

2016 No. 43

FLOOD RISK MANAGEMENT

WATER SUPPLY

The Reservoirs (Scotland) Regulations 2016

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(6)(b), 2(3), 9(3)(a), 10(2), 14(1), (3) and (4), 23(8), 24(7), 28(7) and (8), 30(2),

35(1)(d), 38(3)(c), 51(1)(e) and (2), 56(3), 64(1), 105 and 114(2)(b) of the Reservoirs (Scotland) Act 2011(a) and all other powers enabling them to do so.

In accordance with section 14(2) of that Act, in making regulations under section 14(1), 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.

PART 1 INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Reservoirs (Scotland) Regulations 2016 and come into force on 1st April 2016.

(2) In these Regulations—

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

“the 1930 Act” means the Reservoirs (Safety Provisions) Act 1930(b);

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

“1975 Act panel” means any of the following (established under section 4 of the 1975 Act)—

- (a) all reservoirs panel;
- (b) non-impounding reservoirs panel;
- (c) service reservoirs panel; and
- (d) supervising engineers panel;

“2011 Act panel” means any of the following (established under section 27(a) of the Act)—

- (a) All Reservoirs (Scotland) Panel;
- (b) Non-Impounding Reservoirs (Scotland) Panel;
- (c) Service Reservoirs (Scotland) Panel; and
- (d) Supervising Engineers (Scotland) Panel;

“adjacent” includes below;

“annual subsistence fee” means a fee that SEPA may charge under regulation 15(1);

“charging scheme” means a scheme of charges prepared by SEPA under regulation 19;

“eligible person” means a person who—

- (a) would have been a member of a 1975 Act panel throughout the transitional period if the term of that membership (so far as it extended to Scotland) had not ceased by virtue of the repeal of the 1975 Act; and
- (b) wishes to be appointed to the corresponding 2011 Act panel;

“fetch”, in relation to a reservoir, means the effective length of the reservoir over which wind can build up waves;

“financial year” means a period of 12 months ending with 31st March;

“natural level” has the meaning it has in regulation 5;

“new manager fee” means a fee that SEPA may charge under regulation 17(1);

“registration fee” means a fee that SEPA may charge under regulation 13(1);

(a) 2011 asp 9.

(b) 1930 c.51.

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

“the relevant engineer” has the meaning it has in section 61(4) (appointment of referee) of the Act;

“surrounding land” has the meaning it has in regulation 5;

“top water level” has the meaning it has in regulation 3(3); and

“transitional period” means the period beginning with 1st April 2015 and ending with the date on which the statement referred to in paragraph 5 of Schedule 3 was signed and dated.

(3) In these Regulations, a reference to any panel in one of the following sub-paragraphs is to be construed as corresponding only to the other panel in that sub-paragraph—

- (a) all reservoirs panel and All Reservoirs (Scotland) Panel;
- (b) non-impounding reservoirs panel and Non-Impounding Reservoirs (Scotland) Panel;
- (c) service reservoirs panel and Service Reservoirs (Scotland) Panel; and
- (d) supervising engineers panel and Supervising Engineers (Scotland) Panel.

(4) In these Regulations—

- (a) where a form in a Schedule contains italicised words in round brackets or a Note, those words and brackets and any such Note may be omitted from the completed form;
- (b) where a form in a Schedule contains italicised words in square brackets, those words and brackets are, in the completed form, to be substituted with the information specified by those words; and
- (c) where anything is to be done “in writing” that includes an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000^(a), which is capable of being reproduced.

PART 2

CONTROLLED RESERVOIRS

Lochs and other areas to be considered artificial or partly artificial

2. For the purposes of section 1(2) of the Act, a loch or other area is to be considered artificial (or partly artificial) if it was created or enlarged as a result of human activity.

Calculation of volume of water that a structure or area is capable of holding

3.—(1) For the purposes of Part 1 of the Act, the volume of water that a structure, loch or other area referred to in paragraph (a) or (b) of section 1(2) of the Act (“the reservoir”) is capable of holding above the natural level of any part of the surrounding land is to be calculated by measuring the maximum volume of water (in cubic metres) which is capable of being held in the reservoir—

- (a) above the bed of the reservoir; and
- (b) between the toe of the reservoir and its top water level.

(2) Water not capable of flowing out of the reservoir over natural ground in the event of an uncontrolled release of water from the reservoir must not be included in the calculation.

(3) In paragraph (1)—

“bed”, in relation to a reservoir, includes any silt or other material that is incapable of flowing out of the reservoir over natural ground in the event of an uncontrolled release of water from the reservoir;

(a) 2000 c.7. Section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).

“toe” means the point on the downstream side of a dam, reservoir wall or embankment forming part of the reservoir where the base of the dam, reservoir wall or embankment, as the case may be, meets the lowest level of the natural ground (which remains after the construction, or any alteration, of the reservoir) of any part of the land adjacent to the reservoir, including the lowest bed level of any watercourse; and

“top water level” means—

- (a) in the case of a reservoir with a fixed overflow sill, the lowest crest level of that sill;
- (b) in the case of a reservoir the overflow from which is controlled wholly or partly by moveable gates, syphons or otherwise, the maximum level to which water may be held exclusive of any provision for flood storage; or
- (c) in the case of a reservoir designed for the purposes of holding back floodwater, the maximum level to which floodwater may be held during any flood event exclusive of any provision for overflow.

Calculation of volume of water that a structure or area is capable of releasing

4. For the purposes of subsection (3) of section 1 of the Act, the volume of water that is capable of being released from a combination of structures or areas referred to in that subsection (“the combination”) is to be calculated by measuring the maximum volume of water (in cubic metres) which is capable of flowing out of the combination over natural ground in the event of an uncontrolled release of water from the combination.

Meaning of “natural level” and “surrounding land”

5.—(1) For the purposes of Part 1 of the Act—

“natural level”—

- (a) in relation to any part of surrounding land which would remain covered with residual water after an uncontrolled release of water from the structure, loch or other area (to which the land relates), means the level of the surface of the residual water; and
- (b) in relation to any other part of that surrounding land, means the level of the natural ground remaining after the construction, or any alteration, of the reservoir; and

“surrounding land”, in relation to a structure, loch or other area referred to in paragraph (a) or (b) of section 1(2) of the Act (“the reservoir”), means the land adjacent to the reservoir (including any land which would be adjacent to water held by the reservoir when the reservoir is holding the maximum volume of water that it is capable of holding).

(2) In the definition of “natural level” in paragraph (1), a reference to “residual water” is a reference to water which would not be capable of flowing out of the structure, loch or other area in question over natural ground in the event of an uncontrolled release of water from the reservoir.

Structures or areas which are not controlled reservoirs

6.—(1) Ponds within extractive waste areas or waste facilities constitute the structures or areas referred to in paragraph (a) of section 2(2) of the Act.

(2) In paragraph (1), references to “ponds”, “extractive waste areas” and “waste facilities” are to be construed in accordance with the meaning given to the corresponding word or expression in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010(a).

7. Weirs which are not capable of holding water above the natural banks of any part of a watercourse constitute the structures or areas in paragraph (c) of section 2(2) of the Act.

(a) S.S.I. 2010/60; to which there are amendments which are not relevant for the purposes of these Regulations.

8.—(1) Road and railway embankments which are designed to drain water (including from any upstream areas) through the embankment, subject to paragraph (2), constitute the structures or areas referred to in paragraph (f) of section 2(2) of the Act.

(2) The road and railway embankments referred to in paragraph (1) do not constitute the structures or areas referred to in paragraph (f) of section 2(2) of the Act if drains which are designed to drain water (including from any upstream areas) through the embankment are—

- (a) artificially blocked for the purposes of using areas upstream to hold water; or
- (b) constructed so that water is held above natural ground level.

9. A structure or area created as a result of the construction of dams by beavers is not a controlled reservoir^(a) (and is not to be taken into account in relation to what is to be treated as a controlled reservoir for the purposes of section 1(3) or (4) of the Act).

PART 3

REGISTRATION

Controlled reservoirs register: additional information

10.—(1) From the date on which a controlled reservoir is required to be registered under the Act, the controlled reservoirs register must contain the business address of any construction engineer, inspecting engineer, other qualified civil engineer or supervising engineer appointed at any time in relation to the reservoir.

