)**
- F47** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(v)**
- F48** Words in sch. 3 Pt. 2 substituted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(vi)**
- F49** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(vii)**
- F50** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(viii)**
- F51** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(ix)**
- F52** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(x)**
- F53** Words in sch. 3 Pt. 2 inserted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(xi)**
- F54** Word in sch. 3 Pt. 2 omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **3(h)(xii)**

F55 Words in sch. 3 Pt. 2 inserted (1.1.2018) by virtue of The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(xiii)**

Marginal Citations

M1 1985 c.48.

M2 1968 c.47.

Textual Amendments

F40 Words in sch. 3 Pt. 2 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(5)(b)**

F41 Words in sch. 3 Pt. 2 inserted (1.7.2013) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2013 (S.S.I. 2013/176), regs. 1, **2(4)(b)**

F42 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(i)**

F43 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(ii)**

F44 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(iii)**

F45 Words in sch. 3 Pt. 2 inserted (1.1.2022) by The Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/412), regs. 1(2), **3(5)(a)**

F46 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(iv)**

F47 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(v)**

F48 Words in sch. 3 Pt. 2 substituted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(vi)**

F49 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(vii)**

F50 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(viii)**

F51 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(ix)**

F52 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(x)**

F53 Words in sch. 3 Pt. 2 inserted (1.1.2018) by The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(xi)**

F54 Word in sch. 3 Pt. 2 omitted (1.1.2018) by virtue of The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(xii)**

F55 Words in sch. 3 Pt. 2 inserted (1.1.2018) by virtue of The Water Environment (Miscellaneous) (Scotland) Regulations 2017 (S.S.I. 2017/389), regs. 1, **3(h)(xiii)**

Marginal Citations

M1 1985 c.48.

M2 1968 c.47.

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

PART 3 S

F56
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Textual Amendments

F56 Sch. 3 Pt. 3 omitted (31.12.2020) by virtue of [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, **3(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F56
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F56
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SCHEDULE 4 S

Regulations 15(1) and 27(5), paragraphs 10, 13 and 16 of Schedule 10

Relevant legislation

PART 1 S

S

These Regulations

S

The Act

S

[^{F57}The Water Framework Directive]

Textual Amendments

F57 Words in sch. 4 Pt. 1 substituted (14.9.2015) by [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(c)(i)**

Textual Amendments

F57 Words in sch. 4 Pt. 1 substituted (14.9.2015) by [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(c)(i)**

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F58
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Textual Amendments

F58 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(i)**

Textual Amendments

F58 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(i)**

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The Groundwater Directive ^{F59}...

Textual Amendments

F59 Word in sch. 4 Pt. 1 omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(c)(ii)**

Textual Amendments

F59 Word in sch. 4 Pt. 1 omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(c)(ii)**

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The Priority Substances Directive

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[^{F60}The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013]

Textual Amendments

F60 Words in sch. 4 inserted (22.12.2013) by [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(ii)**

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[^{F61}The Water Environment (Shellfish Water Protected Areas: Environmental Objectives etc.) (Scotland) Regulations 2013]

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

Textual Amendments

F61 Words in sch. 4 Pt. 1 inserted (22.12.2013) by [The Water Environment \(Shellfish Water Protected Areas: Environmental Objectives etc.\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/325\)](#), regs. 1, **11**

S

The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 ^{M3}

Marginal Citations

M3 [S.I. 2003/3245](#).

Marginal Citations

M3 [S.I. 2003/3245](#).

S

The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ^{M4}

Marginal Citations

M4 [S.I. 2004/99](#).

Marginal Citations

M4 [S.I. 2004/99](#).

PART 2 **S**

S

Part 2 of the Nature Conservation (Scotland) Act 2004 ^{M5}

Marginal Citations

M5 2004 asp 6.

Marginal Citations

M5 2004 asp 6.

S

The Conservation (Natural Habitats &c) Regulations 1994 ^{M6}

Marginal Citations

M6 S.I. 1994/2716, amended by 2004 asp 6; S.I. 1996/973; S.S.I. 2000/323 and 2004/475.

Marginal Citations

M6 S.I. 1994/2716, amended by 2004 asp 6; S.I. 1996/973; S.S.I. 2000/323 and 2004/475.

S

The Urban Waste Water Treatment (Scotland) Regulations 1994 ^{M7}

Marginal Citations

M7 S.I. 1994/2842, amended by S.I. 1996/973; and S.S.I. 2003/273.

Marginal Citations

M7 S.I. 1994/2842, amended by S.I. 1996/973; and S.S.I. 2003/273.

S

F62 ...

Textual Amendments

F62 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(iii)**

Textual Amendments

F62 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(iii)**

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F63 ...

Textual Amendments

F63 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(iv)**

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

Textual Amendments

F63 Words in sch. 4 omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(c)(iv)**



F64 ...

Textual Amendments

F64 Words in sch. 4 Pt. 2 omitted (2.2.2015) by virtue of [The Designation of Nitrate Vulnerable Zones \(Scotland\) Regulations 2014 \(S.S.I. 2014/373\)](#), regs. 1(1), **4(5)**

Textual Amendments

F64 Words in sch. 4 Pt. 2 omitted (2.2.2015) by virtue of [The Designation of Nitrate Vulnerable Zones \(Scotland\) Regulations 2014 \(S.S.I. 2014/373\)](#), regs. 1(1), **4(5)**



F64 ...

Textual Amendments

F64 Words in sch. 4 Pt. 2 omitted (2.2.2015) by virtue of [The Designation of Nitrate Vulnerable Zones \(Scotland\) Regulations 2014 \(S.S.I. 2014/373\)](#), regs. 1(1), **4(5)**



F65 ...

Textual Amendments

F65 Words in sch. 4 Pt. 2 omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(a)**

Textual Amendments

F65 Words in sch. 4 Pt. 2 omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(a)**



The Bathing Waters (Scotland) Regulations 2008 ^{M8}

Marginal Citations

M8 S.S.I. 2008/170.

