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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 412**

**ENVIRONMENTAL PROTECTION  
WATER**

**The Water Environment (Controlled Activities)  
(Scotland) Amendment Regulations 2021**

*Made - - - - 9th November 2021*

*Laid before the Scottish  
Parliament - - - - 11th November 2021*

*Coming into force*

*for the purpose of  
regulation 1(2) 1st January 2022*

*for the purpose of  
regulation 1(3) 1st January 2023*

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<sup>(1)</sup> (the “Act”), and 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.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Water Environment (Controlled Activities) (Scotland) Amendment Regulations 2021.

(2) With the exception of the provisions mentioned in paragraph (3), these Regulations come into force on 1 January 2022.

(3) Regulation 3(4)(j) and regulation 4 come into force on 1 January 2023.

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(1) 2003 asp 3. Section 20 was amended by regulation 3 of S.S.I. 2005/348.

## Interpretation

### 2.—(1) In these Regulations—

- (a) the “2003 Regulations” means the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003<sup>(2)</sup>,
- (b) the “2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011<sup>(3)</sup>,
- (c) “nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015<sup>(4)</sup>.

(2) Any other word or expression used in these Regulations which is also used in the 2011 Regulations has the same meaning as in Part 2 of schedule 3 of the 2011 Regulations.

## Amendment of the 2011 Regulations

### 3.—(1) The 2011 Regulations are amended as follows.

#### (2) In regulation 3 (application of the regulations)—

- (a) at the start of paragraph (1), omit “Subject to paragraph (2),”,
- (b) for paragraph (1)(c) substitute—
  - “(c) construction or alteration of impounding works in inland water (other than groundwater) or wetlands,
  - (cc) operation of impounding works in surface water or wetlands”,
- (c) in paragraph (d), after “in paragraph (c)” insert “or (cc)”,
- (d) for paragraph (2) substitute—
  - “(2) These Regulations do not apply to the discharge of any reagent or chemical or particle tracer used in connection with any scientific experiment or survey in transitional waters or coastal waters.”,

(3) In regulation 36 (power of the Scottish Ministers and SEPA to obtain information), in paragraph (3), for “must include” substitute “includes”.

#### (4) In Part 1 of schedule 3 (general binding rules)—

- (a) in the entry relating to activity 5—
  - (i) in column 1, for paragraph (a) substitute—
    - “(a) has an average bed width of less than one metre along the stretch to be worked,”,
  - (ii) in column 2, in paragraph (c) after “of the” insert “ bed width of the”,
- (b) in the entry relating to activity 6, in column 1, in paragraph (b) for “channel” substitute “bed”,
- (c) in the entry relating to activity 8, in column 2—
  - (i) in paragraph (e), before “geotextiles” insert “biodegradable”,
  - (ii) in paragraph (i), after “heightening” insert “or lowering”,

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(2) [S.S.I. 2003/531](#), as amended by [S.S.I. 2006/133](#), [S.S.I. 2008/54](#) and [S.S.I. 2013/177](#).

(3) [S.S.I. 2011/209](#), as amended by [S.S.I. 2011/415](#), [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](#), [S.S.I. 2017/114](#), [S.S.I. 2017/389](#), [S.S.I. 2018/219](#), [S.S.I. 2019/26](#) and [S.S.I. 2019/175](#).

(4) [S.S.I. 2015/376](#).

(d) in the entry relating to activity 9, in column 2, in paragraph (c) for “tank”, in the second place it occurs, substitute “plant”,

(e) for the entry relating to activity 10 substitute—

<p><b>“10A.</b> The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed before 1 April 2007, with the exception of run-off from any motorway or trunk road where—</p> <ul style="list-style-type: none"> <li>(i) any one outfall serves a length of road greater than 1km, and</li> <li>(ii) the footprint of the road or its associated infrastructure is enlarged or otherwise altered on or after 1 April 2007.</li> </ul>	<ul style="list-style-type: none"> <li>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</li> <li>(b) the discharge must not— <ul style="list-style-type: none"> <li>(i) contain any trade effluent or domestic sewage,</li> <li>(ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or</li> <li>(iii) contain any water run-off from a construction site,</li> </ul> </li> <li>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water,</li> <li>(d) 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,</li> <li>(e) 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>
<p><b>10B.</b> The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed on or after 1 April 2007, with the exception of run-off from—</p> <ul style="list-style-type: none"> <li>(i) land of more than 30 hectares which is used for residential premises,</li> <li>(ii) industrial estates,</li> <li>(iii) land used as a motorised vehicle parking area with more than 1,000 parking spaces,</li> <li>(iv) motorways and trunk roads where any one outfall serves a length of road greater than 1km.</li> </ul>	<ul style="list-style-type: none"> <li>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</li> <li>(b) the discharge must not— <ul style="list-style-type: none"> <li>(i) contain any trade effluent or domestic sewage,</li> <li>(ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or</li> <li>(iii) contain any water run-off from a construction site,</li> </ul> </li> <li>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water,</li> <li>(d) the development must be drained by a SUD system equipped to avoid pollution of the water environment, unless—</li> </ul>

	<ul style="list-style-type: none"> <li>(i) the run-off is from a development that is a single dwelling and its curtilage, or</li> <li>(ii) 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 1 April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1 April 2007,</li> <li>(ii) vehicle loading or unloading bays constructed on or after 1 April 2007 where potentially polluting matter is handled, or</li> <li>(iii) oil and chemical storage handling and delivery areas constructed on or after 1 April 2007,</li> </ul> </li> <li>(f) 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,</li> <li>(g) 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>
<p><b>10C.</b> The discharge of water run-off from a quarry or borrow pit constructed on or after 1 January 2022.</p>	<ul style="list-style-type: none"> <li>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</li> <li>(b) the discharge must not— <ul style="list-style-type: none"> <li>(i) contain any trade effluent or domestic sewage, or</li> <li>(ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment,</li> </ul> </li> <li>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water,</li> <li>(d) 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 1 April 2007, or any areas where vehicles, plant and equipment are</li> </ul> </li> </ul>

	<p>refuelled constructed on or after 1 April 2007,</p> <p>(ii) vehicle loading or unloading bays constructed on or after 1 April 2007 where potentially polluting matter is handled, or</p> <p>(iii) oil and chemical storage handling and delivery areas constructed on or after 1 April 2007,</p> <p>(e) the quarry or borrow pit must be drained by a SUD system or equivalent system equipped to avoid pollution of the water environment,</p> <p>(f) 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,</p> <p>(g) 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.</p>
<p><b>10D.</b> The 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>(ii) contain a road or track length in excess of 5km, or</p> <p>(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°.</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 domestic sewage, or</p> <p>(ii) result in visible discolouration, iridescence, foaming or 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, unless during construction those developments are drained by a SUD system or equivalent system equipped to avoid pollution of the water environment,</p> <p>(e) the discharge must not contain any water run-off from—</p> <p>(i) any fuel delivery areas constructed on or after 1 April 2007, or any areas where vehicles, plant and equipment are</p>