

Environmental Protection

The Cross-Border River Basin Districts (Scotland) Directions 2015

September 2015

DIRECTIONS

ENVIRONMENTAL PROTECTION

The Cross-Border River Basin Districts (Scotland) Directions 2015

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Coming into force - - 14th September 2015

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The Scottish Ministers give the following Directions to SEPA in exercise of the powers conferred by sections 40(1) and (2) and 122(2) of the Environment Act 1995^(a) and section 2(6) of the Water Environment and Water Services (Scotland) Act 2003^(b) and all other powers enabling them to do so.

In accordance with section 40(6) of the Environment Act 1995, they have consulted SEPA.

Citation, commencement and extent

1.—(1) These Directions may be cited as the Cross-Border River Basin Districts (Scotland) Directions 2015 and come into force on 14th September 2015.

(2) These Directions extend to Scotland only.

(a) 1995 c. 25. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) 2003 asp 3. In section 2(6), “the relevant enactments” includes Part 1 (and, in particular, section 2(1) (general duties)) of the Water Environment and Water Services (Scotland) Act 2003 in so far as it applies (by virtue of regulation 6 of the 2003 Regulations) to the Scottish part of the Northumbria River Basin District and in so far as it applies (by virtue of regulation 5 of, and Schedule 4 to, the 2004 Regulations) to the Scottish part of the Solway Tweed River Basin District.

Application

- 2.—(1) Subject to paragraph (2), these Directions apply—
- (a) in relation to the part of the Solway Tweed River Basin District which is in Scotland;
 - (b) in relation to the exercise of SEPA’s functions (so far as relevant) under—
 - (i) the 2004 Regulations;
 - (ii) Part 1 of the Act in so far as it applies (by virtue of regulation 5 of, and Schedule 4 to, the 2004 Regulations) in relation to the Solway Tweed River Basin District; and
 - (iii) the relevant enactments (except Part 1 of the Act) in so far as they apply in relation to the part of the Solway Tweed River Basin District which is in Scotland; and
 - (c) only in so far as they are consistent with the Water Framework Directive, the Groundwater Directive and the Priority Substances Directive.
- (2) Article 6 also applies—
- (a) in relation to the part of the Northumbria River Basin District which is in Scotland; and
 - (b) in relation to the exercise of SEPA’s functions (so far as relevant) under—
 - (i) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003(a) as amended from time to time; and
 - (ii) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(b) as they apply to the Northumbria River Basin District(c).

Interpretation

- 3.—(1) In these Directions—
- “the 2004 Regulations” means the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(d) as amended from time to time;
- “the 2013 Regulations” means the Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013(e) as amended from time to time;
- “the Act” means the Water Environment and Water Services (Scotland) Act 2003(f) as amended from time to time;
- “biota taxon” means a particular aquatic taxon within the taxonomic rank ‘sub-phylum’, ‘class’ or their equivalent;
- “body of surface water” has the meaning given in section 28 of the Act;
- “Directive 2009/90/EC” means Commission Directive 2009/90/EC laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specification for chemical analysis and monitoring of water status(g);
- “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

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- (a) S.I. 2003/3245, as amended.
 - (b) S.I. 2003/3242, as amended.
 - (c) The Regulations apply, with modifications, to the whole of the Northumbria River Basin District by virtue of regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003.
 - (d) S.I. 2004/99, as amended by S.I. 2005/2035, S.I. 2008/1097, S.S.I. 2011/228, S.I. 2011/556, S.I. 2011/1043 and S.S.I. 2013/1675.
 - (e) S.S.I. 2013/323, as amended.
 - (f) 2003 asp 3, as amended by the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), schedule 2, paragraph 6, the Planning etc. (Scotland) Act 2006 (asp 17), schedule 1, paragraph 1, the Flood Risk Management (Scotland) Act 2009 (asp 6), Schedule 3, paragraph 14, the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), section 54, the Water Resources (Scotland) Act 2013 (asp 5), schedule 4, paragraph 2, the Regulatory Reform (Scotland) Act 2014 (asp 3), schedule 3, paragraph 8(2), S.S.I. 2005/348 and S.I. 2011/1043.
 - (g) OJ L 201, 1.8.2009, p.36.