Marginal Citations

M8 S.S.I. 2008/170.

S

F66
...

Textual Amendments

F66 Words in [sch. 4 Pt. 2](#) omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(b)**

Textual Amendments

F66 Words in [sch. 4 Pt. 2](#) omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(b)**

S

F67
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Textual Amendments

F67 Words in [sch. 4 Pt. 2](#) omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(c)**

Textual Amendments

F67 Words in [sch. 4 Pt. 2](#) omitted (1.1.2018) by virtue of [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **6(c)**

SCHEDULE 5 **S**

Regulations 11(1)(a) and 18(4)(b)

Charging Scheme

1. In the case of an authorisation under these Regulations, SEPA may require the payment to it of such charges as it may from time to time provide for in a charging scheme made in accordance with this Schedule.

2. Charges may be made in respect of:

- (a) the grant or imposition of an authorisation under regulations 7, 8 or 10;

Changes to legislation: There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011. (See end of Document for details)

- (b) the variation of any authorisation under regulations 18, 23 or 24;
 - (c) the subsistence of an authorisation;
 - (d) the transfer of an authorisation to another person, under regulation 25;
 - (e) the surrender of an authorisation under regulation 27;
 - (f) the determination that information is confidential under regulation 39.
3. A charging scheme may impose:
- (a) a single charge in respect of the whole of any authorisation;
 - (b) separate charges in respect of different parts of any such authorisation;
 - (c) both such a single charge and such separate charges.
4. A charging scheme may provide for charges as are reasonable or necessary to meet the requirements of paragraph 6, and may in particular provide for different charges to be payable according to:
- (a) the description of the authorisation in question;
 - (b) the controlled activity in question;
 - (c) the scale on which the controlled activity is carried on;
 - (d) the description or amount of any substance to which the controlled activity in question relates;
 - (e) the number of different controlled activities carried on by the same person.
5. A charging scheme:
- (a) must specify, in relation to any charge prescribed by the scheme, the description of the person who is liable to pay the charge;
 - (b) may provide that it must be a condition of an authorisation that any charge prescribed is paid in accordance with the scheme;
 - (c) may, if appropriate, provide incentives to secure efficient and sustainable water use.
6. In making a charging scheme SEPA must secure that the amounts recovered by way of charges prescribed by the charging scheme are, together with any grants paid to SEPA under section 47 of the Environment Act 1995 ^{M9} in respect of the functions under—
- (a) the Act;
 - (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District Regulations 2003 ^{M10};
 - (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ^{M11}; and
 - (d) these Regulations,

the amounts which, taking one year with another need to be recovered by SEPA to meet the costs and expenses which it incurs in carrying out, or having others carry out, those functions.

Marginal Citations

M9 1995 c.25; amended by the Scotland (Consequential Modifications No. 2) Order 1999 (S.I. 1999/1820).

M10 S.I. 2003/3245.

M11 S.I. 2004/99.

7. Without prejudice to paragraph 5(b), if it appears to SEPA that any charges due and payable to it in respect of an authorisation have not been paid, it may suspend or revoke the authorisation (in whole or in part).

8. A charging scheme may:

- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
- (b) provide for the times at which and the manner in which, the charges prescribed by the scheme are to be paid;
- (c) revoke or amend any previous charging scheme;
- (d) contain incidental, consequential or transitional provision for the purposes of the scheme.

9. SEPA must not make a charging scheme unless the provisions of the scheme are approved by the Scottish Ministers.

10. Before submitting a proposed charging scheme to the Scottish Ministers for their approval under paragraph 9, SEPA must, in such manner as it considers appropriate for bringing it to the attention of persons affected or likely to be affected by, or having an interest in, the scheme, publish a notice—

- (a) setting out its proposals; and
- (b) specifying the period within which representations or objections with respect to its proposals may be made to the Scottish Ministers.

11. If any proposed charging scheme is submitted to the Scottish Ministers for approval under paragraph 9, the Scottish Ministers must, in determining whether or not to approve the scheme or to approve it subject to modifications—

- (a) consider any representations or objections duly made to them and not withdrawn; and
- (b) have regard to the matters specified in this Schedule.

12. It is the duty of SEPA to take such steps as it considers appropriate for bringing the provisions of the charging scheme made by it which is for the time being in force to the attention of persons affected or likely to be affected by, or having an interest in the provisions.

SCHEDULE 6 **S**

Regulation 31(4) and (6)

Enforcement and other powers

PART 1 **S**

Powers

1. To enter at any reasonable time (or, in an emergency, at any time) any premises which that person has reason to believe it is necessary to enter.

2. On entering any premises by virtue of paragraph 1, to take—

- (a) any other person duly authorised by SEPA and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of that person's duty, a constable; and
- (b) any equipment or materials required for any purpose for which the power of entry is being exercised.

