

**2017 No. 389**

**ENVIRONMENTAL PROTECTION**

**WATER**

**The Water Environment (Miscellaneous) (Scotland) Regulations  
2017**

*Made* - - - - 7th November 2017

*Laid before the Scottish Parliament* 9th November 2017

*Coming into force* - - 1st January 2018

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20 and 36(2) and schedule 2 of the Water Environment and Water Services (Scotland) Act 2003(a) (“the Act”) and section 2(2) of the European Communities Act 1972(b) and of all other powers enabling them to do so.

In accordance with section 21(1) of the Act, they have consulted the persons required.

In accordance with section 21(2) of the Act, they have published a draft of the proposed general binding rules, publicised the opportunity to make representations, and made copies of the proposed rules available for public inspection.

In accordance with section 21(4) of the Act, they have had regard to the representations on the proposed rules received by them.

**PART I**

**GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Water Environment (Miscellaneous) (Scotland) Regulations 2017 and come into force on 1st January 2018.

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(a) 2003 asp 3. Section 20 was amended by regulation 3 of S.S.I. 2005/348.

(b) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), schedule, Part 1. The functions conferred on a Minister of the Crown under section 2(2) of the European Communities Act 1972 are, so far as they are exercisable within devolved competence, exercisable by the Scottish Ministers by virtue of section 53 of the 1998 Act. Section 2(2) is cited so far as is necessary to enable the making of the amendments to S.S.I. 2013/323 in regulation 8.

## Amendment of the Water Environment (Controlled Activities) (Scotland) Regulations 2011

2. The Water Environment (Controlled Activities) (Scotland) Regulations 2011(a) are amended in accordance with regulations 3 to 7.

### PART II

#### AMENDMENT TO GENERAL BINDING RULES

##### Amendment of schedule 3

3. In schedule 3 (general binding rules)—

(a) in Part 1, for the entry relating to activity 3, substitute—

<p>“3. The construction, extension or operation of any well, borehole or other works by which water may be abstracted, if such works are—</p> <p>(a) not intended for the purpose of abstraction;</p> <p>(b) intended for the abstraction of less than 10 m<sup>3</sup> of water in any one day;</p> <p>(c) intended for the abstraction of less than 150 m<sup>3</sup> of water in any period of one year, and the purpose of the abstraction is either—</p> <p>(i) to test for the yield of the borehole or well or the hydraulic properties of the aquifer; or</p> <p>(ii) to sample the water quality;</p> <p>(d) intended to dewater one or more excavations at—</p> <p>(i) a construction site for roads, buildings, pipelines, or other built developments; or</p> <p>(ii) a site at which the maintenance of such developments is being undertaken; or</p> <p>(e) intended for the purpose of undertaking activity 17.”;</p>	<p>(a) The construction and operation of—</p> <p>(i) subject to paragraphs (b) and (c), any well or borehole; and</p> <p>(ii) any other works,</p> <p>must be such as to avoid the entry of pollutants or water of a different chemical composition into the water environment;</p> <p>(b) drilling fluids may be introduced into a well or borehole if necessary to facilitate the drilling of the well or borehole, provided this does not result in pollution of the water environment;</p> <p>(c) potable water may be introduced into a well or borehole to test the hydraulic properties of the aquifer;</p> <p>(d) when any well or borehole is no longer required, it must be back-filled or sealed to the extent necessary to avoid loss of groundwater from any aquifer and to avoid the entry of pollutants or water of a different chemical composition into any body of groundwater; and</p> <p>(e) the depth of any well or borehole beneath the surface of the ground must not exceed 200 metres.</p>
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(a) S.S.I. 2011/209, as amended by S.S.I. 2012/360, S.S.I. 2013/176, S.S.I. 2013/323, S.S.I. 2013/325, S.S.I. 2014/373, S.S.I. 2015/211, S.S.I. 2016/19 and S.S.I. 2017/114.

(b) in Part 1, for the entries relating to activities 9 to 12, substitute—

<p>“9. Operating any vehicle, plant or other equipment in or near any surface water or wetland for the purpose of undertaking any other activity specified in this schedule or for the purpose of maintaining an existing man-made structure in or near any surface water or wetland.</p>	<p>(a) Any vehicles, plant or other equipment must only operate in water where it is impracticable for them to operate on dry land;</p> <p>(b) the refuelling of vehicles, plant or other equipment must be undertaken at least 10 metres from any—</p> <p>(i) river, burn, canal, ditch or loch, as measured from the top of the bank;</p> <p>(ii) wetland; or</p> <p>(iii) transitional water or coastal water, as measured from the shoreline;</p> <p>(c) any static plant or equipment used within 10 metres of any—</p> <p>(i) river, burn, canal, ditch or loch, as measured from the top of the bank;</p> <p>(ii) wetland; or</p> <p>(iii) transitional water or coastal water, as measured from the shoreline,</p> <p>must be positioned on a suitably sized and maintained impervious drip tray with a capacity equal to 110% of the capacity of the fuel tank which is supplying the tank or equipment;</p> <p>(d) any vehicle, plant or other equipment used in or near surface water or wetland must not leak any oil;</p> <p>(e) the washing of vehicles, plant or other equipment must be undertaken at least 10 metres away from any—</p> <p>(i) river, burn, ditch or loch, as measured from the top of the bank;</p> <p>(ii) wetland; or</p> <p>(iii) transitional water or coastal water, as measured from the shoreline,</p> <p>and water from such washing must not enter any surface water or wetland;</p>
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	<p>(f) vehicles, plant or other equipment must not be operated in a river, burn or ditch during periods in which fish are likely to be spawning in the river, burn or ditch nor during the period between any such spawning and the subsequent emergence of the juvenile fish;</p> <p>(g) vehicles, plant or equipment must not be operated in any part of a river, burn or ditch if there is a reasonable likelihood that, within 50 metres of such an operation, there are freshwater pearl mussels;</p> <p>(h) during forestry operations the operator must not operate machinery in any surface water or wetland; and</p> <p>(i) following the operation of the vehicle, plant or other machinery, any damage caused by the operation to the bed and banks of the surface water must be repaired, including re-establishing vegetation on any areas of bare earth on the banks resulting from the operation, either by covering the area with grass turfs or lining them with a biodegradable geotextile and seeding.</p>
<p><b>10.</b> (a) Discharge of water run-off from a surface water drainage system to the water environment from:</p> <p>(i) up to 60 hectares of land used for residential premises;</p> <p>(ii) land used for non-residential premises or yards, except where the buildings or yards are in an industrial estate;</p> <p>(iii) land used as a motorised vehicle parking area with up to 1,000 parking spaces;</p> <p>(iv) metalled roads other than motorways and A roads;</p> <p>(v) waterbound roads; or</p> <p>(b) discharge of water run-off from a construction site to the water environment where the site, including any constructed access tracks, does not:</p> <p>(i) exceed 4 hectares;</p>	<p>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment;</p> <p>(b) the discharge must not—</p> <p>(i) contain any trade effluent or sewage; or</p> <p>(ii) result in visible discolouration, iridescence, foaming or growth of sewage fungus in the water environment;</p> <p>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water;</p> <p>(d) the discharge must not contain any water run-off from any built developments, the construction of which is completed on or after 1st April 2007, or from construction sites operated on or after 1st April 2007, unless—</p> <p>(i) during construction those</p>