“environmental objective” means an environmental objective proposed and approved (with such modifications, or subject to such modifications, as the case may be) pursuant to paragraph 6(3) of Schedule 1 to the 2004 Regulations;

“EQS” means environmental quality standards or, where the context so requires, environmental quality standard;

“existing obligations” means the obligations arising under the Priority Substances Directive as it had effect before it was amended by Directive 2013/39/EU of the European Parliament and of the Council^(a) (“the original Directive”) including, in particular, the achievement of good surface water chemical status in relation to the substances and the associated EQS listed in the original Directive;

“the Groundwater Directive” means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration^(b) as amended by Commission Directive 2014/80/EU^(c);

“groundwater quality standard” means an environmental quality standard expressed as the concentration of a particular pollutant, group of pollutants or indicator of pollution in groundwater, which should not be exceeded in order to protect human health and the environment;

“limit of detection” means the output signal or concentration value above which it can be affirmed, with a stated level of confidence that a sample is different from a blank sample containing no determinand of interest;

“limit of quantification” means a stated multiple of the limit of detection at a concentration of the determinand that can reasonably be determined with an acceptable level of accuracy and precision;

“matrix” means a compartment of the aquatic environment, namely water, sediment or biota;

“Northumbria River Basin District” means the area identified as a river basin district by regulation 3(1) of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;

“Part A” means Part A of Annex I to the Priority Substances Directive (as read with the definitions and notes contained in that Part);

“Part B”, except where the context otherwise requires, means Part B of Annex I to the Priority Substances Directive;

“pollutant” has the meaning given in regulation 2(1) of the Water Environment (Controlled Activities) (Scotland) Regulations 2011^(d);

“the Priority Substances Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy^(e) as amended by Directive 2013/39/EU^(f);

“programme of measures” means the programme of measures established under paragraph 6 of Schedule 1 to the 2004 Regulations, as updated from time to time;

“the relevant enactments” has the same meaning as it has in section 2(8) of the Act;

“river basin management plan” means, except where the context otherwise requires, the river basin management plan approved under the 2004 Regulations, as updated from time to time;

“SEPA” means the Scottish Environment Protection Agency;

“significant and sustained upward trend” means any statistically and environmentally significant increase of concentration of a pollutant, group of pollutants, or indicator of

(a) OJ L 226, 24.8.2012, p.1.

(b) OJ L 372, 27.12.2006, p.19.

(c) OJ L 182, 21.6.2014, p.52.

(d) S.S.I. 2011/209, as amended by S.S.I. 2012/360, S.S.I. 2013/176 and S.S.I. 2013/323.

(e) OJ L 348, 24.12.2008, p.84.

(f) OJ L 182, 21.6.2014, p.52.

pollution in groundwater for which trend reversal is identified as being necessary in accordance with article 9;

“Solway Tweed River Basin District” means the area identified as a river basin district by regulation 3(1) of the 2004 Regulations;

“threshold value” means a groundwater quality standard which SEPA is required to apply pursuant to article 7(2) (as read with article 7(3)) of these Directions;

“water environment” has the meaning given in section 3 of the Act; and

“the Water Framework Directive” means the Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy^(a) as last amended by Commission Directive 2014/101/EU^(b).

(2) For the purposes of these Directions, the limit of quantification may be calculated using an appropriate standard or sample, and may be obtained from the lowest calibration point on the calibration curve, excluding the blank.

(3) Any other word or expression used (but not defined) in these Directions which is defined in Part 1 of the Act has the same meaning as it has in Part 1 of the Act.

(4) Unless the context otherwise requires—

(a) any other word or expression used, but not defined, in these Directions (or which is otherwise used in a provision of an EU Directive which is applied by virtue of these Directions) which is defined in the Water Framework Directive or the Groundwater Directive has the same meaning as it has in the Directive in question; and

(b) a reference to a numbered article in these Directions refers to the paragraph so numbered.