3. To examine and investigate as may in the circumstances be necessary.
4. As regards any premises which that person has power to enter, to direct that those premises or any part of them, or anything in them, must be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph 3.
5. To take such measurements and photographs and make such recordings as that person considers necessary for the purpose of any examination or investigation under paragraph 3.
6. To obtain and to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which that person has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises.
7. To monitor—
 - (a) the water environment or any part of it; or
 - (b) the carrying on of controlled activities.
8. To take steps for the measurement and recording of precipitation.
9. To install and maintain gauges, or other apparatus and works connected therewith, for any of the purposes mentioned in paragraphs 7 and 8.
10. To take such steps as may be necessary in order to obtain any information required for any of the purposes mentioned in paragraphs 7 or 8.
11. In the case of any article or substance found in or on any premises which that person has power to enter, being an article or substance which appears to that person to have, or be likely to have, a significant adverse impact on the water environment, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it, unless that is necessary).
12. In the case of any such article or substance as is mentioned in paragraph 11, to take possession of it and detain it for so long as is necessary for all or any of the following purposes namely:
 - (a) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which that person has power to do under that paragraph;
 - (b) to ensure that it is not tampered with before examination of it is completed;
 - (c) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations or in any other proceedings relating to a variation notice, revocation or suspension notice or enforcement notice under these Regulations.
- 13.—(1) Subject to sub paragraph (2), to require any person whom he has reasonable cause to believe has any information relevant to any examination or investigation under paragraph 3 to answer such questions as the authorised person thinks fit to ask.
(2) The person referred to in sub paragraph (1) may only be required to answer such questions in the absence of persons other than—
 - (a) a person nominated by that person to be present; and
 - (b) any person whom the authorised person may allow to be present.
14. To require the production of, or if the information is recorded electronically, the furnishing of extracts from, any records which are—
 - (a) required to be kept under these Regulations ; or
 - (b) necessary for that person to see for the purposes of an examination or investigation under paragraph 3,and to inspect and take copies of, or of any entry in, the records.

15. To require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred by this regulation.

16. To carry out borings or other works on any premises and to install, keep or maintain monitoring or other apparatus there.

PART 2 S

Procedures etc.

17. Any person authorised by SEPA under regulation 31(4) must produce evidence of that person's authorisation before that person exercises any powers conferred by that authorisation.

18. Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this paragraph shall only be effected—

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
- (b) either—
 - (i) with the consent of a person who is in occupation of those premises; or
 - (ii) under the authority of a warrant by virtue of Part 3 to this Schedule.

19. Except in an emergency, if an authorised person proposes to enter any premises and—

- (a) entry has been refused and that person apprehends on reasonable grounds that the use of force may be necessary to effect entry; or
- (b) that person apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of this regulation may only be effected under the authority of a warrant issued in accordance with Part 3 of this Schedule.

20. If an authorised person proposes to exercise the power conferred by paragraph 11 in the case of an article or substance found on any premises, that person must, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

21. Before exercising the power conferred by paragraph 11 in the case of any article or substance, an authorised person must consult—

- (a) such persons having duties on the premises where the article or substance is to be dismantled or subjected to the process or test; and
- (b) such other persons,

as appear to that authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which that person proposes to do or cause to be done under the power.

22. No answer given by a person in pursuance of a requirement imposed under paragraph 13 will be admissible in evidence against that person in any criminal proceedings.

23. Nothing in this schedule will be taken to compel the production by any person of a document of which that person would on grounds of legal professional privilege be entitled to withhold production on an order for the production of documents in an action in the Court of Session.

24. A person who enters any premises in the exercise of any power conferred by these Regulations must leave the premises as effectually secured against unauthorised entry as that person found them.

PART 3 **S**

Issue of warrants

25. If a sheriff or justice of the peace is satisfied that—

- (a) there are reasonable grounds for the exercise in relation to any premises of a power under Part 1 of this Schedule; and
- (b) one or more of the conditions specified in paragraph 26 is fulfilled in relation to those premises,

the sheriff or justice of the peace may by warrant authorise SEPA to designate a person to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

26. The conditions mentioned in paragraph 25 are—

- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises, and the case is one of urgency; or
- (e) that an application for admission to the premises would defeat the object of the proposed entry.

27. In a case where paragraph 25 applies, a justice of the peace or sheriff must not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless that person is also satisfied that the notice required by paragraph 18 has been given and that the period of that notice has expired.

28. Every warrant under this Schedule will continue in force until the purposes for which the warrant was issued have been fulfilled.

PART 4 **S**

Evidence

29. In any legal proceedings it will be presumed until the contrary is shown, that any sample—

- (a) taken by virtue of the powers under this Schedule at a gauge, measuring station or other place provided in compliance with a condition imposed in an authorisation, is a sample, taken in accordance with those powers, of what was passing to the water environment at the place and the time recorded;
- (b) taken in exercise of the powers under this Schedule in circumstances that an authorised person has agreed with the operator or responsible person the time when, and the points at which, samples are to be taken, is a sample taken under that agreement and in accordance with those powers, of what was passing to the water environment at the place and time recorded.

30. Subject to paragraph 22, information obtained in consequence of the exercise of a power under this Schedule, with or without the consent of any person, will be admissible in evidence against that or any other person.

31. Without prejudice to the generality of paragraph 30, information obtained by means of monitoring or other apparatus installed on any premises in the exercise of a power under this Schedule with or without the consent of any person in occupation of the premises, is admissible in evidence in any proceedings against that or any other person.

PART 5 **S**

Compensation

32.—(1) SEPA must compensate any person who has sustained loss or damage by reason of—

- (a) the exercise by an authorised person of the powers in paragraphs 1, 2 or 16; or
- (b) the failure of an authorised person to perform the duty imposed by paragraph 24,

unless the damage is attributable to the fault of the person who sustained it.

(2) SEPA must compensate any person for damage or destruction of an article or substance in exercise of powers under paragraph 11 if that article or substance was found not to have a significant adverse impact on the water environment.

(3) Any dispute as to a person's entitlement to compensation under paragraph (1) or (2), or as to the amount of such compensation, is to be determined by a single arbiter appointed by agreement between SEPA and the person claiming damage, or in default of agreement, by the President of the Lands Tribunal for Scotland.

(4) An authorised person is not liable in any civil or criminal proceedings for anything done in purported exercise of any of the powers conferred on that person in accordance with regulation 31(4) if the court is satisfied that it was done in good faith and that there were reasonable grounds for doing it.

SCHEDULE 7 **S**

Regulation 34(5)

Compensation for grant of rights

Interpretation **S**

1. In this Schedule—

“the 1963 Act” means the Land Compensation (Scotland) Act 1963 ^{M12};

“grantor” means a person who has granted or joined in granting any rights pursuant to regulation 34; and

“relevant interest” means an interest in land or waters in respect of which rights have been granted pursuant to regulation 34.