<ul style="list-style-type: none"> <li>(ii) contain a road or track length in excess of 5km; or</li> <li>(iii) include any area of more than 1 hectare or any length of more than 500 metres on ground with a slope in excess of 25°.</li> </ul>	<ul style="list-style-type: none"> <li>developments are drained by a SUD system or equivalent systems equipped to avoid pollution of the water environment;</li> <li>(ii) following construction those developments are drained by a SUD system equipped to avoid pollution of the water environment;</li> <li>(iii) the run-off is from a development that is a single dwelling and its curtilage; or</li> <li>(iv) the discharge is to coastal water;</li> <li>(e) the discharge must not contain any water run-off from: <ul style="list-style-type: none"> <li>(i) any fuel delivery areas constructed on or after 1st April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1st April 2007;</li> <li>(ii) vehicle loading or unloading bays constructed on or after 1st April 2007 where potentially polluting matter is handled; or</li> <li>(iii) oil and chemical storage, handling and delivery areas constructed on or after 1st April 2007;</li> </ul> </li> <li>(f) in relation only to activity 10(b), all parts of a construction site on which— <ul style="list-style-type: none"> <li>(i) operations first commenced on or after 1st June 2018; and</li> <li>(ii) any works are to be undertaken, or any vehicles are to be operated or parked, must be drained by a surface water drainage system with capacity to accommodate the maximum volume of run-off that would reasonably be expected to occur from that land during the period of construction;</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>(g) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair; and</li> <li>(h) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.</li> </ul>
<b>11.</b> Discharge into a surface water drainage system.	<ul style="list-style-type: none"> <li>(a) Oil, paint, paint thinners, pesticides, detergents, disinfectants or other pollutants must not be disposed of into a surface water drainage system or onto any surface that drains into a surface water drainage system;</li> <li>(b) any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment must not be disposed of into a surface water drainage system or onto a surface that drains into a surface water drainage system;</li> <li>(c) sewage or trade effluent must not be discharged into any surface water drainage system; and</li> <li>(d) on construction sites, any area of exposed soil from which the discharge of water run-off to the water environment is authorised under activity 10, and the period of time during which such soil is exposed, must be the minimum required to facilitate the construction works being undertaken at that site.</li> </ul>
<b>12.</b> The removal of sediment or any other matter that may have been deposited on the bed of a river, burn or ditch in the area of impounded water upstream of a weir the operation of which is authorised under these Regulations and the return of any sediment that comprises largely or wholly gravel or other coarse sediment to the river, burn or ditch from which it was removed.	<ul style="list-style-type: none"> <li>(a) Only sediment or other matter within 10 metres upstream of the weir may be removed;</li> <li>(b) the sediment or other matter removed must only include sediment or other matter that could reasonably be expected to have been deposited on the bed of the river, burn or ditch within a period of 3 years preceding the date of the removal;</li> </ul>

	<p>(c) unless it is not reasonably practicable to do so in compliance with paragraph (d), any gravel and coarse sediment that has been removed must be returned to the river, ditch or burn from which it was taken;</p> <p>(d) the return of sediment must:</p> <ul style="list-style-type: none"> <li>(i) be achieved by placing it at the edge of the river, burn or ditch downstream of the weir in such a way and at such a location that high river flows are able to cause it to be redistributed by the river, burn or ditch;</li> <li>(ii) not result in an accumulation of sediment likely to impede the free passage of migratory fish;</li> <li>(iii) not be placed in a wetted part of the river or burn during periods in which fish are likely to be spawning in that part of the river, burn or during the period between any such spawning and the subsequent emergence of the juvenile fish;</li> <li>(iv) be placed in such a way and such a location that the risk of the placement resulting in increased erosion of the bed or banks of the river burn, or ditch is minimised;</li> <li>(v) not contain man-made matter; and</li> <li>(vi) not result in pollution of the water environment;</li> </ul> <p>(e) removed sediment must not be deposited in the channel or on the banks of a river, burn or ditch except in accordance with paragraph (c);</p> <p>(f) the removal of sediment must not result in pollution of the water environment;</p> <p>(g) vegetation on any bank of the river, burn or ditch must be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification; and</p> <p>(h) any vegetation removed must not be</p>
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disposed of into the channel.”;

- (c) in Part 1, in the entry relating to activity 13, in column 2, renumber paragraph (h)(iv) as (i);
- (d) in Part 1, for the entry relating to activity 15, in column 2—
  - (i) in paragraph (a), delete the words “Subject to paragraph (b)”;
  - (ii) for paragraph (b) substitute—
    - “(b) groundwater must not be abstracted from any excavations, wells or boreholes that are within 250 metres of any surface water unless the abstracted water is discharged into the surface water at the nearest part of the surface water to the point of abstraction and in accordance with paragraph (f);”;
- (e) in Part 1, for the entries relating to activities 17 to 20 substitute—

