SCOTTISH STATUTORY INSTRUMENTS

2015 No. 315

FLOOD RISK MANAGEMENT

WATER SUPPLY

The Reservoirs (Scotland) Amendment Regulations 2015

Made - - - -	*1st September 2015*
Laid before the Scottish Parliament	*2nd September 2015*
Coming into force - -	*1st October 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(3)(a), 9(3)(a), 14(1), (3) and (4), 23(8), 24(7) and 114(2)(b) of the Reservoirs (Scotland) Act 2011(**a**) and all other powers enabling them to do so.

In making regulations under section 14(1) of that Act, the Scottish Ministers have had regard to the reasonable cost of the exercise of the functions in respect of which fees are to be charged by SEPA.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Reservoirs (Scotland) Amendment Regulations 2015 and come into force on 1st October 2015.

(2) In these Regulations, "the principal Regulations" means the Reservoirs (Scotland) Regulations 2015(**b**).

Amendment of regulation 1 (citation, commencement and interpretation)

2. In regulation 1(2) of the principal Regulations—

(a) omit the definition of "cessation fee"; and

(b) in the definition of "new manager fee", omit "(b)".

Amendment of regulation 8 (structures or areas which are not controlled reservoirs)

3. In regulation 8 of the principal Regulations—

(a) in paragraph (1), for "Roads" substitute "Road"; and

(b) in paragraph (2), for "roads" substitute "road".

(**a**) 2011 asp 9.
(**b**) S.S.I. 2015/90.

Amendment of regulation 10 (controlled reservoirs register: additional information)

4. In regulation 10 of the principal Regulations—

(a) in paragraph (1), omit "(and the period of any such appointment)"; and

(b) in paragraph (2), for "(and the period of any such appointment)" substitute ", and the period of any such appointment".

Substitution of regulation 17 (transfer fees: general)

5. For regulation 17 of the principal Regulations, together with its cross heading, substitute—

"**Transfer fees: general**

17.—(1) Subject to regulation 18, SEPA may charge the reservoir manager of a controlled reservoir a fee in relation to a notice given to SEPA by that manager under section 15(2) of the Act.

(2) The reservoir manager must pay the new manager fee to SEPA.

(3) The new manager fee is recoverable as a civil debt.".

Substitution of regulation 18 (transfer fees: determination and charging)

6. For regulation 18 of the principal Regulations, together with its cross heading, substitute—

"**Transfer fees: determination and charging**

18.—(1) SEPA must determine the amount of any new manager fee to be included in its charging scheme having regard to the likely cost to SEPA of performing SEPA's functions under section 15 of the Act.

(2) A notice under section 15(2) of the Act must be accompanied by any new manager fee.

(3) SEPA must not charge a new manager fee in respect of any notice under section 15(2) of the Act which is given to SEPA before 1st October 2015.".

Insertion of new Part 3A (risk designation)

7. After Part 3 of the principal Regulations insert—

"PART 3A

RISK DESIGNATION

Applications for review of risk designations under section 23 of the Act

19A.—(1) An application to SEPA under section 23(1) of the Act (review of SEPA's decisions giving risk designations) must—

(a) be made in writing; and

(b) if a fee is charged in relation to the application under section 23(6) of the Act, be accompanied by the fee.

(2) When giving notice to a reservoir manager of a controlled reservoir of a risk designation under section 19(5) or 21(4) of the Act, SEPA must inform the reservoir manager as to—

(a) where to send an application for a review under section 23(1) of the Act; and

(b) the information to be provided with any such application.

Appeals to the Scottish Ministers following a review by SEPA of risk designation

19B.—(1) An appeal to the Scottish Ministers under section 24(1) of the Act (appeal to the Scottish Ministers following SEPA's review) must be made by notice in writing ("notice of appeal").

(2) The notice of appeal must contain—

(a) a statement of the grounds of appeal;

(b) a copy of the notice of the decision given by SEPA under section 23(5) of the Act to which the appeal relates; and

(c) a copy of any relevant correspondence between the person making the appeal ("the appellant") and SEPA.

(3) The appellant must, at the same time as making any such appeal to the Scottish Ministers, send a copy of the notice of appeal to SEPA.

(4) SEPA may, within a period of 28 days beginning with the day on which it receives a copy of the notice of appeal, make representations in writing to the Scottish Ministers.

(5) SEPA must, at the same time as making representations under paragraph (4), send a copy of those representations to the appellant.

(6) The appellant may, within a period of 21 days beginning with the day on which the appellant receives a copy of any representations made by SEPA under paragraph (4), make representations in writing to the Scottish Ministers in respect of SEPA's representations.

(7) The appellant must, at the same time as making any representations to the Scottish Ministers under paragraph (6), send a copy of those representations to SEPA.

(8) The appellant may withdraw an appeal by notice in writing to the Scottish Ministers.

(9) The appellant must, at the same time as sending any such withdrawal notice to the Scottish Ministers, send a copy of the notice to SEPA.

(10) Before determining an appeal, the Scottish Ministers may give the appellant and SEPA an opportunity to appear before, and be heard by, any engineer appointed under section 24(4) of the Act to make recommendations to the Scottish Ministers about the risk designation to which the appeal relates.".

AILEEN McLEOD
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
1st September 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Reservoirs (Scotland) Regulations 2015 ("the principal Regulations") to make further provision in relation to the risk designation of controlled reservoirs under Part 1 of the Reservoirs (Scotland) Act 2011 ("the Act") and to clarify various provisions.

Regulations 2 to 6 amend the principal Regulations to clarify regulations 8, 10 and 17.

Regulation 7 inserts new Part 3A (risk designation) into the principal Regulations to make further provision in relation to applications for a review under section 23 of the Act (review of SEPA's decisions giving risk designations) and also in relation to appeals under section 24 of the Act (appeal to the Scottish Ministers following SEPA's review of such decisions).

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

© 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.

£4.25

S201509018 09/2015 19585

http://www.legislation.gov.uk/id/ssi/2015/315

ISBN 978-0-11-102920-6

9 780111 029206