Marginal Citations

M12 1963 c.51; amended by the [New Towns Act 1966 \(c.44\)](#); the [Town and Country Planning \(Scotland\) Act 1969 \(c.30\)](#); the [Tribunals and Enquiries Act 1971 \(c.62\)](#); the [Town and Country Planning \(Scotland\) Act 1972 \(c.52\)](#); the [Statute Law \(Repeals\) Act 1974 \(c.22\)](#); the [Interpretation Act 1978 \(c.30\)](#); the

Local Government, Planning and Land Act 1980 (c.65); the Housing (Scotland) Act 1987 (c.26); the Statute Law (Repeals) Act 1989 (c.43); the Planning and Compensation Act 1991 (c.34); the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11); and the Abolition of Feudal Tenure (Scotland) Act 2000 (asp 5).

Period for making an application **S**

2. An application for compensation must be made to the person referred to in regulation 34(6) or, if regulation 33(1)(b) applies and no person has been found, to SEPA, within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on whichever is the latest of the following dates—

- (a) 12 months after the date of the grant of those rights;
- (b) if there is an appeal against the works notice which imposed the requirements in relation to which the rights in question were granted, 12 months after the date of the final determination or abandonment of the appeal; or
- (c) 6 months after the date on which the rights were first exercised.

Form of application **S**

3.—(1) An application for compensation must be made in writing and delivered or sent by pre paid post to the last known address for correspondence of the person liable.

- (2) The application must contain, or be accompanied by—
 - (a) a description of the grant of rights in respect of which the grantor is applying for compensation, and of any relevant plans;
 - (b) a description of the grantor's relevant interest in respect of which compensation is applied for; and
 - (c) a statement of the amount of compensation applied for distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 4, indicating how the amount applied for under each sub-paragraph has been calculated.

Loss and damage for which compensation payable **S**

4. Compensation is payable under this Schedule for loss and damage of the following descriptions—

- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;
- (b) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—
 - (i) is attributable to the grant of the rights or the exercise of them;
 - (ii) does not consist of depreciation in the value of that interest; and
 - (iii) is loss or damage for which the grantor would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947^{M13} in pursuance of a notice to treat served on the date on which the rights were granted;
- (c) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the rights or the exercise of them;

- (d) any loss or damage sustained by the grantor, other than in relation to any interest in land to which the grantor is entitled, which is attributable to the grant of the rights or the exercise of them; and
- (e) the amount of any valuation and legal expenses reasonably incurred by the grantor in granting the rights and in the preparation of the application for and the negotiation of the amount of compensation (up to the point of referral to the Lands Tribunal under paragraph 6).

Marginal Citations

M13 1947 c.42; as amended by the Statute Law Revision Act 1950 (c.6); the Statute Law Revision Act 1953 (c.5); the Tribunals and Inquiries Act 1958 (c.66); the War Damage Act 1964 (c.25); the Land Compensation (Scotland) Act 1973 (c.56); the Criminal Procedure (Scotland) Act 1975 (c.21); the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23); the Gas Act 1986 (c.44); the Electricity Act 1989 (c.29); the National Health Service and Community Care Act 1990 (c.19); the Coal Industry Act 1994 (c.21); the Postal Services Act 2000 (c.26); the Land Reform (Scotland) Act 2003 (asp 2) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820).

Basis on which compensation assessed **S**

5.—(1) The rules set out in section 12 of the 1963 Act (rules for assessing compensation) so far as applicable and subject to any necessary modifications, have effect for the purposes of paragraph 4 as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) If the relevant interest in respect of which compensation is to be assessed is subject to a standard security within the meaning of section 9 of the Conveyancing and Feudal Reform (Scotland) Act 1970 ^{M14}—

- (a) the compensation will be assessed as if the interest were not subject to that security;
- (b) no compensation will be payable in respect of the interest of the creditor (as distinct from the interest which is subject to the security); and
- (c) any compensation which is payable in respect of the interest which is subject to the security must be paid (subject to the maximum sum due thereunder) to the creditor in that security or, if there is more than one creditor, to the first ranking creditor and must, in either case, be applied by that person as if it were proceeds of sale.

Marginal Citations

M14 1970 c.35.

Payment of compensation and determination of disputes **S**

6.—(1) Amounts of compensation determined under this Schedule is payable—

- (a) if the person to whom the rights were granted and the grantor or creditor in a standard security agree that a single payment is to be made on a specified date, on that date;
- (b) if the person to whom the rights were granted and the grantor or such a creditor agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment; or
- (c) in any other case, subject to any direction of the Lands Tribunal for Scotland as soon as reasonably practicable after the amount of the compensation has been finally determined.

(2) Any question of disputed compensation must be referred to and determined by the Lands Tribunal for Scotland.

(3) In relation to the determination of any such questions, sections 9 and 11 of the 1963 Act (procedures on reference to the Lands Tribunal and expenses) apply as if—

- (a) the reference in section 9(1) of the 1963 Act to section 8 were a reference to sub paragraph (1) above; and
- (b) references in section 11 of the 1963 Act to the acquiring authority were references to the person to whom the rights were granted.

