Draft Regulations laid before Parliament under section 5 of the Reservoirs Act 1975, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

WATER, ENGLAND

The Reservoirs Act 1975 (Exemptions, Appeals and Inspections) (England) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1(b)

The Secretary of State in exercise of the powers conferred by sections A1(8), 2E(1), 5, 10(2) and 19A(1) of the Reservoirs Act 1975(**1**) makes the following Regulations.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament pursuant to section 5(6), (7) and (8) of the Reservoirs Act 1975.

The Administrative Justice and Tribunals Council has been consulted in accordance with section 44 of, and paragraph 24 of Schedule 7 to, the Tribunals, Courts and Enforcement Act 2007(**2**).

Title, commencement, extent and application

1. These Regulations—

(a) may be cited as the Reservoirs Act 1975 (Exemptions, Appeals and Inspections)(England) Regulations 2013;

(b) come into force on the day after the day on which they are made;

(c) extend to England and Wales; and

(d) apply in relation to reservoirs in England.

Interpretation

2. In these Regulations "the 1975 Act" means the Reservoirs Act 1975.

(**1**) 1975 c.23. Sections A1, 2E and 19A were inserted by paragraphs 2, 7 and 30 of Schedule 4 to the Flood and Water Management Act 2010 c.29. Section 10(2) was amended by paragraph 12(3) of Schedule 4 to the Flood and Water Management Act 2010. There are other amendments but none is relevant.

(**2**) 2007 c.15, to which there are amendments not relevant to these Regulations.

Specified things not to be treated as large raised reservoirs

3.—(1) For the purposes of section A1(8) of the 1975 Act the following are not to be treated as a large raised reservoir—

(a) a mine lagoon which is a tip within the meaning of Part I of the Mines and Quarries (Tips) Act 1969(**3**);

(b) a quarry lagoon which is—

(i) a tip within the meaning of the Quarries Regulations 1999(**4**); or

(ii) a disused tip within the meaning of Part II of the Mines and Quarries (Tips) Act 1969;

(c) a canal or other inland navigation;

(d) a road or railway embankment except where—

(i) the drain or drains through it are artificially blocked for the purposes of using areas upstream to store water; or

(ii) the drain or drains through it are constructed so that water is stored above natural ground level.

(2) Paragraph (1)(c) does not include a reservoir which forms part of a canal or other inland navigation.

Right to appeal a designation of a large raised reservoir as a high-risk reservoir

4.—(1) An undertaker who has been given a notice under section 2B(1)(**5**) of the 1975 Act may appeal on any ground to the First-tier Tribunal against the designation confirmed in that notice.

(2) On deciding an appeal under paragraph (1), the First-tier Tribunal must confirm or cancel the designation.

Right to appeal a requirement in a notice

5.—(1) An undertaker who has been given an enforcement notice may appeal on any ground to the First-tier Tribunal against a requirement in the notice to appoint an engineer or carry a recommendation of an engineer into effect.

(2) On deciding an appeal under paragraph (1), the First-tier Tribunal must—

(a) confirm the requirement;

(b) modify the requirement; or

(c) determine that the requirement is to cease to have effect.

(3) Where an appeal is brought, the requirement is suspended while the appeal is pending.

(4) In this regulation "enforcement notice" means a notice given under section 8(1) or (3A)(**6**), 9(7), 10(7), 12(4), 13(5), or 14(4) of the 1975 Act.

Periodical inspection of high-risk reservoirs

6.—(1) An undertaker must have a high-risk reservoir to which section 10(2) of the 1975 Act applies inspected at each of the following times—

(**3**) 1969 c.10; section 2(1) was amended by S.I. 1999/2024. There are other amendments but none is relevant.
(**4**) S.I. 1999/2024, to which there are amendments not relevant to these Regulations.
(**5**) Section 2B was inserted by paragraph 7 of Schedule 4 to the Flood and Water Management Act 2010.
(**6**) Subsection (3A) was inserted by section 75 of the Water Act 2003 c.37.