<p><b>“17. The abstraction and subsequent return of groundwater for the purpose of extracting geothermal energy from the abstracted water or for the purpose of transferring heat to geological formations as part of a cooling system.</b></p>	<ul style="list-style-type: none"> <li>(a) The abstracted water must be returned to the same part of the geological formation or the mine workings from which it was abstracted;</li> <li>(b) any volume of water may be abstracted but the volume of water abstracted and not returned must not exceed 10 m<sup>3</sup> per day;</li> <li>(c) no substances may be added to, or otherwise allowed to enter, the abstracted water prior to its return to the geological formation or the mine workings from which it was abstracted;</li> <li>(d) there must be a means of demonstrating that the net abstraction is not more than 10 m<sup>3</sup> in any one day;</li> <li>(e) water leakage must be kept to a minimum by ensuring that all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a good state of repair; and</li> <li>(f) the activity must not be located within 250 metres of any abstraction of water intended for human consumption and must not prevent any abstraction of water which is authorised under these Regulations.</li> </ul>
<p><b>18. (a) The storage of fertiliser unless the storage is regulated by—</b></p> <ul style="list-style-type: none"> <li>(i) a waste management licence in terms of section 35 (waste management licence: general) of the Environmental Protection Act 1990(a);</li> </ul>	<ul style="list-style-type: none"> <li>(a) No fertiliser may be stored, including temporarily in a mobile tank or bowser, on land that:           <ul style="list-style-type: none"> <li>(i) is within 10 metres of any—               <ul style="list-style-type: none"> <li>(1) river, burn, ditch or loch, as measured from the top of the bank;</li> <li>(2) wetland; or</li> </ul> </li> </ul> </li> </ul>

(a) 1990 c.43; section 35 has been relevantly amended by section 120 and paragraph 66 of schedule 22 of the Environment Act 1995 (c.25), S.S.I. 2000/323 and S.S.I. 2011/226. For a definition of ‘waste’ see section 75 of the Environmental Protection Act 1990 (c.43) as amended by section 120 and paragraph 88 of schedule 22 of the Environment Act 1995 and S.S.I. 2011/226.



<p>(ii) the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003(a);</p>	<p>(3) transitional water or coastal water, as measured from the shoreline;</p> <p>(ii) is within 50 metres of any—</p> <p>(1) spring that supplies water for human consumption; or</p> <p>(2) well or borehole that is not capped in such a way so as to prevent the ingress of water;</p>
<p>(b) the application of any fertiliser.</p>	<p>(iii) is waterlogged;</p> <p>(iv) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, unless the fertiliser is stored in an impermeable container; or</p> <p>(v) is sloping (unless the fertiliser is inorganic or it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes);</p> <p>unless the fertiliser is stored in a building which is constructed and maintained to such a standard as is necessary to prevent run-off or seepage of fertiliser from the building;</p> <p>(b) the base and walls of any container, and the walls and joints of any pipes, of any storage system used to store liquid digestate must:</p> <p>(i) be impermeable and protected against corrosion; and</p> <p>(ii) capable of withstanding the loads on them when the storage system is full;</p> <p>(c) any storage system used to store liquid digestate or liquid sewage sludge must be maintained in such a condition that no digestate or sewage sludge escapes from the system;</p> <p>(d) inorganic liquid fertiliser must only be stored in a rigid, impermeable tank that:</p> <p>(i) has a lockable, double valve on the outlet that is closed and locked when the tank is unattended;</p> <p>(ii) is located above ground; and</p>

(a) S.S.I. 2003/531, as amended by S.S.I. 2006/133, S.S.I. 2008/54 and S.S.I. 2013/177.

	(iii) is protected from vehicle collision;
(e)	inorganic liquid fertiliser must not be stored in a field unless contained in a tank, bowser or spreading equipment: <ul style="list-style-type: none"> <li>(i) whose hatches and lids are securely closed and whose outlets are securely closed and locked, except when the fertiliser is being transferred or applied;</li> <li>(ii) that is held on a support in such a way that it cannot become dislodged; and</li> <li>(iii) that is on a support which is stable under the fully loaded weight of the tank or bowser and cannot itself become dislodged;</li> </ul>
(f)	when any inorganic liquid fertiliser, liquid digestate or liquid sewage sludge is being transferred to a tank, bowser or spreading equipment, all reasonable steps must be taken to prevent any spillage or leakage entering the water environment;
(g)	no organic fertiliser may be applied to land that— <ul style="list-style-type: none"> <li>(i) is within 10 metres of any— <ul style="list-style-type: none"> <li>(1) river, burn, ditch or loch, as measured from the top of the bank;</li> <li>(2) wetland;</li> <li>(3) transitional water or coastal water, as measured from the shoreline; or</li> <li>(4) opening into a surface water drainage system;</li> </ul> </li> <li>(ii) is within 50 metres of any— <ul style="list-style-type: none"> <li>(1) spring that supplies water for human consumption; or</li> <li>(2) well or borehole that is not capped in such a way so as to prevent the ingress of water;</li> </ul> </li> <li>(iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations;</li> </ul>

	<ul style="list-style-type: none"> <li>(iv) is frozen (except where the fertiliser is farm yard manure), waterlogged, or covered with snow; or</li> <li>(v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes;</li> </ul>
	(h) no inorganic fertiliser may be applied to land that—
	<ul style="list-style-type: none"> <li>(i) is within 2 metres of any— <ul style="list-style-type: none"> <li>(1) river, burn, ditch or loch, as measured from the bank top;</li> <li>(2) wetland;</li> <li>(3) transitional water or coastal water, as measured from the shoreline; or</li> <li>(4) opening into a surface water drainage system;</li> </ul> </li> <li>(ii) is within 5 metres of any— <ul style="list-style-type: none"> <li>(1) spring that supplies water for human consumption; or</li> <li>(2) well or borehole that is not capped in such a way so as to prevent the ingress of water;</li> </ul> </li> <li>(iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations;</li> <li>(iv) is frozen, waterlogged, or covered with snow; or</li> <li>(v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes;</li> </ul>
	(i) fertilisers must not be applied to land:
	<ul style="list-style-type: none"> <li>(i) in such amounts that the crop requirement for nitrogen is exceeded;</li> <li>(ii) in excess of the amount required to maintain the soil phosphorus status at acceptable agronomic levels; or</li> </ul>