Duties in relation to environmental objectives and programmes of measures

4.—(1) Where monitoring or other data indicate that an environmental objective for a body of water in the Scottish part of the Solway Tweed River Basin District is unlikely to be achieved, SEPA must take steps to ensure (in so far as it is able to do so) that—

(a) the causes of the possible failure are investigated;

(b) any relevant permits and authorisations are examined and reviewed as appropriate;

(c) the associated monitoring programmes are reviewed and adjusted as appropriate; and

(d) any additional measures needed to achieve those objectives are included in the programme of measures for the Solway Tweed River Basin District (“the programme”).

(2) Each measure (in the programme) to be applied to achieve an environmental objective, must be implemented, so far as may be applicable, by SEPA in exercising its functions pursuant to—

(a) regulation 4 (general duties) of the 2004 Regulations;

(b) Part 1 of the Act as applied by regulation 5 of, and Schedule 4 to, the 2004 Regulations;

(c) the relevant enactments (other than Part 1 of the Act).

Environmental quality standards for bodies of surface water

5.—(1) Subject to paragraph (2), SEPA must, for each body of surface water within the Solway Tweed River Basin District, apply the EQS in Part A in accordance with the requirements in Part B.

(2) Without prejudice to existing obligations, SEPA must—

(a) OJ L 327, 22.12.2000, p.1, as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p.1), Directive 2008/32/EC (OJ L 81, 20.3.2008, p.60), Directive 2008/105/EC (OJ L 348, 24.12.2008, p.84), Directive 2009/31/EC (OJ L 140, 5.6.2009, p.114), Directive 2013/39/EU (OJ L 226, 24.8.2013, p.1) and Commission Directive 2014/101/EU (OJ L 311, 31.10.2014, p.32).

(b) OJ L 311, 31.10.2014, p.32.

- (a) from 22nd December 2015, apply the EQS in Part A for the substances numbered (2), (5), (15), (20), (22), (23) and (28) (in column (1) of the table in that Part) with the aim of achieving good surface water chemical status in relation to those substances by 22nd December 2021 (or such other date as may apply) by means of the programme of measures included in the river basin management plan(a); and
 - (b) from 22nd December 2018, apply the EQS in Part A for the substances numbered (34) to (45) (in column (1) of the table in that Part) (“the new substances”), with the aim of achieving good surface water chemical status in relation to those substances by 22nd December 2027 (or such other date as may apply) and preventing deterioration in the chemical status of each body of surface water in relation to those substances(b).
- (3) For the purposes of paragraph (2)(b), SEPA must take steps with a view to ensuring that—
- (a) by 22nd December 2018—
 - (i) a supplementary monitoring programme covering the new substances is established;
 - (ii) a preliminary programme of measures covering the new substances is established;
 - (b) by 22nd December 2021, a full programme of measures covering the new substances (“the full programme”) is established; and
 - (c) as soon as possible after 22nd December 2021, and not later than 22nd December 2024, the full programme is implemented and made fully operational.
- (4) SEPA must apply—
- (a) the biota EQS in Part A for the substances numbered (5), (15), (16), (17), (21), (28), (34), (35), (37), (43) and (44) (in column (1) of the table in that Part); and
 - (b) the water EQS in Part A for the other substances numbered.
- (5) SEPA may in relation to one or more categories of surface water, apply—
- (a) an EQS for a matrix other than that specified in paragraph (4); or
 - (b) where relevant, an EQS for a biota taxon other than that specified in Part A.
- (6) Where SEPA makes use of the option in paragraph (5), it must—
- (a) apply the EQS for the substances in question; or
 - (b) if there is no EQS for the matrix or biota taxon in question, establish an EQS for that matrix or biota taxon that offers at least the same level of protection as the corresponding EQS for those substances in relation to other matrix and biota taxon.
- (7) SEPA may use the option in paragraph (5) only where—
- (a) the method of analysis used for the chosen matrix or biota taxon fulfils the minimum performance criteria in Article 4 of Directive 2009/90/EC; or
 - (b) if the method does not fulfil those criteria for any matrix, SEPA ensures—
 - (i) that the method of analysis performs at least as well as that available for the matrix specified in paragraph (4) for the relevant substance; and
 - (ii) that monitoring is carried out using best available techniques not entailing excessive costs.
- (8) Where a biota or sediment EQS for a substance in Part A is being applied and a potential risk to, or via, the water environment from acute exposure to the substance has been identified as a result of measured or estimated environmental concentrations or emissions of that substance, SEPA must—
- (a) additionally apply any MAC-EQS in Part A for that substance; and
 - (b) carry out monitoring in relevant bodies of surface water for that substance.

