# POLICY NOTE

# THE WATER ENVIRONMENT (RELEVANT ENACTMENTS AND DESIGNATION OF RESPONSIBLE AUTHORITIES AND FUNCTIONS) (SCOTLAND) AMENDMENT ORDER 2015

## SSI 2015/323

The above instrument is made in exercise of the powers conferred by section 2(8) of the Water Environment and Water Services (Scotland) Act 2003 ("the 2003 Act"). The instrument is subject to negative procedure.

Policy Objectives

1. This Order updates the list of public bodies designated as 'responsible authorities' for the purposes of Part 1 of the 2003 Act by omitting District Salmon Fishery Boards ("DSFBs").

Background

2. The 2003 Act established the over-arching legal framework for managing Scotland's water environment. It introduced the concept of 'responsible authorities' who are required under section 2(2) of the Act, as modified[1], to exercise their designated functions so as to secure compliance with the requirements of the Water Framework Directive[2], the Groundwater Directive[3] and the Priority Substances Directive[4] ("the Directives").

3. Various bodies are designated as 'responsible authorities' by the Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011. In particular, DSFBs are designated as responsible authorities in respect of their functions under the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003.

4. It is no longer considered necessary to require DSFBs to exercise these functions so as to secure compliance with the Directives because the 2003 Act, the Water Environment (Controlled Activities) (Scotland) Regulations 2011 ("CAR") and other related legislation are sufficient to secure compliance with the Directives, without imposing this duty on DSFBs.

5. This change also means that DSFBs will no longer need to be consulted (under section 21(1)(b) of the 2003 Act) on every proposed change to CAR. However, the Scottish Government will continue to consult 'such persons appearing to them to be representative of the interests of fisheries as they think fit' under section 21(1)(c) of that Act. The Association of DSFBs will therefore be consulted on any change to CAR which is considered relevant to fisheries interests. In addition, DSFBs will continue to be consulted as part of the river basin management planning process (in accordance with section 11(6)(e) of the 2003 Act).

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[1] The effect of section 2(2) of the 2003 Act is modified by the Water Environment and Water Services (Scotland) Act 2003 (Modification of Part 1) Regulations 2015 (S.S.I. 2015/270).
[2] Directive 2000/60/EC.
[3] Directive 2006/118/EC.
[4] Directive 2008/105/EC.

Consultation and financial implications

6. We have consulted the sector via the Association of DSFBs, and they are content with this proposal. No business and regulatory impact assessment has been prepared for this Order because no additional impact on DSFBs (or any other bodies) is foreseen.

Environmental Quality Division
August 2015