

SCHEDULE 2

FURTHER ENFORCEMENT MEASURES

Criminal proceedings and conviction

8.—(1) Sub-paragraph (2) applies where—

- (a) a further enforcement measure is imposed on a reservoir manager; or
- (b) an FEM undertaking from a reservoir manager is accepted under paragraph 4(2).

(2) The reservoir manager may not at any time be convicted of the offence in respect of the act or omission giving rise to the further enforcement measure or FEM undertaking, except in a case mentioned in sub-paragraph (3).

(3) The case is where both of the following apply—

- (a) a restraint notice or restoration notice is imposed on the reservoir manager, or an FEM undertaking from the reservoir manager is accepted under paragraph 4(2); and
- (b) the reservoir manager fails to comply with, as the case may be, the restraint notice, the restoration notice or the FEM undertaking in question.

(4) For the purposes of the case referred to in sub-paragraph (3), where SEPA by notice (a “non-compliance notice”) informs the reservoir manager that the reservoir manager has failed to comply with the restraint notice, the restoration notice or the FEM undertaking referred to in sub-paragraph (3)(b), the period within which criminal proceedings may be instituted against the reservoir manager (for an offence in respect of the act or omission giving rise to the further enforcement measure or FEM undertaking) is extended by a period of 6 months beginning with the day on which SEPA gave the non-compliance notice to the reservoir manager.