(a) The second sub-paragraph in Article 3(1a) of the Priority Substances Directive provides that Article 4(4) to (9) of the Water Framework Directive shall apply mutatis mutandis to the substances listed in this sub-paragraph.

(b) The second sub-paragraph in Article 3(1a) of the Priority Substances Directive provides that Article 4(4) to (9) of the Water Framework Directive shall apply mutatis mutandis to the substances listed in this sub-paragraph.

(9) Any measured result for the substance being monitored must not be considered by SEPA for the purposes of assessing the chemical status of a body of surface water where—

- (a) pursuant to Article 5 of Directive 2009/90/EC, the calculated mean value of a measurement, when carried out using the best available technique not entailing excessive costs, is referred to as ‘less than limit of quantification’; and
- (b) the limit of quantification of that technique is above the EQS for the substance.

(10) For substances for which an EQS for sediment or biota is applied, SEPA must, subject to paragraph (11), monitor the substance in the relevant matrix at least once every year, unless technical knowledge and expert judgment justify another interval.

(11) SEPA may monitor the substances numbered (5), (21), (28), (30), (35), (37), (43) and (44) (in column (1) of the table in Part A) less intensively than is required by paragraph (10) and Annex V to the Water Framework Directive provided that the monitoring—

- (a) is representative and a statistically robust baseline is available regarding the presence of those substances in the aquatic environment; and
- (b) takes place for each of the substances at least once every 3 years (unless technical knowledge and expert judgment justify another interval).

(12) SEPA must take steps with a view to ensuring that the river basin management plan is updated to include—

- (a) a table presenting the limits of quantification of the methods of analysis applied, and information on the performance of those methods in relation to the minimum performance criteria in Article 4 of Directive 2009/90/EC;
- (b) for the substances for which the option in paragraph (5) is used—
 - (i) the reasons and basis for using that option;
 - (ii) where relevant, the alternative EQS established, evidence that those EQS would offer at least the same level of protection as the EQS in Part A, including the data and methodology used to derive the EQS, and the categories of surface water to which they would apply; and
 - (iii) for comparison with the information referred to in sub-paragraph (a), the limits of quantification of the methods of analysis for matrices specified in Part A, including information on the performance of the methods in relation to the minimum performance criteria in Article 4 of Directive 2009/90/EC; and
- (c) justification for the frequency of monitoring applied in accordance with paragraph (10) (as read with paragraph (11)), if monitoring intervals are longer than one year.

(13) SEPA must take steps with a view to ensuring that—

- (a) each update of the river basin management plan (containing the results and impact of the measures taken to prevent chemical pollution of surface water); and
- (b) the interim report describing progress in implementing each programme of measures in accordance with Article 15(3) of the Water Framework Directive,

is provided through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC of the European Parliament and of the Council(a).

(14) SEPA must—

- (a) arrange for the long-term trend analysis of concentrations of the priority substances listed in Part A that tend to accumulate in sediment or biota (giving particular consideration to the substances numbered (2), (5), (6), (7), (12), (15), (16), (17), (18), (20), (21), (26), (28), (30), (34), (35), (36), (37), (43) and (44) in column (1) of the table in that Part) on the basis of the monitoring of surface water status carried out in accordance with section 8 (monitoring) of the Act;

(a) OJ L 41, 14.2.2003, p.26.