SCHEDULE 8 S

Regulation 37

Register

1. The register maintained by SEPA under regulation 37 must contain all particulars of:
 - (a) any application made to SEPA for an authorisation;
 - (b) any notice to the applicant by SEPA under regulation 13(2), 14(1) or 16(2);
 - (c) any advertisement published pursuant to regulation 13 and any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register;
 - (d) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by SEPA that representations have been made which have been the subject of such a request (but such statement must not identify the person who made the representations in question);
 - (e) any representations made by any public authority under regulation 12(2);
 - (f) any authorisation granted, or deemed to be granted, under these Regulations;
 - ^{F68}(g) in the case of an application in respect of a controlled activity that SEPA considered likely to have a significant adverse impact on the water environment, the matters outlined at regulation 15(6)(b) to (d);
 - (h) any authorisation imposed by SEPA;
 - (i) any application made to SEPA for the variation, transfer or surrender of an authorisation;
 - (j) any variation, transfer and surrender of, or cessation of activity permitted under, any authorisation granted by SEPA;
 - (k) any suspension or revocation of an authorisation granted by SEPA;
 - (l) any notice issued by SEPA withdrawing or modifying a variation notice, a notice of surrender or a notice of suspension or revocation;
 - (m) any enforcement notice, issued by SEPA;
 - (n) any notice issued by SEPA withdrawing or modifying any enforcement notice;
 - (o) any notice of appeal against a decision by SEPA or a notice served by it and of the documents relating to the appeal mentioned in paragraph 2(a), (d) and (e) of Schedule 9;
 - (p) any representations made by any person in response to a notice given under paragraph 6 of Schedule 9, except where the person making the representation has requested that the representation be omitted from the register;
 - (q) where paragraph (n) applies a statement that representations have been made which have been the subject of such a request (but such statement must not identify the person who made the representations);

- (r) any written notification of the determination by the Scottish Ministers of an appeal and any report accompanying any written notification;
- (s) any monitoring information relating to the carrying on, or the causing or permitting of the carrying on, of a controlled activity under an authorisation granted by SEPA which has been obtained by it as a result of its own monitoring or furnished to it in writing by virtue of a condition of the authorisation or under regulation 36(2);
- (t) in a case where any monitoring information is omitted from the register by virtue of regulation 38, a statement by SEPA, based on the monitoring information from time to time obtained by or furnished to it, indicating whether or not there has been compliance with any relevant condition of the authorisation;
- (u) any other information furnished in compliance with a condition of the authorisation, a variation notice, enforcement notice, suspension notice or works notice, or by virtue of regulation 36(2);
- (v) any direction given to SEPA under any provision of these Regulations;
- (w) convictions for offences under these Regulations;
- (x) any exemptions [^{F69}applied] by SEPA in accordance with Article 6(3) of the Groundwater Directive ^{F70} ...; and
- ^{F71}(y)

Textual Amendments

- F68** Sch. 8 para. 1(g) substituted (1.1.2018) by [The Water Environment \(Miscellaneous\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/389\)](#), regs. 1, **7**
- F69** Word in sch. 8 para. 1(x) substituted (22.12.2013) by [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(d)(i)**
- F70** Word in sch. 8 para. 1(x) omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(d)**
- F71** Sch. 8 para. 1(y) omitted (22.12.2013) by virtue of [The Water Environment \(River Basin Management Planning Further Provision\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/323\)](#), regs. 1, **27(d)(ii)**

2. If an application is withdrawn by the applicant at any time before it is determined, all particulars relating to that application which are already in the register must be removed from the register not less than two months and not more than three months after the date of withdrawal of the application, and no further particulars relating to that application may be entered in the register.

3. Nothing in paragraph 1 will require SEPA to keep in the register maintained by it—

- (a) monitoring information relating to a particular controlled activity 6 years after that information was entered in the register; or
- (b) information relating to a controlled activity which has been superseded by new information relating to that controlled activity 6 years after that new information was entered in the register.

4. Paragraph 3(a) does not apply to any aggregated monitoring data relating to specific impacts or classes of impacts on the water environment from controlled activities generally or from any class of controlled activities.

SCHEDULE 9 **S**

Regulation 53

Procedures in connection with appeals to the Scottish Ministers

1. A person who wishes to appeal to the Scottish Ministers under regulation 50 must give to the Scottish Ministers written notice of the appeal together with the documents specified in paragraph 2 and must at the same time send to SEPA a copy of that notice together with copies of the documents specified in paragraph 2(a) and (f).
2. The documents mentioned in paragraph 1 are—
 - (a) a statement of the grounds of appeal;
 - (b) a copy of any relevant application;
 - (c) a copy of any relevant authorisation;
 - (d) a copy of any relevant correspondence between the appellant and SEPA;
 - (e) a copy of any decision or notice which is the subject matter of the appeal; and
 - (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.
3. An appellant may withdraw an appeal by notifying the Scottish Ministers in writing, and must send a copy of that notification to SEPA.
4. Subject to paragraph 5, notice of appeal in accordance with paragraph 1 is to be given—
 - (a) in the case of an appeal under regulation 50(a), (b) or (c), before the expiry of the period of three months beginning with the date of the decision or deemed decision which is the subject matter of the appeal;
 - (b) in the case of an appeal under regulation 50(i), before the date on which the suspension or revocation takes effect;
 - (c) in the case of an appeal under regulation 50(d), (e), (f), (g), or (h), before the expiry of the period of two months beginning with the date of the notice which is the subject matter of the appeal;
 - (d) in the case of an appeal under regulation 50(j) or (k), before the expiry of 21 days beginning with the date of the notice which is the subject matter of the appeal.
5. The Scottish Ministers may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in paragraph 4(a), (c), or (d).
6. Subject to paragraph 9, SEPA must, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of it to—
 - (a) any person who made representations to SEPA with respect to the subject matter of the appeal; and
 - (b) any person who appears to SEPA to be affected or likely to be affected by, or have an interest in, the subject matter of the appeal.
7. A notice under paragraph 6 must—
 - (a) state that the notice of appeal has been given;
 - (b) state the name of the appellant and the address of the site where the controlled activity is being carried on;
 - (c) describe the application or authorisation to which the appeal relates; and
 - (d) state that representations with respect to the appeal may be made to the Scottish Ministers in writing by any recipient of the notice within a period of 21 days beginning with the

date of the notice and that copies of any representations so made will be furnished to the appellant and to SEPA;

- (e) explain that any such representations made by any person will be entered in a public register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request;
- (f) state that if a hearing is to be held wholly or partly in public, a person mentioned in paragraph 6(a) or (b) who makes representations with respect to the appeal will be notified of the date of the hearing.