	<ul style="list-style-type: none"> <li>(iii) during heavy rainfall or where heavy rainfall is forecast within 24 hours;</li> <li>(j) dewatered digestate or dewatered sewage sludge must be stored: <ul style="list-style-type: none"> <li>(i) in such a way that it is securely contained so that any escape or run-off is prevented; or</li> <li>(ii) in a heap which is protected from the ingress of water;</li> </ul> </li> <li>(k) if dewatered digestate or dewatered sewage sludge is stored in a heap in field, it must be applied to land within 6 months of the commencement of the storage;</li> <li>(l) any equipment used to apply fertiliser must be maintained in a good state of repair; and</li> <li>(m) fertiliser must be applied on land in such a way and at such times that the risk of pollution of the water environment is minimised.</li> </ul>
<b>19. Keeping of livestock.</b>	<ul style="list-style-type: none"> <li>(a) Significant erosion or poaching of any land that is within 5 metres of any— <ul style="list-style-type: none"> <li>(i) river, burn, ditch, or loch as measured from the top of the bank;</li> <li>(ii) wetland;</li> <li>(iii) spring that supplies water for human consumption;</li> <li>(iv) well or borehole that is not capped in such a way so as to prevent ingress of water; or</li> <li>(v) transitional water or coastal water, as measured from the shoreline,</li> </ul> <p>must be prevented;</p> </li> <li>(b) livestock must be prevented from entering any land that is within 5 metres of any spring that supplies water for human consumption or within 5 metres of any well or borehole that is not capped in such a way so as to prevent ingress of water;</li> <li>(c) livestock feeders must not be positioned within 10 metres of any— <ul style="list-style-type: none"> <li>(i) river, burn, ditch, or loch, as measured from the top of the bank;</li> <li>(ii) wetland;</li> <li>(iii) spring that supplies water for human consumption;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>(iv) well or borehole that is not capped in such a way so as to prevent ingress of water; or</li> <li>(v) transitional water or coastal water, as measured from the shoreline; and</li> <li>(d) run-off from land on which livestock congregate to access watering points or feeders must be intercepted (by means of a sufficient buffer zone or otherwise) such that any faeces, urine or soil in the run-off are prevented from entering any spring, well, borehole, surface water or wetland.</li> </ul>
<b>20. Cultivation of land.</b>	<ul style="list-style-type: none"> <li>(a) No land may be cultivated for crops that is— <ul style="list-style-type: none"> <li>(i) within 2 metres of any— <ul style="list-style-type: none"> <li>(1) river, burn, ditch or loch, as measured from the top of the bank;</li> <li>(2) wetland; or</li> <li>(3) transitional water or coastal water, as measured from the shoreline;</li> </ul> </li> <li>(ii) within 5 metres of any— <ul style="list-style-type: none"> <li>(1) spring that supplies water for human consumption; or</li> <li>(2) well or borehole that is not capped in such a way so as to prevent the ingress of water; or</li> </ul> </li> <li>(iii) waterlogged;</li> </ul> </li> <li>(b) moling of land must not be carried out on slopes that: <ul style="list-style-type: none"> <li>(i) have an overall gradient in excess of 4.5°; and</li> <li>(ii) slope towards any surface water or wetland; and</li> </ul> </li> <li>(c) land must be cultivated in a way that minimises the risk of pollution to any surface water or wetland.”;</li> </ul>

(f) in Part 1, for the entries relating to activities 23 and 24, substitute—

“ <b>23.</b> The storage and application of pesticides that are plant protection products.	<ul style="list-style-type: none"> <li>(a) The preparation of pesticide for application and the filling, cleaning or maintenance of pesticide sprayers or other devices used to apply pesticides:</li> </ul>
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|  | <ul style="list-style-type: none"> <li>(i) must be undertaken in a manner which prevents any spillages, runoff or washings from entering any surface water or wetland; and</li> <li>(ii) must not be undertaken within 10 metres of any— <ul style="list-style-type: none"> <li>(1) river, burn, ditch or loch, as measured from the top of the bank;</li> <li>(2) wetland;</li> <li>(3) transitional water or coastal water, as measured from the shoreline; or</li> <li>(4) opening into a surface water drainage system;</li> </ul> </li> </ul> |
|  | (b) pesticide sprayers and other devices used to apply pesticides must be maintained in a good state of repair, such that there is no leakage of pesticide from any part of the equipment and the sprayer is calibrated to accurately deliver the required application rate;                                                                                                                                                                                                                                                                       |
|  | (c) pesticide sprayers and other devices used to apply pesticide must not be filled with water taken from any river, burn, ditch, wetland or loch unless: <ul style="list-style-type: none"> <li>(i) a device preventing back siphoning is fitted to the system; or</li> <li>(ii) the water is first placed in an intermediate container;</li> </ul>                                                                                                                                                                                               |
|  | (d) pesticide-treated plants must not be stored or soaked in any river, burn, ditch, wetland or loch;                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|  | (e) pesticide must be applied in accordance with the terms and instructions of the relevant product approval;                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|  | (f) unless in accordance with paragraph (g), pesticide must not be applied in, onto or over ground or allowed to drift onto or over ground—                                                                                                                                                                                                                                                                                                                                                                                                        |

- (i) that is frozen, snow covered or waterlogged, except where the application in, onto or over waterlogged ground is necessary for the purpose of controlling fungal disease and all precautions are taken to minimise the risk of pesticide entering any river, burn, ditch, wetland, loch, transitional water or coastal water;
- (ii) that is within 1 metre of any river, burn, ditch, wetland or loch, as measured from the top of the bank, or within 1 metre of any transitional water or coastal water as measured from the shoreline;
- (iii) that is sloping, unless it is ensured that any run-off of pesticide is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any river, burn, ditch, wetland, loch, transitional water or coastal water towards which the land slopes;
- (iv) that is within 50 metres of any spring that supplies water for human consumption;
- (v) that is within 50 metres of any well or borehole unless the well or borehole is capped in such a way as to prevent the ingress of the pesticide;
- (vi) that has an impermeable surface which drains directly into a surface water drainage system, unless measures are taken to minimise the risk of pesticides entering the drainage system; or
- (vii) along roads, railway lines, permeable surfaces or other infrastructure, unless measures are taken to minimise the risk of pollution of any river, burn, ditch, wetland, loch, transitional water, coastal water or surface water drainage system; and
- (g) pesticide may be applied within 1 metre of any river, burn, ditch or loch, as measured from the top of the bank; within 1 metre of any wetland; or within 1 metre of any transitional water or coastal water as measured from the shoreline where—

