
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (“the principal Regulations”).

Regulation 2(3)(a) amends regulation 13(1) of the principal Regulations to require SEPA to publish details of any application for an authorisation to carry on an activity that it considers is likely to have a significant adverse impact on the water environment or the interests of its users.

Regulation 2(3)(b) amends regulation 13(5) of the principal Regulations to require SEPA to also consider any written representation made in connection with an application advertised under regulation 13 which is received on or after the date on which it received the application (and before the expiry of the period of 28 days beginning with the date of the advertisement).

Regulation 2(4)(a) substitutes a new table for the table in Part 1 of Schedule 3 (general binding rules) to the principal Regulations. Column 1 of the new table specifies activities that are authorised under the principal Regulations if they are carried out in accordance with the corresponding rules in column 2. The new table contains the following changes—

- rules 3(a) and 4(a) refer more generally to any body of groundwater;
- activity 5(a) and rule 5(c) and renumbered (h) revised to improve clarity; rule 5(g) is new;
- activity 6 extends to the construction and maintenance of any surface water drainage system outfall which discharges into a river, burn or ditch; old rule 6(f) becomes rule 6(e) and applies only to work in the wetted part of the channel; rules 6(j) and (k) are new;
- activity 10 omits reference to the construction and maintenance of outfalls;
- activity 13 extends to the removal of accumulations from the bed of a river, burn or ditch within 5 metres of certain outfalls and inlets; but the activity is restricted to the purpose of ensuring the proper functioning of a closed culvert, abstraction or discharge pipe;
- new rule 13(g) requires that sediment must, where possible be returned to the river, burn or ditch from which it was removed; old rule 13(g) becomes rule 13(h) and requires any such sediment to be returned as close to the location of its removal as is practicable;
- rules 18(a)(i) and (c)(i) refer more specifically to land within 10 metres of any river, burn, ditch, wetland, loch, transitional water or coastal water, and rule 18(d)(i) refers more specifically to land within 2 metres of such places; rules 18(a)(iv), (c)(iii) (renumbered) and (d)(iii) refer to soil depths of 40 centimetres; rules 18(a)(v), (c)(v) and (d)(v) are new;
- rule 19(c) provides that livestock feeders must be positioned at least 10 metres from any river, burn, ditch, wetland, loch, transitional water or coastal water, and so that run-off does not enter any such place;
- rule 20(a)(i) identifies more specifically land which must not be cultivated; rule 20(b) identifies more specifically land in which moling must not be carried out;
- activity 23 extends to the storage of pesticide; rule 23(a) extends to the filling of pesticide sprayers and requires that relevant activities are undertaken in a way which prevents any spillages, run-off or washings from entering any river, burn, ditch, wetland, loch, transitional water or coastal water; rule 23(a)(ii) is new and prohibits such activities within 10 metres of these places or any opening into a surface water drainage system; rule 23(b) provides that equipment must be maintained so that there is no leakage of pesticide and so that the application

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rate is properly calibrated; rule 23(c) refers more specifically to any river, burn, ditch, wetland or loch and rule 23(d) extends to the storage of pesticide-treated plants in such places; rules 23(e) to (h) are new; and

- rules 18(g), 19(a), 20(c), 21(a) and (b), 24(a) and (b) refer more specifically to any river, burn, ditch, wetland, loch, transitional water or coastal water.

Regulation 2(4)(b) defines “buffer zone” for the purposes of the rules in Schedule 3 to the principal Regulations; and regulation 2(2) corrects a reference to the Marine (Scotland) Act 2010.