8. SEPA must, within 14 days of sending a notice under paragraph 6—

- (a) notify the Scottish Ministers of the persons to whom and the date on which the notice was sent; and
- (b) indicate whether it wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

9. In the event of an appeal being withdrawn, SEPA must give notice of the withdrawal to every person to whom notice was given under paragraph 6.

Hearing procedure **S**

10. Before determining an appeal under regulation 51, the Scottish Ministers may afford the appellant and SEPA an opportunity of appearing before and being heard by a person appointed by them (“the appointed person”) and they must do so in any case where a request is made by the appellant or SEPA to be so heard.

11. A hearing held under paragraph 10 may, if the appointed person so decides, be held wholly, or held to any extent, in private.

12. If the Scottish Ministers cause a hearing to be held under paragraph 10, they must give the appellant and SEPA at least 28 days' written notice (or such shorter period of notice as they may agree with the appellant and SEPA) of the date, time and place fixed for the holding of the hearing.

13. In the case of a hearing which is to be held wholly or partly in public, the Scottish Ministers must, at least 21 days before the date fixed for the holding of the hearing—

- (a) publish a copy of the notice mentioned in paragraph 12 in a newspaper circulating in the locality in which the controlled activity is carried on or is to be carried on;
- (b) serve a copy of that notice on every person mentioned in paragraph 6 who has made representations to the Scottish Ministers.

14. The Scottish Ministers may vary the date fixed for the holding of any hearing and paragraphs 12 and 13 must apply to the variation of a date as they applied to the date originally fixed.

15. The Scottish Ministers may also vary the time or place for the holding of a hearing and must give such notice of any such variation as appears to them to be reasonable.

16. The persons entitled to be heard at any hearing are the appellant and SEPA.

17. Nothing in paragraph 16 prevents the appointed person from permitting any other persons to be heard at the hearing and such permission must not be unreasonably withheld.

18. After the conclusion of a hearing, the appointed person must make a report to the Scottish Ministers in writing which must include the conclusions and recommendations of that person or the reasons for not making any recommendation.

19. Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973 ^{M15} (which relates to the costs of and holding of local inquiries) apply to hearings held under this paragraph by an appointed person as they apply to inquiries held under that section, but with the following modifications—

- (a) with the substitution in subsection (3) (notice of inquiry) for the reference to the person appointed to hold the inquiry of a reference to the appointed person;
- (b) with the substitution in subsection (4) (evidence) for the reference to the person appointed to hold the inquiry and, in paragraph (b), the reference to the person holding the inquiry of references to the appointed person;
- (c) with the substitution in subsection (6) (expenses of witnesses etc.) for the references to the Minister causing the inquiry to be held of a reference to the appointed person or the Scottish Ministers;
- (d) with the substitution in subsection (7) (expenses) for the references to the Minister of references to the appointed person or the Scottish Ministers;
- (e) with the substitution in subsection (7A) (recovery of entire administrative expense)—
 - (i) for the first reference to the Minister of a reference to the appointed person or the Scottish Ministers;
 - (ii) in paragraph (a), for the reference to the Minister of a reference to the Scottish Ministers; and
 - (iii) in paragraph (b), for the reference to the Minister holding the inquiry of a reference to the Scottish Ministers;
- (f) with the substitution in subsection (7B) (power to prescribe daily amount)—
 - (i) for the first reference to the Minister of a reference to the Scottish Ministers;
 - (ii) in paragraphs (a) and (c), for the references to the person appointed to hold the inquiry of references to the appointed person; and
 - (iii) in paragraph (d), for the reference to the Minister of a reference to the appointed person or the Scottish Ministers; and
- (g) with the substitution in subsection (8) (certification of expenses) for the reference to the Minister, the reference to him and the reference to the Crown of references to the appointed person or the Scottish Ministers.

Marginal Citations

M15 1973 c.65.

Procedure for written representations **S**

20. Where the appeal is to be disposed of on the basis of written representations, SEPA must submit any written representations to the Scottish Ministers not later than 28 days after receiving a copy of the documents mentioned in paragraph 2(a) and (f).

21. The appellant must make any further representations by way of reply to any representations made from SEPA not later than 28 days after the date of submission of those representations by SEPA under paragraph 20.

22. Any representations made by the appellant or SEPA must bear the date on which they are submitted to the Scottish Ministers.

23. When SEPA or the appellant submits any representations to the Scottish Ministers they must at the same time send a copy of them to the other party.

24. The Scottish Ministers must send to the appellant and SEPA a copy of any representations made to them by the persons mentioned in paragraph 6 and must allow the appellant and SEPA a period of not less than 14 days in which to make representations on them.

25. The Scottish Ministers may in a particular case—

- (a) set later time limits than those mentioned in paragraphs 20, 21 and 24;
- (b) require exchanges of representations between the parties in addition to those mentioned in paragraphs 20 and 21.

Determination and publication of appeal **S**

26. The Scottish Ministers must give notice to the appellant of their determination of the appeal and their reasons for that determination, and must provide the appellant with a copy of any report mentioned in paragraph 18.

27. The Scottish Ministers must at the same time send a copy of the notice of the determination of the appeal, their reasons for that determination and a copy of any report mentioned in paragraph 18 to SEPA and to any person who made representations to the Scottish Ministers during the appeal.

SCHEDULE 10 **S**

Regulations 7, 8 and 58

Transitional and Savings Provisions

PART 1 **S**

Water Environment

1. If on 31st March 2011 an authorisation under regulation 8 or 9 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005^{M16} (“the 2005 Regulations”) is in force, that authorisation will be treated as an authorisation granted under these Regulations which is subject (unless subsequently varied) to the same conditions, if any, as that authorisation.

Marginal Citations

M16 S.S.I. 2005/348.