	<ul style="list-style-type: none"> <li>(i) they are specifically approved for aquatic use under Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC<sup>(a)</sup> and are applied in accordance with the terms of that approval;</li> <li>(ii) the application is for the sole purpose of controlling an invasive species of plant outwith its native range;</li> <li>(iii) no pesticide enters the river, burn, ditch, wetland, loch, transitional water or coastal water;</li> <li>(iv) the ground over or onto which pesticide is applied is not frozen snow covered or waterlogged;</li> <li>(v) the ground over or onto which plant protection product is applied is not an impermeable surface which drains directly into a surface water drainage system unless measures are taken to minimise the risk of pesticide entering the drainage system;</li> <li>(vi) the ground over or onto which pesticide is applied is not within 50 metres of any spring that supplies water for human consumption;</li> <li>(vii) the ground over or onto which pesticide is applied is not within 50 metres of any well or borehole unless the well or borehole is capped in such a way as to prevent the ingress of the pesticide;</li> <li>(viii) the application, including the method used, is designed to minimise damage to other, non-target, vegetation;</li> <li>(ix) all necessary steps are taken to ensure that the application does not result in increased erosion of the banks of the river, burn, or loch or</li> </ul>
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<sup>(a)</sup> OJ L 309, 24.11.2009, p1, amended by Council Regulation (EU) No 518/2013 (OJ L 158, 10.6.2013, p72), Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ L 189, 27.6.2014, p1) and Commission Regulation (EU) 2017/1432 (OJ L 205, 8.8.2017, p59).



	<p>the shoreline of the transitional water or coastal water; and</p> <p>(x) there is no abstraction of water intended for human consumption from the—</p> <p>(1) river, burn or ditch, within 250 metres downstream of the application; or</p> <p>(2) the loch or wetland within 250 metres of the application;</p> <p>(h) application of pesticide must be carried out in such a way, and at such times, that the risk of pollution of any river, burn, ditch, wetland, loch, transitional water or coastal water is minimised and, in particular, pesticide must not be applied—</p> <p>(i) during rainfall; or</p> <p>(ii) during conditions when there is a risk that spray will drift or be blown outwith the target area;</p> <p>(i) pesticide, including any used packaging that has been stored in contact with pesticide, must not be stored—</p> <p>(i) within 10 metres of any—</p> <p>(1) river, burn, ditch or loch, as measured from the top of the bank;</p> <p>(2) wetland; or</p> <p>(3) transitional water or coastal water, as measured from the shoreline;</p> <p>(ii) within 50 metres of any spring that supplies water for human consumption; or</p> <p>(iii) within 50 metres of any well or borehole (unless the well or borehole is capped in such a way as to prevent the ingress of any pesticide),</p> <p>unless the pesticide or used packaging is stored in such a way that any leakage or spillage and any exposed pesticide on used packaging cannot reach any river, burn, ditch, wetland, loch, transitional water, coastal water or any opening into a surface water drainage system, including by being transported in rainwater runoff;</p>
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	(j) pesticide, including any used packaging that has been stored in contact with pesticide, must not be stored on an impermeable surface draining to a surface water drainage system.
<p><b>24.</b> Operating sheep dipping facilities; and operating sheep handling facilities where:</p> <p>(a) sheep are held immediately after dipping;</p> <p>(b) pour-on parasite treatments are applied; or</p> <p>(c) sheep are held immediately after the application of pour-on treatments.</p>	<p>(a) Sheep must be prevented from having access to any surface water or wetland while there is a risk of transfer of sheep dip fluid or any pour-on parasite treatment from their fleece to such places;</p> <p>(b) no mobile sheep dipping facility, or part of any sheep dipping facility constructed on or after 1st April 2008 or sheep handling facility used for pour-on treatments constructed on or after 1st January 2018 may be located within 50 metres of any—</p> <p>(i) river, burn, ditch; or loch as measured from the top of the bank;</p> <p>(ii) wetland;</p> <p>(iii) transitional water or coastal water, as measured from the shoreline; or</p> <p>(iv) well, spring or borehole;</p> <p>(c) sheep dipping facilities must not discharge underground and must not leak or overspill;</p> <p>(d) sheep dipping facilities must not be filled with water taken from the water environment unless—</p> <p>(i) a device preventing back siphoning is fitted to the system; or</p> <p>(ii) the water is first placed in an intermediate container; and</p> <p>(e) without prejudice to the continued requirement to obtain specific authorisation for the disposal of sheep dip under these Regulations, sheep dip facilities must be emptied within 24 hours following completion of dipping.”;</p>

(g) in Part 1, after the entry relating to activity 24 insert—

<p><b>“25.</b> (a) The placement of trees or parts of trees in any river, burn or ditch to protect eroding banks;</p> <p>(b)(i) reducing the angle of an eroding bank; or</p> <p>(ii) placing stones for the purpose of protecting eroding banks,</p>	<p>(a) Other than in accordance with paragraph (e), the trees or parts of trees must be placed only in or along eroding banks;</p> <p>(b) the placement must result in an arrangement of live or dead tree stems, branches or roots which, as the water flows through the arrangement, flex or bend and impede its flow with the effect of cushioning the bank from the force of the river, burn or ditch;</p>
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where the trees or parts of trees being placed in accordance with paragraph (a) consist of willow spiling or willow stakes.

- (c) the placed trees or parts of trees must be tied, keyed or staked into the bank or bed of the river, burn or ditch so as to secure them in place;
- (d) the placed trees or parts of trees must:
  - (i) follow the line of the toe of the eroded bank at the time of the placement; and
  - (ii) be graded into the existing lines of the banks at either end of the eroded bank;
- (e) the placement may extend beyond the upstream and downstream ends of an eroding bank only to the extent necessary to:
  - (i) prevent the river from going around the placements and eroding the bank behind them; or
  - (ii) ensure the line of the placements is graded smoothly into the existing lines of the banks at either end of the eroded bank;
- (f) in protecting eroding banks:
  - (i) the angle of an eroding bank may only be reduced for the purpose of enabling the establishment and growth of the willow; and
  - (ii) stones may be placed at the toe of the bank for the purpose of preventing the bank being undercut before the willow has become established, provided that any stones used are no larger than the largest stones that have been deposited on the channel bed within 500 metres of the eroding bank;
- (g) all reasonable steps must be taken whilst placing the trees or parts of trees to:—
  - (i) prevent any exposed soil or other sediments from entering the river, burn or ditch; and
  - (ii) where soil or other sediments do enter the river, burn or ditch, prevent these from being transported beyond the part of the bank being protected;