(2) From the date on which a 1975 Act reservoir is required to be registered under the Act, the controlled reservoirs register must contain the name and business address of any construction engineer, inspecting engineer or supervising engineer appointed immediately before that date (or, if any such engineer was not appointed at that point, the last such engineer appointed) under the 1975 Act in relation to the reservoir, and the period of any such appointment.

(3) In paragraph (2)—

“1975 Act reservoir” means—

- (a) a controlled reservoir 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) was, on or after that date, required to be registered in a register maintained under section 2(2) of the 1975 Act;

“construction engineer” has the meaning it had in section 6(1) of the 1975 Act;

“inspecting engineer” has the meaning it had in section 10(1) of the 1975 Act; and

“supervising engineer” has the meaning it had in section 12(1) of the 1975 Act.

Information that a reservoir manager must register with SEPA

11. The reservoir manager of a controlled reservoir must, under section 10(1) of the Act, register—

- (a) the information and documents (in relation to the reservoir) specified in Schedule 1;

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

- (b) if the reservoir is a reservoir to which section 11(2) of the Act applies—
 - (i) a copy of the most recent report of an inspection under section 10 of the 1975 Act in relation to that reservoir;
 - (ii) the name, business address, email address and telephone number(s) of the inspecting engineer who carried out the inspection to which the report relates; and
 - (iii) to the extent known or readily obtainable by the reservoir manager, the name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency) of any—
 - (aa) construction engineer;
 - (bb) inspecting engineer; or
 - (cc) supervising engineer,appointed immediately before the date on which the reservoir was registered (or, if any such engineer was not appointed at that point, the last such engineer appointed) under the 1975 Act in relation to the reservoir (and the period of any such appointment); and
- (c) if the reservoir is required to be registered in accordance with section 13 of the Act, a map showing the area of land which, in the event of an uncontrolled release of water from the reservoir, would be likely to be flooded.

Time by which changes to information must be registered

12. Where there is a change to information referred to in regulation 11, the change to the information must be registered by the reservoir manager under section 10(1) of the Act within 28 days beginning with the date on which the information changed.

Registration fees: general

13.—(1) Subject to regulation 14, SEPA may charge the reservoir manager of each controlled reservoir a fee in relation to the registration by that manager of the controlled reservoir under section 10(1) of the Act.

- (2) The reservoir manager must pay the registration fee to SEPA.
- (3) The registration fee is recoverable as a civil debt.

Registration fees: determination and charging

14.—(1) SEPA must determine the registration fee to be included in its charging scheme having regard to the likely average cost to SEPA of registering a controlled reservoir.

(2) The registration fee must accompany the information to be registered under section 10(1) of the Act.

(3) SEPA must not charge a registration fee in connection with any registration under section 10(1) of the Act where the information to be registered was received by SEPA before 1st October 2015.

Annual subsistence fee: general

15.—(1) Subject to regulation 16, SEPA may charge the reservoir manager of each controlled reservoir which has been given a risk designation under the Act an annual fee in relation to the performance by SEPA of its functions under Part 1 of the Act.

- (2) The reservoir manager must pay the annual subsistence fee to SEPA.
- (3) The annual subsistence fee is recoverable as a civil debt.

Annual subsistence fee: determination and charging

16.—(1) SEPA must determine the amounts of the annual subsistence fee to be included in its charging scheme having regard to—

- (a) its functions under Part 1 of the Act;
- (b) the likely cost to SEPA of carrying out those functions;
- (c) the number of controlled reservoirs that have been or are likely to be registered; and
- (d) the categories of risk designation.

(2) Different amounts of annual subsistence fee may be set for controlled reservoirs with different risk designations.

(3) The annual subsistence fee is chargeable in respect of each financial year.

(4) The annual subsistence fee is payable at the beginning of the financial year in respect of which it is chargeable.

(5) Where a controlled reservoir is given a first risk designation under section 19 of the Act during any financial year, the annual subsistence fee for that financial year must be such proportion of the annual subsistence fee which would otherwise be payable under these Regulations as relates to the period of that year for which the reservoir had a risk designation.

(6) Where a different risk designation is given following a review under Chapter 3 of Part 1 of the Act, the risk designation for the purposes of determining the amount of the annual subsistence fee in any given financial year is the risk designation that applied on 1st April of that year.

(7) Where a controlled reservoir has more than one reservoir manager and one or more nominations are made under section 4(3) of the Act such that a single reservoir manager (“the point of contact manager”) has been nominated by the other managers to fulfil the following functions under Part 1 of the Act—

- (a) making representations to SEPA within the meaning of section 18(4) of the Act;
- (b) applying for a review of a risk designation under section 23(1) of the Act;
- (c) giving notice to SEPA of proposed works under section 33(1) of the Act;
- (d) giving notice to SEPA of the appointment of a construction engineer under section 33(2)(b) of the Act;
- (e) giving notice to SEPA of the appointment of an inspecting engineer under section 45(1)(b) of the Act;
- (f) giving notice to SEPA of the appointment of any other qualified engineer under section 48(2)(b) of the Act;
- (g) giving notice to SEPA of the appointment of a supervising engineer under section 49(1)(b) of the Act;
- (h) submitting flood plans to SEPA under section 55(3)(f) of the Act;
- (i) giving notice to SEPA of any relevant appointments under section 65(2)(b) of the Act;
- (j) giving SEPA notice of revocation of appointment of an engineer under section 103(1) of the Act; and
- (k) giving SEPA a copy of a notice of resignation by an engineer under section 103(2) of the Act,

SEPA may only charge the point of contact manager the annual subsistence fee in respect of that controlled reservoir.

(8) SEPA must not charge an annual subsistence fee for the financial year ending 31st March 2016.

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.

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 was given to SEPA before 1st October 2015.

Charging schemes

19.—(1) SEPA must—

- (a) set out its fees to be charged under this Part in a published charging scheme; and
 - (b) consult such persons as SEPA considers likely to be affected by the scheme before it publishes or revises a scheme.
- (2) SEPA must, at least once in every three year period beginning with 1st April 2016, review the scheme.
- (3) Following a review, SEPA may revise the scheme.

PART 4

RISK DESIGNATION

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

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

21.—(1) An appeal to the Scottish Ministers under section 24(1) (appeal to the Scottish Ministers following SEPA's review) of the Act 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 a withdrawal notice under paragraph (8), 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.

PART 5

PANELS OF RESERVOIR ENGINEERS

Applications for appointment: general

22.—(1) An application for appointment (including re-appointment) to a panel under section 28(1) of the Act must be made in writing to the Scottish Ministers.

(2) Except where the application is made in accordance with regulation 23(1), the application must—

- (a) contain the information specified in Schedule 2; and
- (b) if a fee is charged to the applicant under regulation 24 in connection with the application, be accompanied by the fee.

Applications for appointment: eligible persons

23.—(1) Where an application for appointment to a panel under section 28(1) of the Act is made by an eligible person, the application must contain the information specified in Schedule 3.

(2) Where an application is made by an eligible person in accordance with paragraph (1), the application for appointment must be only in respect of a period which does not exceed the period which would have remained of the term of the person’s appointment to the corresponding 1975 Act panel if the term of that appointment (so far as it extended to Scotland) had not ceased by virtue of the repeal of the 1975 Act.

Fees in connection with applications for membership of panels

24.—(1) Subject to paragraph (2), the Scottish Ministers may charge a fee of £385 in connection with an application for membership of (including re-appointment to) a 2011 Act panel (“membership fee”).

(2) The Scottish Ministers must not charge a membership fee if the application referred to in paragraph (1) is made by a person who—

- (a) at or around the same time, applies in substantially the same terms to the Secretary of State under the 1975 Act to be placed on a corresponding 1975 Act panel; and
- (b) the application to be placed on the corresponding 1975 Act panel is accompanied by the prescribed fee under that Act.

Applications for review of decisions to appoint or remove civil engineers from panels etc.

25.—(1) An application for a review of a decision under section 30(1) of the Act must be made in writing to the Scottish Ministers.

(2) The application must contain the information specified in Schedule 4.