2. For the avoidance of doubt, paragraph 1 applies to any authorisation that is treated as an authorisation by virtue of paragraphs 6, 11, 14 or 26 of Schedule 10 to the 2005 Regulations.

3. If on or before 31st March 2011 a person—

- (a) has applied under regulation 12 of the 2005 Regulations for an authorisation under regulations 8 or 9 of the 2005 Regulations;
- (b) has received notice from SEPA under regulation 11 of the 2005 Regulations that SEPA is treating an activity as an activity in respect of which an application has been made;
- (c) has applied under regulation 21 of the 2005 Regulations for a variation of an authorisation under regulations 8 or 9 of the 2005 Regulations;

- (d) has applied under regulation 22 of the 2005 Regulations to transfer an authorisation under regulation 9 of the 2005 Regulations; or
- (e) has applied under regulation 24 of the 2005 Regulations to surrender an authorisation under regulation 9 of the 2005 Regulations;

and that application has not been determined, paragraph 4 applies.

4. Notwithstanding the revocation of the 2005 Regulations by regulation 58, regulations 8 to 10, 12 to 17, and 46 to 49 of the 2005 Regulations continue to have effect in relation to any application referred to in paragraph 3.

5. If an authorisation is granted in respect of an application referred to in paragraph 3, that authorisation will be treated as an authorisation granted under these Regulations.

6. Notwithstanding the revocation of the 2005 Regulations by regulation 58—

- (a) any enforcement notice issued by SEPA in accordance with regulation 28 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 32 of these Regulations;
- (b) any variation notice issued by SEPA in accordance with regulation 20(2) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 23(3) of these Regulations;
- (c) any authorisation issued by SEPA under regulation 27(4) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 31(4) of these Regulations;
- (d) any notice of suspension or revocation issued by SEPA in accordance with regulation 26(1) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 29(1) of these Regulations;
- (e) any application for compensation made by a person in accordance with regulation 30(5) of the 2005 Regulations before 31st March 2011 has effect as if it had been made under regulation 34(5) of these Regulations;
- (f) any court proceedings commenced by SEPA under regulation 31 of the 2005 Regulations before 31st March 2011 will be treated as if they had been commenced under regulation 35 of these Regulations;
- (g) any notice served by the Scottish Ministers or SEPA under regulation 32 of the 2005 Regulations before 31st March 2011 has effect as if it had been served under regulation 36 of these Regulations;
- (h) any application for the determination of commercial confidentiality made by a person in accordance with regulation 35 of the 2005 Regulations before 31st March 2011 has effect as if it had been made under regulation 39 of these Regulations;
- (i) any notice of the registration of commercially confidential information and any notice of determination of commercial confidentiality issued by SEPA in accordance with regulation 36(1) or 36(3) of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 40(1) or 40(3) of these Regulations, as appropriate;
- (j) any notice of review and any notice of the determination of a review issued by SEPA under regulation 37(2) or (37(4) of the 2005 Regulations before 31st March 2011 will be treated as if it had been issued under regulation 41(2) or 41(4) of these Regulations, as appropriate;
- (k) any direction issued by the Scottish Ministers under regulation 39 of the 2005 Regulations before 31st March 2011 will be treated as if it had been issued under regulation 43 of these Regulations;

- (l) any order issued by a court under regulation 45 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 49 of these Regulations;
- (m) any appeal under regulation 46 of the 2005 Regulations, notice of which has been given to the Scottish Ministers in accordance with paragraph 1 of Schedule 9 to the 2005 Regulations before 31st March 2011, will be treated as if it had been commenced under Part VIII of these Regulations;
- (n) any guidance issued by the Scottish Ministers under regulation 52 of the 2005 Regulations before 31st March 2011 has effect as if it had been issued under regulation 56 of these Regulations.

PART 2 **S**

Pollution Control

7. If on 31st March 2011 a relevant authorisation is in force in respect of an activity which is a controlled activity, the provisions of paragraphs 8 to 11 apply.

8. The relevant authorisation referred to in paragraph 7 will be treated as an authorisation granted under these Regulations.

9. SEPA must, insofar as it has not done so under paragraph 15 of Schedule 10 to the 2005 Regulations, review all relevant authorisations referred to in paragraph 7 in accordance with the relevant provisions of the authorising legislation and where that legislation makes provision for variation or transfer of such an authorisation, it may carry out that review at the same time as such a variation or transfer.

10. When carrying out a review in accordance with paragraph 9, SEPA must—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) where it considers that the authorised activity has or is likely to have a significant adverse impact on the water environment—
 - (i) assess the indirect effects of that impact on any other aspects of the environment likely to be significantly affected;
 - (ii) consider any likely adverse social and economic effects of that impact and of any indirect environmental effects identified in accordance with sub-paragraph (i); and
 - (iii) consider the likely environmental, social and economic benefits of the activity;
- (c) assess the impact of the authorised activity on the interests of other users of the water environment;
- (d) assess what steps may be taken to ensure efficient and sustainable water use;
- (e) apply the requirements of the legislation referred to in Part 1 of Schedule 4, including, in particular, the provisions of Article 4 of [^{F72}the Water Framework Directive] and Article 6 of the Groundwater Directive ^{F73} ...; and
- (f) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4,

and take such steps under the authorising legislation as are necessary to ensure that the relevant authorisations comply with the requirements of these Regulations.

Textual Amendments

- F72** Words in sch. 10 para. 10(e) substituted (14.9.2015) by [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(e)(i)**
- F73** Word in sch. 10 para. 10(e) omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(e)(ii)**

11. The review required under paragraph 9, and the steps required under paragraph 10 must be completed by 22nd December 2012.

12. Where an application for a relevant authorisation in respect of an activity that is a controlled activity has been made before 31st March 2011 but has not been determined by that date, the provisions of paragraphs 13 and 14 apply.