	<p>(h) once the trees or parts of trees have been placed, any areas of bare earth on the banks resulting from the works must be re-vegetated to minimise the risk of soil erosion, either by covering with grass turfs or lining with a biodegradable geotextile and seeding; and</p> <p>(i) where the trees or parts of trees need to be placed on the wetted part of the bed of the river, burn or ditch or their placement would otherwise be likely to disturb the wetted part of the bed of the river, burn or ditch they must not be placed if there is a reasonable likelihood that there are freshwater pearl mussels in the part of the river, burn or ditch that would be affected.</p>
<b>26.</b> The storage of oil in a portable container with a capacity of less than 200 litres.	The container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use.
<p><b>27</b> The storage of oil on premises used for residential purposes (except where the premises is a vehicle or vessel), where the oil is—</p> <p>(a) stored in a container with a capacity of 2,500 litres or less; and</p> <p>(b) where the oil is used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities;</p>	<p>(a) The container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use; and</p> <p>(b) any container which is installed or altered must comply with the requirements of any applicable regulations under the Building (Scotland) Act 2003(a).</p>
<p><b>28.</b> The storage of oil on premises other than:</p> <p>(a) where the premises is a vehicle or vessel;</p> <p>(b) where the storage is:</p> <p style="padding-left: 40px;">(i) an activity specified at activities 26 or 27 of Column 1 of this schedule; or</p> <p style="padding-left: 40px;">(ii) otherwise authorised under these Regulations;</p> <p>(c) in a container which is wholly underground (unless situated wholly within a building underground);</p>	<p>(a) The oil must be stored in a container which is of sufficient strength and structural integrity, and has been installed so as to ensure that it is unlikely to burst or leak in its ordinary use;</p> <p>(b) the container must be situated within a secondary containment system which:</p> <p style="padding-left: 40px;">(i) subject to paragraph (e), must have a capacity of not less than 110% of the container's storage capacity or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity, or 25% of the aggregate storage capacity, whichever is greater;</p> <p style="padding-left: 40px;">(ii) it must be positioned, or other steps taken, so as to minimise any risk of damage to it by impact so far as is</p>

(a) 2003 asp 8.

	reasonably practicable;
	(iii) its base and walls must be impermeable to water and oil;
	(iv) its base and walls must not be penetrated by any valve, pipe or other opening which is used for draining the system; and
	(v) if a fill pipe or draw off pipe penetrates its base or any of its walls, all points at which the pipe meets the base or wall must be adequately sealed to prevent oil escaping from the system;
(c)	any valve, filter, sight gauge, vent pipe or other equipment ancillary to the container (other than a fill pipe or draw off pipe or a pump) must be situated within the secondary containment system;
(d)	if the connection point to a fill pipe is not within the secondary containment system, a drip tray must be used to catch any oil spilled when the container is being filled with oil;
(e)	where any drum is used for the storage of the oil in conjunction with a drip tray as a secondary containment system, it is sufficient if the tray has a capacity of not less than 25% of:
	(i) the drum's storage capacity; or
	(ii) if there is more than one drum used at the same time with the tray, the aggregate storage capacity of the drums;
(f)	where a fixed tank is used for storing oil:
	(i) any sight gauge must be properly supported and fitted with a valve which closes automatically when not in use;
	(ii) any fill pipe, draw off pipe or overflow pipe must:
	1. be positioned or other steps taken, so as to minimise any risk of damage by impact so far as is reasonably practicable;
	2. if made of materials which are liable to corrosion, be adequately protected against corrosion; and

	3. not be permeable to hydrocarbon vapours;
(iii)	<p>if underground, any fill pipe, draw off pipe or overflow pipe must:</p> <ol style="list-style-type: none"> <li>1. have no mechanical joints, except at a place where such joints are accessible for inspection by removing a hatch or cover;</li> <li>2. be adequately protected from physical damage;</li> <li>3. have adequate facilities for detecting any leaks;</li> <li>4. if fitted with a leakage detection device which is continuously to monitor for leaks the detection device must be maintained in working order and tested at the appropriate intervals, and at least every 5 years, to ensure that it works properly; and</li> <li>5. if not fitted with a leakage detection device, must be tested for leaks before it is first used and further tests for leaks must be performed in the case of pipes which have mechanical joints, at least once every 5 years, and in other cases, at least once in every 10 years;</li> </ol>
(iv)	if above ground, any fill pipe, draw off pipe or overflow pipe must be properly supported;
(v)	the tank must be fitted with an automatic overfill prevention device (which may include an alarm sounding device) if the filling operation is controlled from a place where it is not reasonably practicable to observe the tank or any vent pipe;
(vi)	where a screw fitting or other fixed coupling is fitted, it must be maintained in good condition and used whenever the tank is being filled with oil;
(vii)	<p>where oil from the tank is delivered through a flexible pipe which is permanently attached to the container or delivery pump:</p> <ol style="list-style-type: none"> <li>1. the pipe must be fitted with a tap or valve at the delivery end which closes automatically when not in use;</li> </ol>

2. the tap or valve must not be capable of being fixed in the open position unless the pipe is fitted with an automatic shut off device;

3. the pipe must—

- (a) be enclosed in a secure cabinet (equipped with a drip tray) which is locked shut when not in use; or
- (b) the pipe must have a lockable valve where it leaves the container which is locked shut when not in use; or
- (c) the premises in which the pipe is situated must have appropriate security to prevent unauthorised access; and

4. the pipe must be kept within the secondary containment system or positioned above an area which drains to a suitable oil interceptor when not in use;

(viii) any pump must be:

- 1. fitted with a non-return valve in its feed line;
- 2. positioned or other steps must be taken, so as to minimise any risk of damage to it so far as is reasonably practicable; and
- 3. protected from unauthorised use; and

(ix) any permanent vent pipe, tap or valve through which oil can be discharged from the tank to the open must be:

- 1. Situated within the secondary containment system;
- 2. arranged so that any oil discharged from the tank other than to its intended destination is contained within the system; and
- 3. in the case of a tap or valve, fitted with a lock and locked shut when not in use; and

(g) where a mobile bowser is used for storing oil:

	<p>(i) any tap or valve permanently fixed to the bowser through which oil can be discharged to the open must be fitted with a lock and locked shut when not in use;</p> <p>(ii) where oil is delivered through a flexible pipe which is permanently attached to the mobile bowser:</p> <ol style="list-style-type: none"> <li>1. the pipe must be fitted with a manually operated pump or a valve at the delivery end which automatically closes when not in use;</li> <li>2. the pump or valve must be provided with a lock and locked shut when not in use; and</li> <li>3. the pipe must be fitted with a lockable valve at the end where it leaves the container and must be locked shut when not in use; and</li> </ol> <p>(iii) any sight gauge must be secured to the mobile bowser and be fitted with a valve or tap which must be locked in the shut position when not in use.”;</p>
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(h) in Part 2—