PART 6

CONSTRUCTION OR ALTERATION OF CONTROLLED RESERVOIRS

Notice of relevant works

26. A notice of proposed relevant works by a reservoir manager under section 33(1) (notice to SEPA and appointment of construction engineer) of the Act must contain the information specified in Schedule 5.

Safety report

27. A safety report by a construction engineer under section 34 (inspection, reports, supervision of works etc. by construction engineer) of the Act must—

- (a) in addition to the matters required by section 35(1)(a) to (c) (safety reports) of the Act, include the other matters specified in the form (as read with the Note to the form) in Schedule 6; and
- (b) be in the form set out in Schedule 6.

Safety measure certificate

28. A safety measure certificate by a construction engineer under section 36(2) (safety reports: compliance) of the Act must be in the form set out in Schedule 7.

Preliminary certificate

29. A preliminary certificate by a construction engineer under section 37 (preliminary certificates) of the Act must be in the form set out in Schedule 8.

Construction certificate

30. A construction certificate by a construction engineer under section 38 (construction certificates) of the Act must—

- (a) in addition to the information required by subsection (3)(a) and (b) of that section, contain the other information specified in the form (as read with the Note to the form) in Schedule 9; and
- (b) be in the form set out in Schedule 9.

Final certificates

31.—(1) A final certificate by a construction engineer under section 39(1) (final certificates) of the Act must be in the form set out in Part 1 of Schedule 10.

(2) A final certificate by a construction engineer under section 39(3) (final certificates) of the Act must be in the form set out in Part 2 of Schedule 10.

(3) A final certificate by a construction engineer under section 39(5) (final certificates) of the Act must be in the form set out in Part 3 of Schedule 10.

PART 7

OTHER REQUIREMENTS: HIGH-RISK RESERVOIRS AND MEDIUM-RISK RESERVOIRS

Notice of appointment of inspecting engineer

32. A notice by a reservoir manager under section 45(1) (appointment of inspecting engineer etc.) of the Act must—

- (a) include the content specified in the form in Schedule 11; and
- (b) be in the form set out in Schedule 11.

Inspection report

33. An inspection report by an inspecting engineer under section 47(1)(b) (inspections: duties of inspecting engineers etc.) of the Act must be in the form set out in Schedule 12.

Inspection report: compliance certificates

34.—(1) An interim inspection compliance certificate by an inspecting engineer under section 48(3) (inspection reports: compliance) of the Act must be in the form set out in Part 1 of Schedule 13.

(2) An inspection compliance certificate by an inspecting engineer under section 48(5) (inspection reports: compliance) of the Act must be in the form set out in Part 2 of Schedule 13.

Notice of appointment of supervising engineer

35. A notice by a reservoir manager under section 49(1) (appointment of supervising engineers etc.) of the Act must—

- (a) include the content specified in the form in Schedule 14; and
- (b) be in the form set out in Schedule 14.

Statement by supervising engineer

36. A statement by a supervising engineer under section 50(8) (supervising engineer and monitoring of reservoir) of the Act must be in the form set out in Schedule 15.

Recording of water levels etc. and record keeping

37.—(1) The record of matters (“the recorded matters”) to be maintained under section 51(1) (recording of water levels etc. and record keeping) of the Act must, in addition to the matters required by subsection (1)(a) to (d) of that section, include the other matters specified in Schedule 16.

(2) The information specified in the form (as read with the Notes to the form) in Schedule 17 is to be included in relation to the recorded matters.

(3) The record to be maintained under section 51(1) of the Act must be in the form set out in Schedule 17.

PART 8

OTHER REQUIREMENTS: CONTROLLED RESERVOIRS

Information about repairs

38. The information about repairs to be contained in a record of relevant documents pursuant to section 56(3) (maintenance of records) of the Act must be in the form set out in Schedule 18.

PART 9

DISPUTE REFERRAL

Time within which a referee may be appointed by agreement

39. The time within which a referee (“the referee”) may be appointed under section 61(1)(a) (appointment of referee) of the Act by agreement between a reservoir manager and the relevant engineer, is a period of 60 days beginning with, as the case may be—

- (a) the day on which the safety report or the inspection report, which contains the direction which is to be referred to the referee by the reservoir manager under section 59(2) of the Act, was given to the reservoir manager; or
- (b) the day on which the preliminary certificate or the final certificate, which mentions the matters which are to be referred to the referee by the reservoir manager under section 60(1) of the Act, was given to the reservoir manager.

Time within which a request may be made for an appointment

40. The time within which a request to the Scottish Ministers for the appointment of a referee (“the referee”) under section 61(1)(b) of the Act may be made, is a period of 70 days beginning with, as the case may be—

- (a) the day on which the safety report or the inspection report, which contains the direction which is to be referred to the referee by the reservoir manager under section 59(2) of the Act, was given to the reservoir manager; or
- (b) the day on which the preliminary certificate or the final certificate, which mentions any matter which is to be referred to the referee by the reservoir manager under section 60(1) of the Act, was given to the reservoir manager.

Manner of the request for an appointment

41.—(1) Any request to the Scottish Ministers for the appointment of a referee (“the referee”) under section 61(1)(b) of the Act must be made in writing.

(2) Where the subject of the referral to be made to the referee is a direction contained in a safety report or an inspection report, the request must be accompanied by—

- (a) the safety report or the inspection report containing the direction;
- (b) a statement specifying the terms of the direction in the safety report or, as the case may be, the inspection report for which the appointment is requested;
- (c) where the report containing the direction is a safety report, any safety measure certificate given in relation to the report; and

- (d) where the report containing the direction is an inspection report, any interim inspection compliance certificate given in relation to the report.
- (3) Where the subject of the referral to be made to the referee is a matter mentioned in a preliminary certificate or a final certificate, the request must be accompanied by—
 - (a) the preliminary certificate or the final certificate which mentions the matter; and
 - (b) a statement specifying the matter in the preliminary certificate or, as the case may be, the final certificate for which the appointment is requested.

Procedure before the referee

42.—(1) A referee appointed under section 61(1) of the Act must, within a period of 28 days beginning with the day on which the referee was appointed, invite the reservoir manager in question to give to the referee a statement in writing of the grounds of challenge under, as the case may be—

- (a) section 59(2) (referral to referee: directions in safety report or inspection report) of the Act; or
- (b) section 60(1) (referral to referee: requirements in preliminary certificate or final certificate) of the Act.

(2) Where a reservoir manager is invited to give a statement under paragraph (1), the reservoir manager must give the statement in writing to the referee within a period of 28 days beginning with the day on which the reservoir manager was invited to do so.

(3) Where a referee is given a statement in accordance with paragraph (2), the referee must give a copy of the statement to the relevant engineer and invite the engineer to give to the referee observations in writing in relation to the statement within a period of 28 days beginning with the day on which the engineer was given the copy of the statement.

(4) Where a referee is given observations in accordance with paragraph (3), the referee—

- (a) must give a copy of the observations to the reservoir manager and invite the manager to give to the referee comments in writing in relation to the observations within a period of 21 days beginning with the day on which the manager was given the copy of the observations; and
- (b) may arrange to meet the reservoir manager and the relevant engineer, or their representatives, to hear any observations that either party may wish to make orally.

(5) The referee may carry out an investigation and this may include an inspection of the reservoir in question (with or without the reservoir manager and the relevant engineer, or their representatives) before making a decision under, as the case may be—

- (a) section 62(2) (powers of referee: referral under section 59(2)) of the Act; or
- (b) section 63(2) (powers of referee: referral under section 60(1)) of the Act.

Investigation and proceedings: expenses

43. The cost of any investigation and proceedings (including the referee's remuneration) arising in consequence of a referral made under section 59(2) or section 60(1) of the Act are expenses for the purposes of section 64(2) of the Act (expenses of the investigation and proceedings to be paid by the reservoir manager who makes the referral).