- (b) take measures aimed at ensuring, subject to Article 4 of the Water Framework Directive, that such concentrations do not significantly increase in sediment or relevant biota;
- (c) determine the frequency of monitoring in sediment and biota so as to provide sufficient data for reliable long-term trend analysis of each priority substance; and
- (d) ensure that monitoring for each priority substance takes place at least once every 3 years, unless technical knowledge and expert judgment justify another interval.

Publication of emissions, discharges and losses of priority substances

6.—(1) SEPA must take steps to ensure (in so far as it is able to do so) that the updated register that it maintains pursuant to regulation 19(1) and (3) of the 2013 Regulations is, in so far as it relates to emissions, discharges or losses within a cross-border river basin district, published in each update of the river basin management plan for that cross-border river basin district.

(2) In paragraph (1), “cross-border river basin district” means the Northumbria River Basin District or, as the case may be, the Solway Tweed River Basin District.

Criteria for assessing groundwater chemical status

7.—(1) Where new information indicates that, to protect human health and the environment, a new threshold value should be applied or a threshold value being applied should be revised, SEPA must submit to the Scottish Ministers proposals for a new or revised threshold value to be applied.

(2) For the purposes of assessing the chemical status of each body of groundwater (or group of such bodies) pursuant to paragraph 5 of Schedule 1 to the 2004 Regulations, SEPA must apply, in addition to the groundwater quality standards in Annex I to the Groundwater Directive, the threshold values which the Scottish Ministers direct (in exercise of powers conferred by the Act or any other enactment) SEPA to apply (in response to proposals under paragraph (1) or otherwise).

(3) The threshold values must be established in accordance with Annex II to the Groundwater Directive, based on the protection of the body of groundwater and having particular regard to its impact on, and interrelationship with, associated surface waters and directly dependent terrestrial ecosystems and wetlands and take into account human toxicology and ecotoxicology knowledge.

(4) SEPA must take steps with a view to ensuring that the river basin management plan is updated to include—

- (a) the threshold values which apply for the purposes of paragraph (2);
- (b) any changes to those threshold values since the plan was last approved; and
- (c) the information set out in Part C of Annex II to the Groundwater Directive.

Procedure for assessing groundwater chemical status

8.—(1) SEPA must use the procedure in paragraph (2) to assess the chemical status of a body of groundwater but, in carrying out this procedure, a body of groundwater may, if appropriate, be grouped with other such bodies in accordance with Annex V to the Water Framework Directive.

(2) The body of groundwater (or group of such bodies) must be considered to be of good chemical status when—

- (a) relevant monitoring shows that the conditions set out in section 2.3.2 (good groundwater chemical status) of Annex V to the Water Framework Directive are being met;
- (b) the values for the groundwater quality standards in Annex I to the Groundwater Directive and the threshold values which apply for the purposes of article 7(2) are not exceeded at any monitoring point in the body of groundwater (or group of such bodies); or
- (c) the value for any such groundwater quality standard or any such threshold value is exceeded at one or more monitoring points but an appropriate investigation in accordance with Annex III to the Groundwater Directive confirms that—
 - (i) on the basis of the assessment referred to in paragraph 3 of Annex III to the Groundwater Directive, the concentrations of pollutants exceeding the groundwater

quality standard or threshold value is not considered to present a significant environmental risk, taking into account, where appropriate, the extent of the body of groundwater (or group of such bodies) which is affected;

- (ii) the other conditions for good groundwater chemical status in section 2.3.2 in Annex V to the Water Framework Directive are being met in accordance with paragraph 4 of Annex III to the Groundwater Directive;
- (iii) for any body of groundwater identified in accordance with paragraph 3(1) (bodies of water used for the abstraction of drinking water) of Schedule 1 to the 2004 Regulations, the requirements of Article 7(3) of the Water Framework Directive are being met in accordance with paragraph 4 of Annex III to the Groundwater Directive; and
- (iv) the ability of the body of groundwater (or, as the case may be, each such body in the group) to support human uses has not been significantly impaired by pollution.