(i) after the definition of “channel width”, insert—

““container” means a single or double skinned fixed tank, a drum, a mobile bowser or (even if not connected to fixed pipe or fixed pipework) an intermediate bulk container;”;

(ii) after the definition of “cultivation”, insert—

““dewatered” in relation to digestate or sewage sludge means digestate or sewage sludge which—

- (a) has had liquid removed from it so that it consists of at least 20% dry material; and
- (b) is capable of being stacked in a free standing heap without slumping and without liquid draining from the heap;”;

(iii) after the definition of “ditch” insert—

““drum” means an oil drum or similar container used for storing oil;

“eroding bank” means any bank of a river, ditch or burn which is being eroded by the action of the river, ditch or burn;”;

(iv) after the definition of “fertiliser” insert—

““fixed tank” includes an intermediate bulk container which is connected to fixed pipework;”;



- (v) after the definition of “forestry operations” insert—  
 ““invasive species of plant outwith its native range” has the same meaning as in the Wildlife and Countryside Act 1981(a);”;
- (vi) for the definition of “oil” substitute—  
 ““oil” means any kind of oil other than solid products such as uncut bitumen and includes fuel oil, waste oil, biofuel mixtures, vegetable oil, plant oil, lubricant oil and hydraulic oil;”;
- (vii) after the definition of “pesticide” insert—  
 ““plant protection products” means products, in the form in which they are supplied to the user, consisting of, or containing, active substances, safeners or synergists, and intended for one of the following uses:
  - (i) protecting plants or plant products against all harmful organisms or preventing the action of such organisms, unless the main purpose of these products is considered to be for reasons of hygiene rather than for the protection of plants or plant products;
  - (ii) influencing the life processes of plants, such as substances influencing their growth, other than as a nutrient;
  - (iii) preserving plant products;
  - (iv) destroying undesired plants or parts of plants, except algae unless the products are applied on soil or water to protect plants; or
  - (v) checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants;”;
- (viii) after the definition of “rural land use activities” insert—  
 ““secondary containment system” means a drip tray, an area surrounded by a bund or catchpit, or any other system for preventing oil which is no longer in its container from escaping from the place where it is stored;”;
- (ix) after the definition of “trade effluent” insert—  
 ““trees or parts of trees” includes any root wads, brash, stakes made of live willow and willow spiling but does not include timber products or wood prepared for use in building or carpentry;”;
- (x) after the definition of “water for human consumption” insert—  
 ““water run-off” means any water from rainfall or any meltwater from ice or snow flowing over or horizontally through the surface of the ground and any matter picked up by that water as it does so;”;
- (xi) in the definition of “waterbound road”, after “ means a road”, insert “or track”;
- (xii) after the definition of “waterbound road”, omit “and”;
- (xiii) after the definition of “waterlogged” insert—  
 ““well” includes a permeable underground collection tank; and  
 “willow spiling” means live willow rods woven between live willow uprights driven into the bank or bed of a watercourse.”; and

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(a) 1981 c.69. “Native range” and “invasive” are defined in section 14P. Section 14P was inserted by section 16 of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6).

- (i) after Part 2, insert—

### “PART 3 MUTUAL RECOGNITION

1. SEPA must take any equipment (including, in particular, storage containers and drip trays) as meeting the standards required for that equipment set out in Part 1 of this schedule if there has been produced evidence to SEPA which satisfies it that the equipment meets the requirements of an EEA Standard which requires a level of performance equivalent to that required by Part 1 of this schedule.

2. In paragraph (1)—

(a) “EEA Standard” means—

- (i) a relevant standard or code of practice of a national standards body or equivalent body of any EEA State or Turkey<sup>(a)</sup>;
- (ii) any relevant international standard recognised for use as a standard by any EEA State or Turkey; or
- (iii) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any EEA State or Turkey; and

(b) “EEA State” means a member state, Norway, Iceland or Liechtenstein.”.

### PART III MISCELLANEOUS AMENDMENTS OF THE WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2011

#### **Amendment of regulation 8 (water use licence)**

4. For regulation 8(2), substitute—

“(2) SEPA must impose such conditions as it considers necessary or expedient for the purposes of—

- (a) protection of the water environment;
  - (b) enhancement of the water environment; or
  - (c) protection of the interests of other users of the water environment,
- and such conditions may include monitoring requirements.”.

#### **Amendment of regulation 15 (determination of application)**

5. In regulation 15(6)—

- (a) after “available to the public” insert “as soon as reasonably practicable”; and
- (b) for sub-paragraph (d) substitute—

“(d) if the application is granted, details of any conditions imposed under regulation 8(2).”.

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(a) Decision 1/95 of the EC – Turkey Association Council of 22 December 1995 (OJ L 35 13.2.96, p.1) on implementing the final phase of the Customs Union provides for the removal of measures having an element equivalent to quantitative restrictions between the European Union and Turkey.

#### **Amendment of part 2 of schedule 4 (relevant legislation)**

6. In part 2 of schedule 4, omit:—

- (a) “The Control of Pollution (Silage Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003”;
- (b) “The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008”; and
- (c) “The Management of Extractive Waste (Scotland) Regulations 2010”.

#### **Amendment of schedule 8 (register)**

7. In schedule 8, for paragraph 1(g) substitute—

“(g) in the case of an application in respect of a controlled activity that SEPA considered likely to have a significant adverse impact on the water environment, the matters outlined at regulation 15(6)(b) to (d);”.

## **PART IV**

### **OTHER AMENDMENTS AND REVOCATION**

#### **Amendment of the Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013**

8. After regulation 13(4) of the Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013(a), insert—

“(4A) In implementing any measure pursuant to paragraph (4), the Scottish Ministers, SEPA or a responsible authority, as the case may be, must—

- (a) ensure that the application of measures taken pursuant to paragraph (1) does not lead directly or indirectly to increased pollution of surface waters;
- (b) take all appropriate steps not to increase pollution of marine waters; and
- (c) periodically review and, where necessary, update the controls, requirements or measures in paragraph (1)(e) to (i).”.