PART 10
REVOCATIONS

Revocations

44. The instruments specified in Schedule 19 are, so far as they extend to Scotland, revoked.

St Andrew's House,
Edinburgh
26th January 2016

AILEEN McLEOD
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 11(a)

CONTROLLED RESERVOIRS: INFORMATION TO BE REGISTERED

1. The name (if any) and location of the reservoir.
2. The maximum volume of water capable of being held in the reservoir.
3. The reservoir manager's name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency).
4. If the reservoir manager is not an individual, the name of an individual who is authorised by the reservoir manager to carry out any action required of the reservoir manager under the Act, together with the individual's business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency).
5. The reservoir owner's name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency).
6. To the extent known or readily obtainable by the reservoir manager, any risk designation the reservoir may have had immediately before the date on which it was required to be registered, and the date on which any such designation was given.
7. To the extent known or readily obtainable by the reservoir manager, the name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency) of any—
 - (a) construction engineer;
 - (b) inspecting engineer;
 - (c) other qualified engineer; or
 - (d) supervising engineer,appointed at any time in relation to the reservoir, and the period of any such appointment.
8. Where applicable—
 - (a) the date on which the reservoir was last inspected under section 10 of the 1975 Act;
 - (b) details of any measure recommended in the report of that inspection to be taken in the interests of safety which has not been carried into effect, including the date recommended in the report by which the measure is, or was, to be taken; and
 - (c) the date by which the next inspection is required under that section.
9. For each structure or area referred to in section 1(2) of the Act or, as the case may be, for each structure or area in a combination referred to in section 1(3) comprising the reservoir, the—
 - (a) name (if any);
 - (b) national grid reference;
 - (c) status (in use, discontinued, abandoned or under construction);
 - (d) top water level (in metres above ordnance datum);
 - (e) surface water area (in square metres) at top water level;
 - (f) surface water area (in square metres) at dam crest level (if known);
 - (g) capacity (in cubic metres) at top water level;

- (h) capacity (in cubic metres) at dam crest level (if known);
- (i) type (impounding, non-impounding or service reservoir); and
- (j) purpose(s) for which the reservoir is (or is to be) used.

10. For each part of a structure or area referred to in section 1(2) of the Act or, as the case may be, for each structure or area in a combination referred to in section 1(3) comprising a dam, reservoir wall or embankment, the—

- (a) name (if any);
- (b) national grid reference;
- (c) materials used to construct it (earth, concrete, masonry, rock fill, other);
- (d) type (buttress, embankment, gravity arch, non-gravity arch, service);
- (e) maximum height (in metres);
- (f) bottom level (in metres above ordnance datum) at ground level;
- (g) crest level (in metres above ordnance datum);
- (h) crest length (in metres);
- (i) escapable volume of water (in cubic metres) at top water level (if available);
- (j) escapable volume of water (in cubic metres) at dam crest level (if available);
- (k) fetch (namely the effective length of the controlled reservoir, of which the structure or area forms part, over which wind can build up waves) and direction (if available);
- (l) year completed; and
- (m) maintenance arrangements.

SCHEDULE 2

Regulation 22(2)(a)

PANEL APPLICATIONS: GENERAL

1. The applicant's full name, date of birth, business address, email address and telephone number.
2. The 2011 Act panel(s) to which the applicant wishes to be appointed.
3. Where the application is for re-appointment to a 2011 Act panel—
 - (a) the 2011 Act panel to which the applicant wishes to be re-appointed; and
 - (b) the date on which the previous appointment ended, or is due to end.
4. The relevant qualifications of the applicant.
5. The applicant's membership of professional institutions.
6. Details of the applicant's present employment.
7. Details of—
 - (a) all work carried out by the applicant in relation to reservoirs, with details of the reservoirs in connection with whose design, construction, maintenance or repair the applicant has been employed, including their type, capacity and main dimensions; or
 - (b) where the application is for re-appointment, all such work since the start of the applicant's previous appointment to the 2011 Act panel.

SCHEDULE 3

Regulation 23(1)

PANEL APPLICATIONS: ELIGIBLE PERSONS

1. The applicant's full name, date of birth, business address, email address and telephone number.
2. The 2011 Act panel(s) to which the applicant wishes to be appointed.
3. The corresponding 1975 Act panel(s) which the applicant was a member of for a continuous period from 1st April 2015 to 31st March 2016.
4. For each corresponding 1975 Act panel referred to in paragraph 3, the date on which the applicant's term of appointment began and the date on which it expired or would have been due to expire if the term of that appointment (so far as it extended to Scotland) had not ceased by virtue of the repeal of the 1975 Act.
5. A statement, signed and dated by the applicant—
 - (a) that the information given in the application is complete and correct; and
 - (b) that, for the purposes of determining the application, the applicant consents to the Scottish Ministers having access to and using—
 - (i) any information that the applicant provided with any application for appointment as a member of a 1975 Act panel; and
 - (ii) any relevant information held or advice provided by the Institution of Civil Engineers as to whether the applicant is fit and qualified for the appointment.

SCHEDULE 4

Regulation 25(2)

REVIEW APPLICATIONS: INFORMATION

1. The applicant's full name, date of birth, business address, email address and telephone number.
2. The decision to which the application relates including, as the case may be, details of—
 - (a) the application for appointment to a 2011 Act panel which was rejected;
 - (b) the 2011 panel from which the applicant was removed under section 28(4) of the Act; or
 - (c) the direction given under section 29(4) of the Act.
3. The decision notice or letter and the date of that decision.
4. The grounds for appeal.
5. The relevant qualifications of the applicant.
6. The applicant's membership of professional institutions.
7. Details of the applicant's present employment.
8. Details of—
 - (a) all work carried out by the applicant in relation to reservoirs, with details of the reservoirs in connection with whose design, construction, maintenance or repair the applicant has been employed, including their type, capacity and main dimensions; or
 - (b) where the application relates to a review of a decision to reject an application for re-appointment, all such work since the start of the applicant's previous appointment to the 2011 Act panel.

SCHEDULE 5

Regulation 26

CONTENT OF NOTICE OF PROPOSED RELEVANT WORKS

- 1.** Details of the reservoir manager giving notice, including name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency).
- 2.** Contact details for correspondence, including name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency) if these details differ from those given under paragraph 1.
- 3.** The name (if any) and location of the reservoir which is subject to the proposed relevant works.
- 4.** The registration number (if any) for the reservoir in the controlled reservoirs register.
- 5.** The national grid reference for the approximate centre of the reservoir.
- 6.** Whether the reservoir manager intends to undertake relevant work for the purpose of the—
 - (a) construction (including restoration to use) of a controlled reservoir;
 - (b) alteration (not amounting to the discontinuance or abandonment) of a controlled reservoir;
 - (c) abandonment of a controlled reservoir; or
 - (d) discontinuance of a controlled reservoir.
- 7.** The date on which it is intended that the proposed relevant work will commence.
- 8.** Details of the construction engineer appointed for the purposes of section 33 of the Act, including name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency).
- 9.** The date on which construction engineer was appointed.
- 10.** The following information about the reservoir as it will be when constructed, altered abandoned or discontinued—
 - (a) reservoir type (e.g. whether impounding, non-impounding or service reservoir);
 - (b) date(s) or approximate date(s) of completion of the dam(s), reservoir wall(s) or embankment(s);
 - (c) method of construction of the dam(s), reservoir wall(s) or embankment(s) (e.g. whether constructed of earth, rockfill, gravity, buttress or other means);
 - (d) maximum height of the dam(s), reservoir wall(s) or embankment(s) (in metres), measured from the lowest natural level of the surrounding land adjacent to it, to the top of the dam(s), reservoir wall(s) or embankment(s), excluding the height of the wave wall;
 - (e) the height of the dam(s), reservoir wall(s) or embankment(s) (in metres) measured from the lowest natural level of the surrounding land adjacent to it to the top water level;
 - (f) capacity (in cubic metres), measured from the lowest natural level of the surrounding land adjacent to it to the top water level; and
 - (g) the water surface area at the top water level (in square metres).
- 11.** Signature and declaration certifying that the information given in the notification is correct (including the signature of the reservoir manager and the date of signing).