(3) SEPA must take steps with a view to ensuring that the river basin management plan is updated to include a summary of the assessment of groundwater chemical status (including an explanation as to the manner in which exceedances of groundwater quality standards or threshold values at individual monitoring points have been taken into account in the final assessment), and that this summary is published.

(4) If a body of groundwater is classified as being of good chemical status in accordance with paragraph (2)(c), SEPA must, in exercising its functions under the relevant enactments, take such action as may be necessary to protect aquatic ecosystems, terrestrial ecosystems and human uses of groundwater dependent on the part of the body of groundwater represented by the monitoring point or points at which the value for a groundwater quality standard or the threshold value has been exceeded.

Identification of significant and sustained upward trends and the definition of starting points for trend reversals

9.—(1) SEPA must, in accordance with Annex IV to the Groundwater Directive, for any body of groundwater (or, as the case may be, group of such bodies) within the Solway Tweed River Basin District that has been characterised as being at risk of failing to meet an environmental objective—

- (a) identify any significant and sustained upward trend in the concentration of a pollutant, a group of pollutants or any indicator of pollution; and
- (b) determine the starting point for reversing that trend.

(2) SEPA must, in accordance with Part B of Annex IV to the Groundwater Directive, take such steps as are necessary pursuant to the programme of measures for the Solway Tweed River Basin District to reverse trends which present a significant risk of harm to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, in order progressively to reduce pollution and prevent deterioration of groundwater.

(3) SEPA must determine the starting point for trend reversal as a percentage of the level of the groundwater quality standards and threshold values, on the basis of the identified trend and the associated environmental risk, in accordance with paragraph 1 in Part B of Annex IV to the Groundwater Directive.

(4) Where necessary to assess the impact of existing plumes of pollution in a body of groundwater within the Solway Tweed River Basin District that may threaten the achievement of an environmental objective including, in particular, plumes resulting from point sources and contaminated land, SEPA must carry out additional trend assessments for identified pollutants to verify that plumes from contaminated sites—

- (a) do not expand;
- (b) do not deteriorate the chemical status of the body of groundwater (or the group of such bodies); and
- (c) do not present a risk for human health and the environment.

(5) SEPA must take steps with a view to ensuring that the river basin management plan is updated to include a summary of—

- (a) the way in which the trend assessment from individual monitoring points within the body of groundwater (or group of such bodies) has contributed to identifying, in accordance with section 2.5 (presentation of groundwater status) of Annex V to the Water Framework Directive, that the body (or group of such bodies) is subject to a significant and sustained upward trend in concentration of any pollutant or a reversal of that trend;
- (b) the reasons for the starting points determined pursuant to paragraph (3); and
- (c) the results of any assessment under paragraph (4).

Measures to prevent or limit inputs of pollutants into groundwater

10.—(1) SEPA must take steps with a view to ensuring that the programme of measures for the Solway Tweed River Basin District is updated to include—

- (a) for any hazardous substance, all measures necessary to prevent the input of the substance into groundwater; and
- (b) for any other pollutant, considered to present an existing or potential risk of pollution, all measures necessary to limit inputs of the pollutant into groundwater so as to ensure that such inputs do not cause deterioration or significant and sustained upward trends in the concentrations of pollutants in groundwater.

(2) For the purposes of paragraph (1), inputs of pollutants from diffuse sources of pollution having an impact on the groundwater chemical status must be taken into account whenever technically possible.

