

2015 No. 63 (C. 13)

FLOOD RISK MANAGEMENT

WATER SUPPLY

**The Reservoirs (Scotland) Act 2011 (Commencement No. 3 and
Transitional Provisions) Order 2015**

Made - - - - - *17th February 2015*

Laid before the Scottish Parliament *19th February 2015*

Coming into force - - - *1st April 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 114(2)(a) and 116(1) of the Reservoirs (Scotland) Act 2011(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Reservoirs (Scotland) Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2015 and comes into force on 1st April 2015.

(2) In this Order—

“the Act” means the Reservoirs (Scotland) Act 2011;

“the 1975 Act” means the Reservoirs Act 1975(b);

“1975 Act reservoir” means—

(a) a controlled reservoir(c) which was, immediately before 1st April 2015, required to be registered in a register maintained under section 2(2) of the 1975 Act; or

(b) a controlled reservoir which—

(i) was not, immediately before 1st April 2015, required to be registered in a register maintained under section 2(2) of the 1975 Act; and

(ii) is, on or after that date, required to be registered in a register maintained under section 2(2) of the 1975 Act; and

“held”, in relation to SEPA, is to be construed in the same way as “held”, in relation to an authority, in section 3(2) of the Freedom of Information (Scotland) Act 2002(d).

(a) 2011 asp 9.

(b) 1975 c.23; section 2(2) of the 1975 Act was relevantly amended by the Water Act 2003 (c.37), section 74(1)(b).

(c) Sections 1 and 2 of the Reservoirs (Scotland) Act 2011 define what is a “controlled reservoir” for the purposes of the Act.

(d) 2002 asp 13.

Appointed day

2.—(1) Subject to paragraph (2), 1st April 2015 is the day appointed for the coming into force of the provisions of the Act specified in column (1) of the Schedule (the subject matter of which is specified in column (2)).

(2) Where a purpose is specified in column (3) of the Schedule in relation to any provision, that provision comes into force in accordance with paragraph (1) for that purpose only.

Transitional provision: information etc. comprising the controlled reservoirs register

3. Until section 12 of the Act (controlled reservoirs not required to be registered under the 1975 Act) has effect for all purposes, section 9(2) of the Act (controlled reservoirs register) does not have effect in so far as information or a document referred to in section 9(2) relates to a controlled reservoir to which section 12(2) applies.

4. Until section 13 of the Act (structures or areas which become controlled reservoirs after the relevant date) has effect for all purposes, section 9(2) of the Act does not have effect in so far as information or a document referred to in section 9(2) relates to a controlled reservoir to which section 13 applies but which is not a 1975 Act reservoir.

5.—(1) Subject to paragraph (2), until a controlled reservoir is required to be registered under the Act section 9(2) of the Act has effect in relation to the controlled reservoir only in so far as information or a document referred to in section 9(2) is held by SEPA.

(2) Section 9(2)(h) of the Act (flood maps) has effect in relation to the controlled reservoir only in so far as a map referred to in section 9(2)(h) is held by SEPA on or after 1st October 2015.

6. Until a controlled reservoir is required to be registered under the Act, section 9(4) of the Act (duty of SEPA to arrange for controlled reservoirs register to be available for inspection at all reasonable times) has effect in relation to the reservoir only in so far as information or a document referred to section 9(2) of the Act is held by SEPA on or after 1st October 2015.

Transitional provision: modification of section 13 where no preliminary certificate given

7. Where section 13 of the Act has effect in relation to a 1975 Act reservoir, until a preliminary certificate is given under section 37 of the Act in relation to the reservoir, the reference to “preliminary certificate” in section 13 of the Act is to be construed as a reference to a preliminary certificate under section 7(1) of the 1975 Act (certificates of construction engineers).