SCHEDULE 6

Regulation 27

FORM OF SAFETY REPORT

SAFETY REPORT BY CONSTRUCTION ENGINEER UNDER SECTION 34(3) OR (4) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number (as specified in the controlled reservoirs register):	
Name (if any) and location of reservoir:	
National grid reference for the approximate centre of the reservoir:	
Name and address of construction engineer:	
Name of panel of which construction engineer is a member:	
Name of reservoir manager(s):	
Date(s) of inspection:	
<p>I consider that the following measures (to be taken within the period of time specified for each) are necessary in the interests of the safety of the controlled reservoir (<i>see Note</i>):</p> <p>I direct the reservoir manager to ensure that the measures specified in this report are taken under the supervision of the construction engineer and within the period of time specified.</p> <p>[I consider that the following matters should be monitored by the supervising engineer until a final certificate is issued in respect of the relevant works:] (<i>delete if there are no such matters or if the reservoir manager is not required to appoint a supervising engineer</i>)</p>	
Signature of engineer	
Date signed	

Note

Where the safety report relates to a controlled reservoir which is:

- *being restored to use, the measures must include in particular any measures the construction engineer considers should be taken before the reservoir may safely be used for the collection and storage of water;*
- *being discontinued, the measures must include in particular any measures the construction engineer considers are necessary to secure that the resulting structure of the area complies with section 35(2)(b) of the Reservoirs (Scotland) Act 2011; or*
- *being abandoned, the measures must include in particular any measures the construction engineer considers are necessary to secure that the reservoir is incapable of filling with water above the natural level of any part of the surrounding land.*

FORM OF SAFETY MEASURE CERTIFICATE

SAFETY MEASURE CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 36(2) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
<p>I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i>, appointed to supervise the taking of measures specified in a safety report dated <i>[insert date of the safety report]</i> in relation to the controlled reservoir <i>[known as [insert name of reservoir]] (delete if the reservoir has no name)</i> located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i>, am satisfied that the following measures directed in the safety report have been taken:</p> <p>- <i>[insert measure(s) directed in the report which has or have been taken]</i>.</p> <p>[The following measure(s) directed in the safety report have yet to be taken: - <i>[insert measure(s) directed in the report which has or have yet to be taken]</i>.] <i>(delete as appropriate)</i></p>	
Signature of engineer	
Date signed	

FORM OF PRELIMINARY CERTIFICATE

PRELIMINARY CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 37(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
<p>Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i></p> <p>I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i>, appointed to supervise the relevant works for the purpose of <i>[the construction (including restoration to use)][the alteration (not amounting to the discontinuance or the abandonment)][the abandonment][the discontinuance]</i> (<i>delete as appropriate</i>) of a controlled reservoir <i>[known as [insert name of reservoir]]</i> (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i>, am satisfied that <i>[the reservoir may be safely filled (wholly or partially) with water.][the level of water in the reservoir should be reduced.]</i> (<i>delete as appropriate</i>)</p> <p>The level of water held in the reservoir must not exceed <i>[insert the level (above ordnance datum) that the water in the reservoir must not exceed]</i> (the “specified level”). The reservoir manager must ensure that the level of water in the reservoir does not exceed the specified level.</p> <p><i>[The following requirements are imposed as to the manner in which the level of water in the reservoir may be increased or decreased:</i> <i>- [insert requirements that the engineer considers appropriate as to the manner in which the level of water in the reservoir may be increased or decreased].]</i> (<i>delete if no requirements imposed</i>)</p> <p>This certificate:</p> <ul style="list-style-type: none"> • replaces any previous preliminary certificate applicable to the reservoir in respect of the relevant works; and • ceases to have effect on the issue of the final certificate applicable to the reservoir in respect of those works. 	
Signature of engineer	
Date signed	

SCHEDULE 9

Regulation 30

FORM OF CONSTRUCTION CERTIFICATE

CONSTRUCTION CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 38(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i> , appointed to supervise relevant works for the purpose of <i>[the construction (including restoration to use)][the alteration (not amounting to the discontinuance or the abandonment)][the abandonment][the discontinuance]</i> <i>(delete as appropriate)</i> of a controlled reservoir <i>[known as [insert name of reservoir]] (delete if the reservoir has no name)</i> located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre the reservoir)]</i> <i>[for which a preliminary certificate was given on [insert date of certificate]] (delete if no preliminary certificate given)</i> , being satisfied that the relevant works have been completed to a satisfactory standard, certify that the construction or, as the case may be, the alteration has been executed effectively in accordance with the detailed drawings and descriptions <i>(see Note)</i> in the annex to this certificate.	
Signature of engineer	
Date signed	

Note

In accordance with section 38(3)(b) of the Reservoirs (Scotland) Act 2011, the drawings and descriptions must give full information about the works for the construction or, as the case may be, the alteration including the dimensions, water levels and details of geological strata or deposits encountered in trial holes or excavations made in connection with the works.

FORM OF FINAL CERTIFICATE

PART 1

FORM OF FINAL CERTIFICATE UNDER SECTION 39(1) OF THE ACT

FINAL CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 39(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i> , appointed to supervise relevant works for the purpose of the <i>[construction (including restoration to use)][alteration (not amounting to the discontinuance or the abandonment)]</i> <i>(delete as appropriate)</i> of a controlled reservoir <i>[known as [insert name of reservoir]]</i> <i>(delete if the reservoir has no name)</i> located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i> <i>[for which a preliminary certificate was given on [insert date of certificate]]</i> <i>(delete if no preliminary certificate given)</i> , consider that the reservoir is sound and satisfactory and may safely be used for the collection and storage of water.	
[I recommend that early inspection of this high-risk reservoir should take place before <i>[insert date by which the inspection should take place].</i>] <i>(delete as appropriate)</i>	
[I consider that the following matters should be monitored, until the first inspection of this <i>[high-risk][medium-risk]</i> <i>(delete as appropriate)</i> reservoir under section 46 of the Reservoirs (Scotland) Act 2011, by the supervising engineer appointed in relation to the reservoir under section 49 of that Act: - <i>[insert matters which the construction engineer considers should be monitored].</i>] <i>(delete as appropriate)</i>	
The level of water held in the reservoir must not exceed <i>[insert the level (above ordnance datum) that the water in the reservoir must not exceed]</i> (the “specified level”). The reservoir manager must ensure that the level of water in the reservoir does not exceed the specified level.	
[The following requirements are imposed as to the manner in which the level of the water in the reservoir may be increased or decreased: - <i>[insert requirements that the engineer considers appropriate as to the manner in which the level of water in the reservoir may be increased or decreased].</i>] <i>(delete if no such requirements)</i>	
A copy of the construction certificate issued in respect of the construction or (as the case may be) alteration on <i>[insert date the construction certificate was issued]</i> is attached to this final certificate <i>(see Note)</i> .	
Signature of engineer	
Date signed	

Note

In accordance with section 39(8) of the Reservoirs (Scotland) Act 2011, a copy of the construction certificate must be attached.

PART 2

FORM OF FINAL CERTIFICATE UNDER SECTION 39(3) OF THE ACT

FINAL CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 39(3) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i> , appointed to supervise relevant works for the purpose of the discontinuance of a controlled reservoir [known as <i>[insert name of reservoir]</i>] (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i> , am satisfied:	
<ul style="list-style-type: none">• that the discontinuance has been safely completed,• that the resulting structure is incapable of holding <i>[insert relevant figure]</i> (<i>see Note (1)</i>) cubic metres of water above the natural level of any part of the surrounding land, and• that the resulting structure or area is sound and satisfactory and may safely be used for the collection and storage of water.	
The level of water held in the reservoir must not exceed <i>[insert the level (above ordnance datum) that the water in the reservoir must not exceed]</i> (“the specified level”). The reservoir manager must ensure that the level of water in the reservoir does not exceed the specified level.	
[The following requirements are imposed as to the manner in which the level of the water in the reservoir may be increased or decreased: - <i>[insert requirements that the engineer considers appropriate as to the manner in which the level of water in the reservoir may be increased or decreased].</i>] (<i>delete if there are no such requirements</i>)	
A copy of the construction certificate issued in respect of the construction or (as the case may be) alteration on <i>[insert date on which the construction certificate was issued]</i> is attached to this final certificate (<i>see Note (2)</i>).	
Signature of engineer	
Date signed	

Notes

(1) By virtue of article 3(1) (“the article”) of the Reservoirs (Scotland) Act 2011 (Commencement No. 5 and Transitional Provision) Order 2016, the relevant figure is “25,000” until the day on which section 12 of the Reservoirs (Scotland) Act 2011 (“the 2011 Act”) is commenced for all purposes. From that day onwards, the modifications made by the article to section 39(3)(b) of the 2011 Act will no longer apply and, in consequence, the relevant figure will be “10,000”.

