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D I R E C T I O N S

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## FLOOD RISK MANAGEMENT

### The Reservoirs (Disclosure of Information) (Scotland) Directions 2017

*Made* - - - - - *30th March 2017*

*Coming into force* - - - - - *1st April 2017*

The Scottish Ministers give the following Directions to the Scottish Environment Protection Agency in exercise of powers conferred by section 104 of the Reservoirs (Scotland) Act 2011(a) and all other powers enabling them to do so.

#### **Citation and commencement**

1. These Directions may be cited as the Reservoirs (Disclosure of Information) (Scotland) Directions 2017 and come into force on 1st April 2017.

#### **Interpretation**

2. In these Directions—

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

“controlled reservoir” is to be construed in accordance with sections 1 and 2 of the Act;

“controlled reservoirs register” has the same meaning as in section 9 of the Act;

“an inundation map” means a map showing the area of land which, in the event of an uncontrolled release of water from a controlled reservoir, would be likely to be flooded;

“restricted period” means the period beginning with 1st April 2017 and ending with 31st March 2018; and

“SEPA” means the Scottish Environment Protection Agency.

#### **Flood inundation maps**

3.—(1) Subject to paragraph (2), the Scottish Ministers direct SEPA not to—

(a) disclose an inundation map, or any information provided by any such map, to any person other than the Scottish Ministers; or

(b) give any specific indication of the existence of an inundation map in respect of a controlled reservoir to any person other than the Scottish Ministers,

during the restricted period.

(2) Paragraph (1) does not apply to the extent that—

(a) it would prevent SEPA from complying with a duty imposed on it by virtue of—

(i) Part 1 of the Act;

(ii) the Environmental Information (Scotland) Regulations 2004(a);

- (iii) the Freedom of Information (Scotland) Act 2002**(b)**;
  - (iv) any other enactment;
  - (v) a constable acting in the course of the constable's duties; or
  - (vi) an order of a court of competent jurisdiction; or
- (b) the Scottish Ministers give SEPA consent in writing (or in electronic form) to do any of the things referred to in paragraph (1)(a) or (b).

(3) If, during the restricted period, SEPA receives a request under the Environmental Information (Scotland) Regulations 2004 or the Freedom of Information (Scotland) Act 2002 which might require the disclosure of—

- (a) an inundation map which is not, for the time being, required to be contained in the controlled reservoirs register; or
- (b) the existence of, or information provided by, any such map,

SEPA is directed to immediately notify the Scottish Ministers of the information requested and the earliest date on which the map, its existence or the information might be required to be disclosed.

(4) Where, during the restricted period, SEPA proposes to do any of the things referred to in paragraph (1)(a) or (b) for the purposes of complying with a duty imposed on it by virtue of any enactment referred to in paragraph (2)(a)(iv), it must immediately inform the Scottish Ministers of the duty imposed.

#### **Controlled reservoirs register**

4. The Scottish Ministers direct SEPA to ensure that—

- (a) the controlled reservoirs register contains only such information and documents as is necessary to comply with section 9 of the Act (as read with the Reservoirs (Scotland) Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2015(c)); and
- (b) the maps referred to in section 9(2)(h) of the Act—
  - (i) provide only such information as SEPA considers is strictly necessary to show the area of land which, in the event of an uncontrolled release of water from the reservoir, would be likely to be flooded; and
  - (ii) disclose the extent of the area of land which, in the event of an uncontrolled release of water from the reservoir, would be likely to be flooded—
    - (aa) only by means of a shaded area marked on the map without any national grid reference, grid lines or contour lines; and
    - (bb) only at a scale which is no larger than (and cannot be readily modified to appear at a scale which is larger than) 1:38,000.

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(a) S.S.I. 2004/520, as amended by S.S.I. 2013/127.

(b) 2002 asp 13, as amended by S.I. 2006/1031, the Equality Act 2010 (c.15), Schedule 26, paragraphs 103 and 104, the Public Services Reform (Scotland) Act 2010 (asp 8), section 4(5)(a), the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), schedule 4, paragraphs 1 to 7, S.I. 2011/1043, the Freedom of Information (Amendment) (Scotland) Act 2013 (asp 2), sections 1 to 5, and S.S.I. 2013/365; there are other amendments which are not relevant to this Order.

(c) S.S.I. 2015/63.

**Revocation**

5. The Reservoirs (Disclosure of Information) (Scotland) Directions 2016(a) are revoked.



NEIL RITCHIE

A member of the staff of the Scottish Ministers

Victoria Quay,  
Edinburgh  
30th March 2017

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(a) These are the Directions which were made on 23rd March 2016 and came into force on 1st April 2016.

## EXPLANATORY NOTE

*(This note is not part of the Directions)*

These Directions direct the Scottish Environment Protection Agency (“SEPA”) as to the carrying out of some of its functions under the Reservoirs (Scotland) Act 2011 (“the Act”).

Article 3 directs SEPA not to disclose details of flood inundation maps during the restricted period subject to some exceptions. It also directs SEPA to notify the Scottish Ministers of any requests it receives for information that might require the disclosure of any such map (or the existence of it).

Article 4 directs SEPA to ensure that the controlled reservoirs register contains only such information and documents as are necessary to comply with section 9 of the Act. Although a reservoir manager may be required to register additional information with SEPA under section 10 of the Act, and SEPA may itself prepare (or receive from other sources) information or documents about a controlled reservoir, any such information or document should not be contained in the controlled reservoirs register (which is open to inspection by any person) unless it is expressly required by section 9. Information and documents which are not required to be contained in the controlled reservoirs register, may still be held by SEPA (in a separate register which is not open to inspection by the public) where it is otherwise required for the purposes of the Act.

Section 104 of the Act requires SEPA, in carrying out its functions under Part 1 of the Act, to act subject to and in accordance with these Directions.