St Andrew’s House,
Edinburgh
17th February 2015

AILEEN McLEOD
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2

Provisions coming into force on 1st April 2015

<i>Column (1) Provisions of the Act</i>	<i>Column (2) Subject matter</i>	<i>Column (3) Purpose</i>
Section 4	Multiple reservoir managers: supplementary	
Section 5(1)	Duty of multiple reservoir managers to co-operate	Only for the purpose of bringing into force paragraph (o).
Section 5(2) to (4)	Failure of reservoir manager to comply with duty to co-operate	
Section 9	Controlled reservoirs register	
Section 10(1)	Reservoir managers' duty to register with SEPA	The purpose of giving effect to section 10(1) of the Act only in so far as it applies in relation to a 1975 Act reservoir.
Section 11(1) and (2)	Controlled reservoirs required to be registered under the 1975 Act	
Section 13	Structures or areas which become controlled reservoirs after the relevant date	The purpose of giving effect to section 13 of the Act only in so far as it applies in relation to a 1975 Act reservoir.
Section 15(1) to (3)	Registration: supplementary	The purpose of giving effect to section 15(1) to (3) of the Act only in so far as it applies in relation to a 1975 Act reservoir.
Section 16(2) and (6)	Duty of relevant authorities to assist SEPA for specified purposes	
Section 17	Offences: registration	For all purposes, except in relation to requirements of section 12(1) of the Act.
Section 27	Panels of reservoir engineers	In so far as not already in force.
Section 28(1) to (6)	Appointment and removal of panel members	
Section 29	Dissolution of panels etc.	
Section 30(1)	Review of decisions to appoint or remove civil engineers from panels etc.	
Section 31	Consultation with Institution of Civil Engineers	In so far as not already in force.
Section 91(1) and (2)(a) and (l)	Powers of entry	
Section 92	Warrants authorising entry	
Section 93(2) to (5)	Powers of entry: supplementary	
Section 94	Offence: preventing or obstructing entry	
Section 95(1) to (3)	Compensation	
Section 96	Reports by SEPA to the Scottish Ministers	

<i>Column (1) Provisions of the Act</i>	<i>Column (2) Subject matter</i>	<i>Column (3) Purpose</i>
Section 98(1) and (2)(b)	Power of SEPA to require information and assistance	
Section 99(1)(b), (2) and (3)	Offences: section 98	
Section 100	Duty to publish guidance on the operation of Part 1 of the Act	
Section 106	Notices by SEPA	
Section 108	Civil liability	
Section 110(1) and (3) to (9)	Crown application	
Section 111	Offences by bodies corporate	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 2015 the provisions of the Reservoirs (Scotland) Act 2011 (“the 2011 Act”) listed in the Schedule, for all purposes except where otherwise specified. In particular, it brings into force on that date a requirement for each reservoir which is, immediately before 1st April 2015, registered pursuant to section 2(2) of the Reservoirs Act 1975 to also be separately registered with SEPA as a controlled reservoir under the 2011 Act by 1st October 2015.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Sections 1, 2, 3, 7 and 114 to 116 of the Act came into force on 13th April 2011 in accordance with section 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The following provisions were brought into force by earlier commencement orders as follows:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 6	1st January 2015	S.S.I. 2014/348
Section 10(2)	1st January 2015	S.S.I. 2014/348
Section 11(3)	1st January 2015	S.S.I. 2014/348
Section 12 for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 14	1st January 2015	S.S.I. 2014/348
Section 15(4)	1st January 2015	S.S.I. 2014/348
Section 22(4)	1st January 2015	S.S.I. 2014/348
Section 23(8)	1st January 2015	S.S.I. 2014/348
Section 24(7)	1st January 2015	S.S.I. 2014/348
Section 25	1st January 2015	S.S.I. 2014/348
Section 27(a) for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 27(a) in so far as not already in force	20th February 2015	S.S.I. 2015/43
Section 28(7) and (8)	1st January 2015	S.S.I. 2014/348
Section 30(2)	1st January 2015	S.S.I. 2014/348
Section 31(1)(a)	20th February 2015	S.S.I. 2015/43
Section 31(1)(b) and (2)	1st January 2015	S.S.I. 2014/348
Section 32(4)(b) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 35(1)(d) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 38(3)(c) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 51(1)(e) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 51(2)	1st January 2015	S.S.I. 2014/348
Section 54 and 55	1st January 2015	S.S.I. 2014/348
Section 56(3) for the purpose of making regulations	1st January 2015	S.S.I. 2014/348
Section 57(2) and (3) for the purpose of making orders	1st January 2015	S.S.I. 2014/348
Section 64(1)	1st January 2015	S.S.I. 2014/348
Section 69(7) and (8)	1st January 2015	S.S.I. 2014/348
Sections 73 to 76	1st January 2015	S.S.I. 2014/348
Sections 82 to 88	1st January 2015	S.S.I. 2014/348

Section 89 except in so far as it applies in pursuance of section 69	1st January 2015	S.S.I. 2014/348
Section 90	1st January 2015	S.S.I. 2014/348
Section 102	1st January 2015	S.S.I. 2014/348
Section 104 and 105	1st January 2015	S.S.I. 2014/348
Section 107	1st January 2015	S.S.I. 2014/348
Section 109	1st January 2015	S.S.I. 2014/348
Section 110(2)	1st January 2015	S.S.I. 2014/348
Section 112(5)	1st January 2015	S.S.I. 2014/348
Section 113	1st January 2015	S.S.I. 2014/348
Schedule	1st January 2015	S.S.I. 2014/348

© Crown copyright 2015

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

£6.00

S2015021737 02/2015 19585

<http://www.legislation.gov.uk/id/ssi/2015/63>

ISBN 978-0-11-102648-9



9 780111 026489