(2) In accordance with section 39(8) of the 2011 Act, a copy of the construction certificate must be attached.

PART 3

FORM OF FINAL CERTIFICATE UNDER SECTION 39(5) OF THE ACT

FINAL CERTIFICATE BY CONSTRUCTION ENGINEER UNDER SECTION 39(5) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i> , appointed to supervise relevant works for the purpose of the abandonment of a controlled reservoir [known as <i>[insert name of reservoir]</i>] (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i> , am satisfied:	
<ul style="list-style-type: none">• that the abandonment has been safely completed; and• that the resulting structure is incapable of filling with water above the natural level of any part of the surrounding land.	
A copy of the construction certificate issued in respect of the construction or (as the case may be) alteration on <i>[insert date on which the construction certificate was issued]</i> is attached (<i>see Note</i>).	
Signature of engineer	
Date signed	

Note

In accordance with section 39(8) of the Reservoirs (Scotland) Act 2011, a copy of the construction certificate must be attached.

SCHEDULE 11

Regulation 32

FORM AND CONTENT OF NOTICE OF APPOINTMENT OF
INSPECTING ENGINEER UNDER SECTION 45(1) OF THE ACT

NOTICE OF APPOINTMENT OF INSPECTING ENGINEER UNDER SECTION 45(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number (as specified in the controlled reservoirs register):	
Name (if any) and location of the reservoir:	
National grid reference for the approximate centre of the reservoir:	
Name and address of reservoir manager giving notice:	
Details of person appointed including name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency):	
Date of appointment:	
I certify that the information given in this notice is correct.	
Signature of reservoir manager	
Date signed	

SCHEDULE 12

Regulation 33

FORM OF INSPECTION REPORT

INSPECTION REPORT BY INSPECTING ENGINEER UNDER SECTION 47(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number (as specified in the controlled reservoirs register):	
Name (if any) and location of the reservoir:	
National grid reference for the approximate centre of the reservoir:	
Name and address of inspecting engineer:	
Name of panel of which engineer is a member:	
Name of reservoir manager(s):	
Date(s) of inspection:	
<p>I consider that the following measures (“listed measures”) should be taken in the interests of the safety of the reservoir (including measures for the maintenance of the reservoir):</p> <p>Of the listed measures, the following were also specified in the previous inspection report (<i>if none was so specified, state “None”</i>):</p> <p>[The following measures, which were specified in the previous inspection report, have not been taken. I consider that these measures should no longer be taken for the reasons specified below in relation to each measure:] (<i>delete if there are no such measures</i>)</p> <p>I direct the reservoir manager to ensure:</p> <ul style="list-style-type: none"> • that listed measures for the maintenance of the reservoir are monitored by the supervising engineer, and • that other listed measures are taken under the supervision of the inspecting engineer or the other qualified engineer within the period of time specified for each of the listed measures. <p>The next inspection of the reservoir should take place on: [<i>insert date of inspection</i>]</p> <p>[I consider that the following matters should be monitored by the supervising engineer until the next inspection:] (<i>delete if there are no such matters</i>)</p> <p>[I make the following recommendations on other matters (in relation to which I have not specified any listed measures) which I consider relevant to the maintenance of the reservoir:] (<i>delete if there are no such matters</i>)</p>	
Signature of engineer	
Date signed	

FORM OF INSPECTION COMPLIANCE CERTIFICATES

PART 1

INTERIM INSPECTION COMPLIANCE CERTIFICATE

<p>INTERIM INSPECTION COMPLIANCE CERTIFICATE BY INSPECTING ENGINEER UNDER SECTION 48(3) OF THE RESERVOIRS (SCOTLAND) ACT 2011</p>	
<p>Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i></p> <p>I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i>, appointed to supervise the taking of measures specified in an inspection report dated <i>[insert date of the inspection report]</i> in relation to the controlled reservoir [known as <i>[insert name of reservoir]</i>] (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i>, am satisfied that the following measure(s) (directed in the report) has or have been taken: - <i>[insert measure(s) directed in the report which has or have been taken]</i>.</p> <p>[The following measure(s) (directed in the report) which I am responsible for supervising has or have yet to be taken: - <i>[insert measure(s) directed in the report which has or have yet to be taken].</i>] (<i>delete as appropriate</i>)</p>	
Signature of engineer	
Date signed	

PART 2

INSPECTION COMPLIANCE CERTIFICATE

<p>INSPECTION COMPLIANCE CERTIFICATE BY INSPECTING ENGINEER UNDER SECTION 48(5) OF THE RESERVOIRS (SCOTLAND) ACT 2011</p>	
<p>Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i></p> <p>I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i>, appointed to supervise the taking of measures specified in an inspection report dated <i>[insert date of the inspection report]</i> in relation to the controlled reservoir [known as <i>[insert name of reservoir]</i>] (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i>, am satisfied that all of the measures (directed in the report) have been taken.</p>	
Signature of engineer	
Date signed	

SCHEDULE 14

Regulation 35

FORM AND CONTENT OF NOTICE OF APPOINTMENT OF SUPERVISING ENGINEER UNDER SECTION 49(1) OF THE ACT

NOTICE OF APPOINTMENT OF SUPERVISING ENGINEER UNDER SECTION 49(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number (as specified in the controlled reservoirs register):	
Name (if any) and location of the reservoir:	
National grid reference for the approximate centre of the reservoir:	
Name and address of reservoir manager giving notice:	
Details of person appointed including name, business address, email address and telephone number(s) (including a telephone number for making contact outside normal working hours or in an emergency):	
Date of appointment:	
I certify that the information given in this notice is correct.	
Signature of reservoir manager	
Date signed	

SCHEDULE 15

Regulation 36

FORM OF STATEMENT UNDER SECTION 50(8) OF THE ACT

STATEMENT BY SUPERVISING ENGINEER UNDER SECTION 50(8) OF THE RESERVOIRS (SCOTLAND) ACT 2011	
Reservoir registration number: <i>[insert reservoir registration number as specified in the controlled reservoirs register]</i>	
I <i>[insert name of engineer]</i> of <i>[insert address of engineer]</i> being a member of <i>[insert name of panel to which engineer is appointed]</i> , appointed to supervise the controlled reservoir [known as <i>[insert name of reservoir]</i>] (<i>delete if the reservoir has no name</i>) located at <i>[insert location of reservoir, with sufficient detail to identify it (including the national grid reference for the approximate centre of the reservoir)]</i> , state in relation to the reservoir that during the period beginning with <i>[insert period start date]</i> and ending with <i>[insert period end date]</i> —	
I took the following steps in relation to the matters referred to in section 50(2)(a) to (h) of the Reservoirs (Scotland) Act 2011: <i>[insert details of steps taken]</i> .	
<i>[insert name of reservoir manager]</i> took the following measures in the interests of the safety of the reservoir or otherwise to maintain the reservoir: <i>[insert measures taken]</i> .] (<i>delete as appropriate</i>)	
<i>[There was a failure to comply with: [specify as appropriate].] (delete as appropriate) (see Note)</i>	
Signature of engineer	
Date signed	

Note

In accordance with section 50(8)(c) of the Reservoirs (Scotland) Act 2011 (“the Act”), the statement must include a statement of any failure to comply with:

- *a requirement in a safety report referred to in section 50(2)(b) of the Act,*
- *a requirement in a preliminary certificate referred to in section 50(2)(c) of the Act,*
- *a requirement in a final certificate referred to in section 50(2)(d) of the Act,*
- *a direction referred to in section 50(2)(f) of the Act,*
- *a recommendation by the supervising engineer under section 50(3) of the Act,*
- *a direction by the supervising engineer under section 50(4) of the Act.*

Every such failure (during the period specified in the form) should be stated.

