



Water Resources (Scotland) Act 2013

2013 asp 5

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 27th February 2013 and received Royal Assent on 9th April 2013.

An Act of the Scottish Parliament to make provision for the development of Scotland's water resources; to bring large-scale water abstraction under Ministerial control; to extend Scottish Water's functions and to authorise grants and loans in favour of related bodies; to permit the taking of steps for the sake of water quality; to create contracts for certain non-domestic water and sewerage services; to protect the public sewerage network from harm and to allow for maintenance of private sewage works; to enable the making of water shortage orders; and for connected purposes.

PART 1

DEVELOPMENT OF WATER RESOURCES

1 Duty of the Scottish Ministers

- (1) The Scottish Ministers must—
 - (a) take such reasonable steps as they consider appropriate for the purpose of ensuring the development of the value of Scotland's water resources,
 - (b) do so in ways designed to promote the sustainable use of the resources.
- (2) In fulfilling the duty under subsection (1), the Scottish Ministers are to act so far as is consistent with the proper exercise of their—
 - (a) functions under the 2003 Act and the 2009 Act,
 - (b) other functions (whether or not relating to water resources or environmental matters).
- (3) In subsection (1), the reference to the value of water resources—
 - (a) means the value of the resources on any basis (including their monetary or non-monetary worth),
 - (b) extends to the economic, social, environmental or other benefit deriving from the use of the resources (or any activities in relation to them).
- (4) In this section—

“the 2009 Act” means the Climate Change (Scotland) Act 2009,

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Water Resources (Scotland) Act 2013 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“water resources” means wetland, inland water and transitional water as defined by section 3 of the 2003 Act.

Commencement Information

I1 [S. 1](#) in force at 10.6.2013 by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

2 Involvement of public bodies

- (1) For the purpose of securing its participation in development of the kind mentioned in section 1(1), the Scottish Ministers may give a designated body directions as to the exercise of its functions.
- (2) Directions under subsection (1) may be—
 - (a) of a general or specific character,
 - (b) for collective or individual application.
- (3) Before giving directions under subsection (1), the Scottish Ministers are to consult each body to which they would apply.
- (4) A body must comply with directions under subsection (1) applying to it.
- (5) Directions under subsection (1) may vary or revoke earlier such directions.
- (6) This section is without prejudice to any other enactment providing for the Scottish Ministers to give directions to a designated body.

Commencement Information

I2 [S. 2](#) in force at 10.6.2013 by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

3 Designation of bodies

- (1) In section 2, the references to a designated body are to any of the following—
 - (a) Scottish Water,
 - (b) the Scottish Environment Protection Agency,
 - (c) Scottish Natural Heritage,
 - (d) Scottish Enterprise,
 - (e) Highlands and Islands Enterprise [^{F1},
 - (f) the Water Industry Commission for Scotland][^{F2},
 - (g) South of Scotland Enterprise]
- (2) The Scottish Ministers may by regulations modify the list in subsection (1) by—
 - (a) adding a public body,
 - (b) updating or removing an entry.
- (3) Before making regulations under subsection (2), the Scottish Ministers are to consult each body to which the modification would relate.
- (4) Regulations under subsection (2) are subject to the negative procedure.

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Textual Amendments

- F1** S. 3(1)(f) inserted (9.12.2017) by [The Development of Water Resources \(Designated Bodies Modification\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/347\)](#), regs. 1, 2
- F2** S. 3(1)(g) inserted (16.10.2019) by [South of Scotland Enterprise Act 2019 \(asp 9\)](#), s. 24(2), [sch. 2 para. 8](#); [S.S.I. 2019/308](#), reg. 2

Commencement Information

- I3** S. 3 in force at 10.6.2013 by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

4 Reports on steps taken

- (1) The Scottish Ministers—
- (a) for each successive period of 12 months within the 3 years beginning with the date on which section 1(1) comes into force, must prepare an annual report on how (and the extent to which) they have fulfilled the duty under that section during the relevant period,
 - (b) from time to time as they consider appropriate, may prepare a further report on how (and the extent to which) they have fulfilled the duty under section 1(1) during any subsequent period of at least 3 years.
- (2) A report may include such additional information as the Scottish Ministers consider appropriate.
- (3) A report is to be laid before the Scottish Parliament as soon as reasonably practicable after the end of the period to which the report relates.