(3) Without prejudice to any more stringent requirement in EU legislation, paragraph (1) does not apply to the input of pollutants that are—

- (a) the result of direct discharges authorised in accordance with Article 11(3)(j) of the Water Framework Directive;
- (b) considered by SEPA to be of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater;
- (c) the consequences of accidents or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated;
- (d) the result of artificial recharge or augmentation of any body of groundwater authorised in accordance with Article 11(3)(f) of the Water Framework Directive;
- (e) in the view of SEPA incapable, for technical reasons, of being prevented or limited without using—
 - (i) measures that would increase risks to human health or to the quality of the environment as a whole; or
 - (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil; or
- (f) the result of interventions in surface waters for the purposes, amongst others, of mitigating the effects of floods and droughts, and for the management of waters and waterways, including at international level, provided that—
 - (i) the interventions are authorised for that purpose; and
 - (ii) the inputs do not compromise the achievement of an environmental objective for each body of water concerned,

provided that efficient monitoring of each body of groundwater concerned, in accordance with section 2.4.2 (surveillance monitoring) of Annex V to the Water Framework Directive, or other appropriate monitoring, is being carried out.

Co-operation with the Environment Agency

11. In relation to a body of water which is partly within Scotland and partly within England, SEPA must, in exercising its functions pursuant to these Directions, work co-operatively with (and, if SEPA considers it appropriate, consult) the Environment Agency.

Revocation

12. The Cross-Border River Basin Districts (Scotland) Directions 2014^(a) are revoked.

Savings

13. Until the date on which a revised environmental quality standard for a substance in Part A of Annex I to the Priority Substances Directive is required to be applied by virtue of these Directions, article 3(1) of the Cross-Border River Basin Districts (Scotland) Directions 2014 continues to apply in so far as it required SEPA to apply a different corresponding standard for that substance.

W GEORGE BURGESS

A member of the staff of the Scottish Ministers

Victoria Quay,
Edinburgh
25th August 2015

(a) These are the Directions which were signed on 13th November 2014 and came into force on 17th November 2014.

EXPLANATORY NOTE

(This note is not part of the Directions)

These Directions generally direct the Scottish Environment Protection Agency (“SEPA”) as to the exercise of its functions to protect of the water environment in the Scottish part of the Solway Tweed River Basin District, albeit article 6 also applies to the Northumbria River Basin District.

The Solway Tweed River Basin District is jointly regulated by the appropriate authorities in Scotland and England under the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (“the 2004 Regulations”).

These Directions operate alongside the 2004 Regulations and help to ensure compliance with:

- Directive 2000/60/EC establishing a framework for Community action in the field of water policy as last amended by Commission Directive 2014/101/EU (“the Water Framework Directive”);
- Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy as amended by Directive 2013/39/EU of the European Parliament and of the Council (“the Priority Substances Directive”); and
- Directive 2006/118/EC the European Parliament and of the Council on the protection of groundwater against pollution as amended by Commission Directive 2014/80/EU (“the Groundwater Directive”).

Article 4 directs SEPA as to steps to be taken in relation to environmental objectives and programmes of measures in so far as they relate to surface water and groundwater. This reflects the requirements of the Water Framework Directive, including Article 11(5).

Articles 5 to 6 direct SEPA in relation to environmental quality standards for priority substances in relation to surface waters and the publication of data in relation to priority substances. This reflects the requirements of Articles 3 and 5(4) of the Priority Substances Directive. These articles operate alongside Part 3 of the Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013.

Articles 7 to 10 direct SEPA in relation to criteria and procedures for assessing groundwater chemical status, upward trends in pollutants and starting points for trend reversals in relation to groundwater, and measures to prevent or limit inputs of pollutants into groundwater. These articles reflect the requirements of Articles 3 to 6 of the Groundwater Directive.

Article 11 directs SEPA in relation to co-operation with the Environment Agency.

Article 12 revokes the Cross-Border River Basin Districts (Scotland) Directions 2014. The requirements of those Directions (in so far as they supplemented the measures needed to implement Water Framework Directive, the Priority Substances Directive and the Groundwater Directive) continue to be implemented by virtue of these and other Directions, the Water Environment and Water Services (Scotland) Act 2003 and other enactments.

Article 13 ensures that existing environmental quality standards for priority substances in the Cross-Border River Basin Districts (Scotland) Directions 2014 continue to apply until those standards are superseded by revised standards to be applied under these Directions.



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Any enquiries regarding this publication should be sent to us at
The Scottish Government
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