#### **Revocation of the Water Environment (Oil Storage) (Scotland) Regulations 2006**

9. The Water Environment (Oil Storage) (Scotland) Regulations 2006(b) are revoked.

*R CUNNINGHAM*

A member of the Scottish Government

St Andrew's House,  
Edinburgh  
7th November 2017

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(a) S.S.I. 2013/323, as amended by S.S.I. 2015/211.

(b) S.S.I. 2006/133, as amended by S.S.I. 2012/360.

## 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 3 amends existing general binding rules 3, 9 to 13, 15, 17 to 20, 23 and 24 in Part 1 of schedule 3, and inserts new general binding rules 25 to 28 in that Part of that schedule.

The following changes are made to the existing general binding rules listed above-

- Activity 3 is revised to include the construction, extension and the on-going operation of a well, borehole or other works by which water may be abstracted; rule (a) is revised to specify that it applies to other works by which water may be abstracted, and that the entry of pollutants or water of a different chemical composition into the water environment must be avoided; rule (e) is new and provides that the depth of any well or borehole must not exceed 200 metres.
- Activity 9 is widened to apply to all activities within schedule 3, and to the maintenance of existing man-made structures in or near any surface water or wetland; rules (b), (c) and (e) are revised to improve clarity regarding how distances are to be measured; rule (h) is revised to apply to the operation of machinery in any surface water or wetland; rule (i) is new and provides for the repair of damage caused by an operation.
- Activity 10(a) sets out in greater detail the areas where drainage is authorised and activity 10(b) provides that the activity covers all water run-off from specified construction sites; a new rule (f) is inserted and provides that all parts of a site must be drained (not just areas where actual construction is taking place); existing rules (f) and (g) are renumbered (g) and (h); existing rule (h) is deleted.
- Activity 11 – rule (d) is revised to provide that in carrying out activity 10 the area of, and the period of time for which, soil is exposed must be minimised.
- Activity 12 relating to the removal and return of sediment, is revised to require the return of certain sediment in accordance with the rules – rule (a) is revised to provide that sediment may only be removed within 10 metres upstream of the weir; new rules (c) to (h) replace rules (c) to (g) and provide improved clarity.
- Activity 13 – rule (h)(iv) is renumbered (i) to improve clarity.
- Activity 15 – rule (b) is revised to provide that groundwater must not be extracted within 250m of any surface water unless the abstracted water is discharged at the nearest part of the surface water and in accordance with rule (f).
- Activity 17 is widened to include the abstraction and subsequent return of groundwater as part of a cooling system; rule (c) is revised to clarify that pollutants must not be added to the abstracted water; rule (f) is new and provides that the activity must not prevent any other authorised abstraction of water or be within 250m of abstraction of water intended for human consumption.
- Activity 18 is revised for clarity and to separate out the storage of fertiliser and the application of fertiliser; the rules are extensively amended and extend to the storage, transfer, and application of fertiliser.
- Activity 19 – rules (a) and (c) are revised to clarify how distances from surface waters are to be measured; rule (d) is new and provides that run-off must be intercepted (by a buffer zone or otherwise) to prevent faeces, urine or soil from entering any spring, well, borehole, surface water or wetland.
- Activity 20 – rule (a) is revised to clarify how distances from surface waters are to be measured; rule (b) is revised for clarity; rule (c) provides land must be cultivated in a way that minimises the risk of pollution to the water environment.
- Activity 23 is revised so that it applies only to the storage and application of pesticides that are plant protection products. Rules (a), (b) and (c) are revised to include all methods

of application; rule (g) is new and allows the application of herbicide to control non-native invasive species of plants on river banks. Existing rules (g) and (h) are renumbered (h) and (i) and existing rule (h)(iv) is renumbered (j).

- Activity 24 is revised to include the activity of operating sheep handling facilities in which sheep are held during or after treatment with pour-on chemicals; rules (a) and (b) are amended to reflect this.

General binding rule 25 is new and provides for the activity of the placement of trees or parts of trees in a river, burn or ditch to protect eroding banks. The rules to which this activity are to be subject are designed to ensure that the trees used are properly secured in place; the protection does not increase erosion of the bed or banks; the risk of soils and other sediments entering the river as a result of the works are minimised; and the risk to freshwater pearl mussel are taken into consideration.

General binding rules 26, 27 and 28 are new and provide detailed requirements for the storage of oil. They restate the provisions of regulations 4, 5 and 6 of the Water Environment (Oil Storage) (Scotland) Regulations 2006 (“the 2006 Regulations”). General binding rule 28 extends the scope of regulation 6 of the 2006 Regulations in that it does not reproduce the exception in regulation 6(1)(d) of the 2006 Regulations. General binding rule 28 therefore applies to premises used as an oil distribution depot for the onward distribution of oil to other places.

Regulation 9 revokes the 2006 Regulations.

Regulation 3(h) inserts new definitions in Part 2 of schedule 3 of the Principal Regulations.

Regulation 3(i) inserts a new Part 3 in schedule 3 of the Principal Regulations, which provides for the recognition of equipment as meeting the standards required by Part 1 of that schedule, where the equipment meets the standards of an EEA state or Turkey which require an equivalent level of performance.

Regulation 4 amends regulations 8(2) of the Principal Regulations to specify that licence conditions may include conditions for the purpose of protecting or enhancing the water environment or protecting the interests of other users of the water environment (if SEPA considers such conditions necessary or expedient).

Regulation 5 amends regulation 15(6) of the Principal Regulations, to provide that SEPA must make the listed information available to the public as soon as reasonably practicable, and amends sub-paragraph (d) to provide that details of any licence conditions must be made available. Regulation 7 amends paragraph 1(g) of schedule 8 of the Principal Regulations to cross-refer to Regulation 15(6)(b)-(d), for clarity.

Regulation 6 amends part 2 of schedule 4 of the Principal Regulations to remove legislation to which SEPA is to have regard before determining an application under the Principal Regulations, where that application is in respect of an activity that SEPA considers has or is likely to have a significant adverse impact on the water environment.

Regulation 8 relies on the power in section 2(2) of the European Communities Act 1972 to amend the Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013 to fully transpose Article 11(6) of Directive 2000/60 of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

These Regulations were notified in draft to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

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

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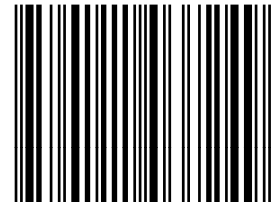


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