**OTHER MATTERS OF WHICH A RECORD MUST BE
MAINTAINED UNDER SECTION 51(1) OF THE ACT**

- 1.** Persons having, in relation to the reservoir, a function conferred by virtue of the Act.
- 2.** Means of access to the reservoir.
- 3.** Type of reservoir (e.g. whether impounding, non-impounding or service reservoir), its use, the certified level up to which it may store water, and its surface water area, capacity and fetch.
- 4.** Structural character of the dam(s), reservoir wall(s) or embankment(s), their date of completion, height, level of the top of the dam(s), reservoir wall(s) or embankment(s) and of the wave wall above ordnance datum.
- 5.** Details of draw off works, bottom outlets, or any other means of lowering the water level, together with their maximum rates of discharge.
- 6.** Physical characteristics of direct and indirect catchment areas of the reservoir and method of filling from indirect catchment areas.
- 7.** Standard average annual rainfall on direct and indirect catchment areas of the reservoir.
- 8.** Spillway works, their type, location and level and the safety provisions made in connection with their operation.
- 9.** Details of relevant work notified to SEPA under section 33 of the Act.
- 10.** Measures taken in the interests of safety or which might affect safety.
- 11.** Details of notices, recommendations, directions and statements by a supervising engineer.
- 12.** Unusual events which could affect the safety of the reservoir.
- 13.** Details of certificates, reports and directions given under the Act.
- 14.** Appointment of any referee under the Act.
- 15.** Drawing register.
- 16.** Instrumentation at the reservoir.
- 17.** Records of extent of opening of valves, gates and penstocks, and related information.

SCHEDULE 17

Regulation 37(2) and (3)

FORM OF RECORD TO BE MAINTAINED UNDER SECTION 51(1)
OF THE ACT

**RECORD OF MATTERS IN RESPECT OF A RESERVOIR
UNDER SECTION 51(1) OF THE RESERVOIRS (SCOTLAND) ACT 2011**

(see Notes (1) and (2))

Reservoir registration number (as specified in the controlled reservoirs register):	
Name (if any) and location of the reservoir:	
National grid reference for the approximate centre of the reservoir:	
Name and address of reservoir manager(s):	

Details of any directions by the construction engineer, inspecting engineer or supervising engineer under section 51(3) of the Reservoirs (Scotland) Act 2011 (“the Act”) as to the manner in which the information is to be recorded or as to the intervals at which the record is to be updated.

--

WATER LEVEL AND DEPTH OF WATER

(see Note (3))

Date	Water level in the reservoir measured relative to the top water level (in metres) <i>(see Note (4))</i>	Name, position and signature of engineer or other person responsible for the entry

Date	Depth of water flowing over waste weir or overflow (in metres)	Name, position and signature of engineer or other person responsible for the entry

Method of recording water levels:

Datum to which levels are referred e.g. ordnance datum or the level of the overflow sill:

LEAKAGES, SETTLEMENTS OF WALLS OR OTHER WORKS AND REPAIRS

(see Note (5))

Position and extent of any leakage from the reservoir or settlement of walls or other works, giving date of discovery	Description of action taken consequent on discovery of leakage or settlement (including details of any notifications to the supervising engineer)	Name, position and signature of engineer or other person responsible for each entry	Date action taken

Details of repairs undertaken on reservoir	Name, position and signature and contact details of engineer or other person who carried out the works	Date repairs carried out

PERSONS WITH A FUNCTION IN RELATION TO THE RESERVOIR

(see Note (6))

Scottish Environment Protection Agency	
Name:	
Address:	
Email address:	
Contact telephone number:	

Construction engineer		
Name:		
Address:		
Email address:		
Contact telephone number:		
Reason for appointment (<i>tick as appropriate</i>):		<input type="checkbox"/> Construction of a reservoir (other than restoration to use)
		<input type="checkbox"/> Restoration to use of a reservoir
		<input type="checkbox"/> Abandonment of a reservoir
		<input type="checkbox"/> Discontinuance of a reservoir
		<input type="checkbox"/> Other alteration of a reservoir
Period of appointment	Date period began:	
	Date period ends (or ended):	

Inspecting engineer		
Name:		
Address:		
Email address:		
Occasion for appointment: (<i>see Note (7)</i>)		
Period of appointment	Date period began:	
	Date period ends (or ended):	

Engineer(s) (if any) appointed by SEPA under section 67 of the Act		
Name:		
Address:		
Email address:		
Period of appointment	Date period began:	
	Date period ends (or ended):	

Supervising engineer	
Name:	
Address:	
Email address:	
Telephone number (within normal working hours):	
Telephone number (outwith normal working hours):	
Period of appointment	Date period began:
	Date period ends (or ended):

ACCESS

Description of access giving any restrictions on load, width, or height of vehicles using access and details of the construction of the access route:

TYPE, CAPACITY, ETC.

Type of reservoir (<i>tick as appropriate</i>):	Impounding	
	Non-impounding	
	Service	

Level up to which water may be stored, exclusive of flood storage, as it was last specified in a certificate given either under the Act, the Reservoirs Act 1975 (“the 1975 Act”) or the Reservoirs (Safety Provisions) Act 1930 (“the 1930 Act”):

Capacity (in m ³)	At the top water level:	
	Between lowest natural level of any part of the surrounding land and the top water level:	
	Between the lowest natural level of any part of the surrounding land and the level, as last specified in a certificate given under the Act, the 1975 Act or the 1930 Act exclusive of any provision for flood storage:	

Surface water area (in m ² or km ²)	At the top water level:	
	At level up to which water may be stored, exclusive of flood storage, as it was last specified in a certificate given either under the Act, the 1975 Act or 1930 Act:	

Fetch (in metres):	
Fetch direction:	

STRUCTURAL CHARACTER OF DAM, RESERVOIR WALL OR EMBANKMENT

Type (<i>tick as appropriate</i>)	Date construction completed
Earth: [<i>specify sealing membrane or core</i>]	
Rockfill: [<i>specify sealing membrane or core</i>]	
Gravity:	
Buttress:	
Other: [<i>specify as appropriate</i>]	

Levels above ordnance datum (in metres)	Of the top of the dam(s) and reservoir wall(s) or embankment(s):	
	Of the top of the wave wall:	
	Maximum height in metres of the dam(s) and reservoir wall(s) or embankment(s) from the lowest natural ground level at the toe (including the stream bed) to top of the dam, wall or embankment (excluding wave wall):	

DETAILS OF DRAW-OFF WORKS, BOTTOM OUTLETS, ETC.

	Details:	Maximum rate of discharge (in m ³ /s):
Draw off works		
Bottom outlets		
Any other means of lowering the level of the water		

**PHYSICAL CHARACTERISTICS OF DIRECT AND INDIRECT
CATCHMENT AREAS, ETC.**

Direct catchment area (m ² or km ²):	
Indirect catchment area (m ² or km ²):	

Method of bringing water into the reservoir from the indirect catchment area, with details of any control or pumps provided and of maximum inflow capacity:

Physical characteristics of direct and indirect catchment areas which affect the rate of storage of water:

**STANDARD AVERAGE ANNUAL RAINFALL ON DIRECT AND INDIRECT
CATCHMENT AREAS**

Details of standard average annual rainfall on the direct and indirect catchment areas of the reservoir according to the meteorological office records:

**SPILLWAY WORKS: THEIR TYPE, LOCATION AND LEVEL AND THE
SAFETY PROVISIONS MADE IN CONNECTION WITH THEIR
OPERATION**

Type and location (if independent of main dam structure):

	Crest level:	Length:	Other particulars:
Fixed crest weirs			
Syphons			<i>[state if air regulated saddle syphons or not]</i>
Other gates or valves			
Movable crest gate			
Tunnels or other features affecting discharge capacity			
Emergency spillway			

Moveable gates or valves		
Methods of operation (<i>tick as appropriate</i>):	Manual	
	Automatic	
	Float control	
Sequence of operation:		
Source of power:		
Standby arrangements:		

RELEVANT WORK NOTIFIED TO SEPA UNDER SECTION 33 OF THE ACT

Category of relevant work notified to SEPA (<i>tick as appropriate</i>):	Construction of a reservoir (other than restoration to use)	
	Restoration to use of a reservoir	
	Abandonment of a reservoir	
	Discontinuance of a reservoir	
	Other alteration of a reservoir	
Details of work:	Date of notice to SEPA:	