13. SEPA must, when considering an application referred to in paragraph 12—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) assess what steps may be taken to ensure efficient and sustainable water use;
- (c) apply the requirements of—
 - (i) the legislation referred to in Part 1 of Schedule 4 to the 2005 Regulations; and
 - (ii) regulation 24(5) of the 2005 Regulations; and
- (d) have regard to the provisions of the legislation referred to in part 2 of Schedule 4 to the 2005 Regulations,

and must, if they grant the application, ensure that the relevant authorisation complies with the requirements of the 2005 Regulations (notwithstanding their repeal by regulation 58 of these Regulations).

14. If an application is granted in accordance with paragraph 13, it will be treated, for the purposes of these Regulations, as an authorisation granted under these Regulations.

15. If, on or after 31st March 2011, an application for a relevant authorisation is made in respect of an activity which is a controlled activity, the provisions of paragraphs 16 and 17 apply.

16. SEPA must, when considering an application referred to in paragraph 15—

- (a) assess the risk to the water environment posed by the carrying on of the authorised activity;
- (b) where the application is in respect of an activity that it considers has or is likely to have a significant adverse impact on the water environment—
 - (i) assess the indirect effects of that impact on any other aspects of the environment likely to be significantly affected;
 - (ii) consider any likely adverse social and economic effects of that impact and of any indirect environmental effects identified in accordance with sub-paragraph (i); and
 - (iii) consider the likely environmental, social and economic benefits of the activity;
- (c) assess the impact of the controlled activity on the interests of other users of the water environment;
- (d) assess what steps may be taken to ensure efficient and sustainable water use;
- (e) apply the requirements of the legislation referred to in Part 1 of Schedule 4, including, in particular, the provisions of Article 4 of [^{F74}the Water Framework Directive] and Article 6 of the Groundwater Directive ^{F75} ...; and

(f) have regard to the provisions of the legislation referred to in Part 2 of Schedule 4, and must, if they grant the application, ensure that the relevant authorisation complies with the requirements of these Regulations.

Textual Amendments

- F74** Words in sch. 10 para. 16(e) substituted (14.9.2015) by [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(e)(i)**
- F75** Word in sch. 10 para. 16(e) omitted (14.9.2015) by virtue of [The Water Environment \(River Basin Management Planning etc.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/211\)](#), regs. 1(2), **5(e)(ii)**

17. If an application is granted in accordance with paragraph 16, it will be treated, for the purposes of these Regulations, as an authorisation granted under these Regulations.

18. In this Part—

- (a) “authorised activity” means an activity referred to in paragraph 7, 12 or 15, as the case may be;
- (b) “authorising legislation” means the legislation referred to in paragraph (c); and
- (c) “relevant authorisation” means—
- (i) an authorisation under Part I of the Environmental Protection Act 1990 ^{M17};
 - [^{F76}(ii) a permit or registration under the Environmental Authorisations (Scotland) Regulations 2018;]
 - (iii) a permit under [^{F77}the Pollution Prevention and Control (Scotland) Regulations 2012]; and
 - (iv) a waste management licence under the Waste Management Licensing (Scotland) Regulations 2011.

Textual Amendments

- F76** Sch. 10 para. 18(c)(ii) substituted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 6 para. 12** (with reg. 78, sch. 5 para. 2)
- F77** Words in sch. 10 para. 18(c)(iii) substituted (7.1.2013) by [The Pollution Prevention and Control \(Scotland\) Regulations 2012 \(S.S.I. 2012/360\)](#), reg. 1(2), **sch. 11 para. 25(2)** (with reg. 71)

Marginal Citations

- M17** 1990 c.43; amended by the [Environment Act 1995 \(c.25\)](#), the [Pollution Prevention and Control Act 1999 \(c.24\)](#); the [Anti-Social Behaviour \(Scotland\) Act 2004 \(asp 8\)](#) and the [Pollution Prevention and Control \(Scotland\) Regulations 2000 \(S.S.I. 2000/323\)](#).

SCHEDULE 11 **S**

Regulation 58

Amendments

Amendments to the Town and Country Planning (Scotland) Act 1997 **S**

1. In section 26 of the Town and Country Planning (Scotland) Act 1997 ^{M18} (meaning of “development”) in subsection (2A)—

- (a) omit “irrigation or”; and
- (b) at the end insert “, but does not include the carrying out of irrigation work”.

Marginal Citations

M18 1997 c.8.

Amendments to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 **S**

2. In Schedule 1, Part 6 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ^{M19}, in paragraph (1) of Class 18A (water management)—

- (a) omit “irrigation or”; and
- (b) at the end insert “, but not including the carrying out of irrigation work”.

Marginal Citations

M19 S.I. 1992/223.

Amendment to the Environmental Impact Assessment (Scotland) Regulations 1999 **S**

3. In column 1 of the table in Schedule 2 to the Environmental Impact Assessment (Scotland) Regulations 1999 ^{M20} at “1. Agriculture and aquaculture”, in entry (b) for “irrigation and land drainage projects” substitute “drainage projects, but excluding irrigation projects”.

Marginal Citations

M20 S.S.I. 1999/1.

4. In column 2 of the table referred to in paragraph 3, at “1. Agriculture and aquaculture” omit—

- (a) entries (i) and (ii); and
- (b) the words “and for the purposes of this entry, “agricultural land” and “agricultural unit” have the same meaning as in Part 6 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992”,

and replace with “The area of the works exceeds one hectare”.

Savings Provision **S**

5. Nothing in paragraphs 1 to 4 will affect the continued operation of any of the provisions amended by them, as such provisions relate to—

- (a) any application lodged with, or received by, a planning authority or the Scottish Ministers prior to the commencement of these Regulations, or any appeal in relation to such an application;
- (b) any matter in relation to which an enforcement notice has been issued prior to the commencement of these Regulations; or,
- (c) the completion of any permitted development begun before the commencement date of these Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011.