Commencement Information

- I4** [S. 4](#) in force at 10.6.2013 by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

PART 2

CONTROL OF WATER ABSTRACTION

Introduction

5 Qualifying abstraction

- (1) In this Part, “qualifying abstraction” means abstraction of water by any person—
- (a) from a particular body of inland water within Scotland, and
 - (b) at a rate above the relevant threshold.
- (2) In this Part, “abstraction” in relation to a body of inland water has the same meaning as in section 20(3)(b) of the 2003 Act in relation to a body of water of the sort to which that section relates (see section 20(6) of that Act).
- (3) In this Part, “inland water” is as defined by section 3 of the 2003 Act.

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Commencement Information

I5 [S. 5](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

6 Prohibition arising

- (1) A qualifying abstraction is prohibited if it is not—
 - (a) approved as described in subsection (2), or
 - (b) exempt by virtue of section 7.
- (2) It is approved if—
 - (a) it has been approved by the Scottish Ministers under this Part, and
 - (b) their approval has not ceased to have effect by reason of—
 - (i) the expiry of any period specified under section 12(1)(a) (including where extended), or
 - (ii) the imposition of a suspension or revocation under section 15(1)(a) to (c).

Commencement Information

I6 [S. 6](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

7 Exemption from approval

- (1) A qualifying abstraction is exempt if, on the day on which this subsection comes into force, it is subject to an authorisation under the Controlled Activities Regulations.
- (2) The exemption under subsection (1) comes to an end if the authorisation subsequently—
 - (a) is varied so as to relate to a greater rate of abstraction than that to which it relates on the day mentioned in that subsection, or
 - (b) ceases to have effect for any reason, except temporarily.
- (3) A qualifying abstraction is exempt if it is carried out for the sole or principal purpose of the exercise by Scottish Water of its core functions in relation to premises in Scotland.
- (4) A qualifying abstraction is exempt if it is carried out for the sole or principal purpose of—
 - (a) generating electricity by hydro-power,
 - (b) irrigating agricultural or horticultural land,
 - (c) operating a fish farm, or
 - (d) maintaining a quarry or a coal or other mine.
- (5) In subsection (3), the reference to Scottish Water's core functions is to be construed in accordance with section 70(2) of the 2002 Act.
- (6) The Scottish Ministers may by regulations—
 - (a) modify any of the exemptions under this section,
 - (b) specify further circumstances in which a qualifying abstraction is exempt from their approval under this Part.

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I7 [S. 7](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

8 The relevant threshold

- (1) In this Part, “the relevant threshold” means—
 - (a) the rate of 10 megalitres of water per day, or
 - (b) such other rate as the Scottish Ministers may by regulations prescribe.
- (2) The Scottish Ministers may by regulations prescribe a method of calculation for the purpose of subsection (1).
- (3) Regulations under subsection (2) may (in particular) include provision for all or some of an amount of water abstracted to be left out of account in specified circumstances.

Commencement Information

I8 [S. 8](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

9 Consultation on changes

Before making regulations under section 7(6) or 8(1)(b) or (2), the Scottish Ministers must consult—

- (a) Scottish Water,
- (b) SEPA,
- (c) Scottish Natural Heritage,
- (d) such other persons as they consider appropriate.

Commencement Information

I9 [S. 9](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

Role of Ministers

10 Application for approval

- (1) Any person may apply to the Scottish Ministers for their approval of a qualifying abstraction.
- (2) The Scottish Ministers must by regulations make provision about the procedure in relation to an application under subsection (1).
- (3) In particular, the regulations may—
 - (a) specify the form in which it is to be made,
 - (b) fix a reasonable fee for making it,
 - (c) describe the information that is to accompany it,
 - (d) require the applicant to give public notice of it,