MEASURES TAKEN IN THE INTERESTS OF SAFETY OR WHICH MIGHT AFFECT SAFETY

Details of any measures directed in the safety report:	Date(s) when measure taken:

Details of any measures specified in an inspection report which the reservoir manager is directed (in accordance with section 47(3)(d)(ii) of the Act) to ensure are taken under supervision, and the period of time specified in the report within which each measure is to be taken:	Date(s) when measure taken:

Details of any measures (for the maintenance of the reservoir) specified in an inspection report which the reservoir manager is directed (in accordance with section 47(3)(d)(i) of the Act) to ensure are monitored:	Date(s) when measure taken:

Details of any recommendations (relating to the maintenance of the reservoir) which are included in an inspection report pursuant to section 47(3)(g) of the Act:	Date(s) when measure taken:

Details of any action taken by SEPA under section 71 of the Act:	Date(s) when action taken:

**NOTICES, RECOMMENDATIONS, DIRECTIONS AND STATEMENTS BY
A SUPERVISING ENGINEER**

Details of any notice given under section 50(2)(a) or (g) of the Act by the supervising engineer:	
Date	Details of notice

Details of any recommendation made under section 50(3) of the Act by the supervising engineer:	
Date	Details of recommendation

Details of any direction given under section 50(4) of the Act by the supervising engineer:	
Date	Details of direction

Details of each statement made under section 50(8) of the Act by the supervising engineer:	
Date	Details of statement

UNUSUAL EVENTS WHICH COULD AFFECT THE SAFETY OF THE RESERVOIR

(see Note (8))

Details of any unusual events, such as seismic activity, which have occurred at or near the reservoir:	Date(s) of occurrence of any such event:

CERTIFICATES, REPORTS AND DIRECTIONS

(see Note (9))

Certificates		
Date	Type (e.g. preliminary certificate)	Section and subsection of the Act under which the certificate was given

Reports	
Date	Section and subsection of the Act under which the report was given

Directions	
Date	Section and subsection of the Act under which the direction was given

APPOINTMENT OF REFEREE UNDER THE ACT

Name of referee	Date of appointment

DRAWING REGISTER

(see Note (10))

Drawing number	Drawing title	Revision number	Approval date

INSTRUMENTATION AT THE RESERVOIR

(see Notes (11) and (12))

Site reference number instrument	Type and serial number of instrument and key details	Location at the reservoir	Date of installation	Conditions and assessment date

EXTENT OF OPENING OF VALVES, GATES AND PENSTOCKS

(see Note (13))

Date	Type and location of equipment (gate, valve and penstock)	Extent of opening	Name, signature and position of engineer or other person responsible for the entry

Method of recording extent of opening for each type of equipment:

Procedures used for opening each type of equipment and for reading the extent of opening:

Notes

- (1) If any of the information to be provided is not relevant in relation to the reservoir, “Not relevant” should be stated in the space where it is to be provided, along with the reasons why.
- (2) Any of the information to be provided may be supplemented with relevant drawings.
- (3) A record of water levels and depth of water including the flow of water over the waste weir or overflow should be maintained by recording appropriate entries in the form shown.
- (4) Where the water level is above the top water level, the difference between those levels should be recorded as a positive value. Where the water level is below the top water level, the difference between those levels should be recorded as a negative value.
- (5) A record of leakages, settlements of walls or other works, and repairs should be maintained by recording appropriate entries in the form shown.
- (6) ‘Function’ refers to any power conferred or duty imposed by virtue of the Act.
- (7) See section 45(1)(a) of the Act.
- (8) A record of unusual events that have a bearing on the safety of the reservoir should be maintained by recording appropriate entries in the form shown.
- (9) A record of certificates given, reports made, directions given under the Act, the Reservoirs Act 1975 or the Reservoirs (Safety Provisions) Act 1930 should be maintained by recording appropriate entries in the form shown.
- (10) A register of drawings of the reservoir and a description of works should be maintained by recording appropriate entries in the form shown.
- (11) A record of the type, location, age and condition of instruments installed at the reservoir should be maintained by recording appropriate entries in the form shown.
- (12) The locations of instruments with their reference numbers should be shown on the relevant drawings of the reservoir.
- (13) A record of the extent that valves, gates and penstocks are open should be maintained by recording appropriate entries in the form shown.

SCHEDULE 18

Regulation 38

FORM OF INFORMATION ABOUT REPAIRS TO LOW-RISK RESERVOIRS

INFORMATION ABOUT REPAIRS TO LOW-RISK RESERVOIR TO BE INCLUDED IN RECORD OF RELEVANT DOCUMENTS UNDER SECTION 56 OF THE RESERVOIRS (SCOTLAND) ACT 2011		
Reservoir registration number (as specified in the controlled reservoirs register):		
Name (if any) and location of the reservoir:		
National grid reference for the approximate centre of the reservoir:		
Name and address of reservoir manager(s):		
Details of repairs undertaken on reservoir	Name, position, signature and contact details of engineer or other person who carried out the works	Date repairs carried out

SCHEDULE 19
REVOCATIONS

Regulation 44

<i>Instrument</i>	<i>Citation</i>
The Reservoirs Act 1975 (Registers, Reports and Records) Regulations 1985	S.I. 1985/177
The Reservoirs Act 1975 (Registers, Reports and Records) (Amendment) Regulations 1985	S.I. 1985/548
The Reservoirs Act 1975 (Certificates, Reports and Prescribed Information) Regulations 1986	S.I. 1986/468
The Reservoirs Act 1975 (Referees) (Appointment and Procedure) Rules 1986	S.I. 1986/467
The Reservoirs (Scotland) Regulations 2015	S.S.I. 2015/90
The Reservoirs (Scotland) Amendment Regulations 2015	S.S.I. 2015/315

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning reservoirs under Part 1 of the Reservoirs (Scotland) Act 2011 (“the Act”). The provisions in Parts 2 to 5 consolidate and replace previous provisions.

Part 2 makes further provision under Chapter 1 (controlled reservoirs) of Part 1 of the Act as to—

- how lochs and other areas are to be considered artificial or partly artificial;
- calculation of volume of water that a structure or area is capable of holding;
- calculation of volume of water that a structure or area is capable of releasing;
- meaning of “natural level” and “surrounding land”; and
- structures or areas which are not controlled reservoirs.

Part 3 makes further provision under Chapter 2 (registration) of Part 1 of the Act as to—

- controlled reservoirs register: additional information;
- information that a reservoir manager must register with SEPA;
- time by which changes to information must be registered; and
- determination and charging of fees.

Part 4 makes further provision under Chapter 3 (risk designation) of Part 1 of the Act—

- in relation to applications for a review under section 23 of the Act (review of SEPA’s decisions giving risk designations); and
- in relation to appeals under section 24 of the Act (appeal to the Scottish Ministers following SEPA’s review of such decisions).

Part 5 makes provision under Chapter 4 (panels of reservoir engineers) of Part 1 of the Act as to—

- applications for appointment;
- fees in connection with applications for membership of panels; and
- applications for review of decisions to appoint or remove panel members etc.

Part 6 makes further provision under Chapter 5 (construction or alteration of controlled reservoirs) of Part 1 of the Act including, in particular, as to—

- other matters to be included in safety reports under section 35 of the Act; and
- other information to be included in construction certificates under section 38 of the Act.

Part 7 makes further provision under Chapter 6 (other requirements: high-risk reservoirs and medium-risk reservoirs) of Part 1 of the Act including, in particular, as to other matters of which a record must be maintained under section 51 of the Act and the form and content of that record.

Part 8 makes provision under Chapter 7 (other requirements: controlled reservoirs) of Part 1 of the Act as to the form of information about repairs to be maintained under section 56 of the Act.

Part 9 makes provision under Chapter 8 (dispute referral) of Part 1 of the Act as to—

- the time within which a referee may be appointed under section 61 of the Act;
- the time within which a request to the Scottish Ministers for an appointment under that section may be made;
- the matter of the request and the procedure before the referee; and
- the expenses of the investigation and proceedings.

Part 10 consequentially revokes various instruments (in so far as they extend to Scotland).

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

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