



Implementation of the Water Environment
and Water Services (Scotland) Act **2003**

Annual Report to the Scottish Parliament – 2004

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I am pleased to present this second report to Parliament on our progress in implementing the Water Environment and Water Services (Scotland) Act 2003.

We have achieved a great deal since the last report was produced in March 2004, and many of the requirements of the WEWS Act have now been completed.

Key achievements during 2004 include:

- Considerable progress on the development of the Controlled Activities Regulations. A public consultation was held on the draft Regulations in April, and in response to your constructive comments the proposals have been significantly streamlined.
- The delivery of SEPA's detailed analysis of the pressures and impacts on Scotland's water environment in December. This will be a valuable resource in enabling us to identify areas at risk and target improvement measures.
- Regulations for the Register of Protected Areas and SEPA's establishment of the Register in December.

These are key milestones in the implementation programme. The active involvement of our stakeholders has been an essential part of this progress. I look forward to another challenging year during which this successful engagement process will continue to be a part of the Executive's policy development process.

A handwritten signature in blue ink that reads "Lewis Macdonald". The signature is written in a cursive style.

Lewis Macdonald MSP

Deputy Minister for Environment and Rural Development

1 The Water Framework Directive

The Water Framework Directive 2000/60/EC (WFD) applies to all water in the natural environment – that is all rivers, lochs, estuaries and coastal waters as well as water under the ground. It came into force on 22 December 2000 and we had three years from that date to translate its provisions into Scots Law.

The basic objectives to be achieved as set out in Article 4(1) of the WFD can be summarised as follows:

- prevent deterioration in the status of surface water bodies;
- protect, enhance and restore all bodies of surface water with the aim of achieving good surface water status by 2015;
- prevent deterioration of the status of groundwater bodies;
- protect, enhance and restore all bodies of groundwater with the aim of achieving good groundwater status by 2015;
- prevent or limit the input of pollutants to groundwater and reverse any significant and sustained upward trend in the concentration of pollutants in groundwater;
- comply with European wide measures against priority and priority hazardous substances; and
- achieve compliance with any relevant standards and objectives for protected areas.

The Directive requires Member States to put in place systems for managing their water environments, on the basis of units that make sense in environmental terms – River Basin Districts that include all interdependent rivers, lochs, estuaries, coastal waters and associated underground waters. A plan will have to be drawn up for each River Basin District setting out where there are environmental problems and what will be done to tackle them.

For the first time we will control all impacts – physical, polluting and otherwise – on the water environment with the aim of achieving “good” ecological status for most waters by the specified deadlines of 2015 in most cases. Status is determined on the basis of ecology because the Directive requires that quality is determined not just by the chemical composition of waters but by the fish, plant and other life that inhabit it.

We also need to take account of the need to recover the costs of water services as a way of encouraging the sustainable use of water resources.

The Directive repeals and replaces a number of older EC water Directives and incorporates the remaining existing water Directives (the Bathing Water, Nitrates and Urban Waste Water Treatment Directives) into its framework through its protected areas provisions. The “Natura” Directives on the protection of Habitats and Birds are also linked to this Directive by virtue of the protected area provisions.

A web link to the Water Framework Directive and associated legislation and information is included in the annex to this report.

2 Timetable for Implementation

2003	Transpose Directive into domestic law (WEWS (Scotland) Act 2003)
	Identify river basin districts and the competent authorities who will be empowered to implement the Directive
2004	Produce characterisation of river basin districts/pressures and impacts analysis
2005	Establish a register of protected areas in each river basin district
2006	Establish environmental monitoring
	Publish a work programme for producing the first River Basin Management Plan
2007	As a precursor to the full plan, publish an interim overview of the significant water management issues in each river basin district for general consultation
2008	Publish draft RBMPs for consultation
2009	Finalise and publish RBMP
	Establish the programme of measures to meet the objectives
2012	Programmes of measures fully operational
	Publish timetable and work programme for second RBMP
2013	Repeat characterisation of river basin districts
2014	Publish second draft RBMP
2015	Deadline for achieving environmental objectives
	Finalise and publish second RBMP with revised Programme of Measures
2021	Third RBMP
2027	Fourth RBMP

3 The Water Environment and Water Services (Scotland) Act 2003

The WFD was successfully implemented in Scotland by the Water Environment and Water Services (Scotland) Act 2003 (WEWS). This legislation places Scotland in an excellent position in respect of the overall implementation, and our goal is to maintain this position throughout the implementation process.

The WEWS Act identifies SEPA as the competent authority for Scottish River Basin Districts and gives certain duties to Scottish Ministers.

In drawing up the provisions of the WEWS Act we took the opportunity to go beyond the requirements of the Water Framework Directive and introduce provisions which should result in better environmental improvements for Scotland.

- WFD objectives will apply up to three nautical miles in Scotland
- The WEWS Act introduces specific requirements to identify pressures and impacts in wetlands directly dependant on a body of surface water or a body of groundwater. The WFD's monitoring requirements have also been extended to cover such wetlands. We believe these provisions provide additional protection of the water environment without placing an undue burden on stakeholders or regulators.

The WEWS Act contains provisions for the promotion of sustainable development and places specific duties on Scottish Ministers, SEPA and the responsible authorities to act in a way best calculated to contribute to sustainable development so far as is consistent with the purposes of the relevant enactment or designated function in question, and to adopt an integrated approach.

The Act also requires all designated authorities to have specific regard to sustainable flood management in the exercise of their functions. The Flooding Issues Advisory Committee (FIAC) is being set up to replace the National Technical Advisory Group of Flooding Issues, NTAG. The Committee will advise the Executive on the implementation on the National Flooding Framework. It will continue the work of NTAG in producing technical guidance for local authorities on flood prevention schemes and also the work started on sustainable flood management. However it is the aim of the Committee to diversify into issues which are not merely of a technical nature and to be at the forefront of flooding issues in Scotland.

The Act requires Scottish Water to take responsibility for the on-going maintenance of all SUDS systems which meet certain construction standards. This is dealt with in part 2 of the WEWS Act, Water and Sewerage Services, which will be commenced with the recent Water Services etc. (Scotland) Act 2005

The WEWS Act also requires that an annual report on progress should be submitted before the Scottish Parliament. This document is the second such report and focuses on the continuing progress made during 2004.

Web links to the Water Environment and Water Services (Scotland) Act 2003 and the Water Services etc. (Scotland) Act 2005 are included in the annex to this report.

4 Funding Issues

The Scottish Executive is committed to working in partnership with other agencies to ensure that the provisions of the WEWS Act are effectively and proportionately implemented in Scotland.

Under the 2004 spending review process, Scottish Ministers increased SEPA's grant-in-aid for the period 2005-08 to make provision for additional work required for the continuing implementation of WFD objectives. SEPA will prioritise and allocate these resources to enable the focusing of its efforts on Ministerial and legislative priorities for the WFD implementation programme.

5 Commencement Order

The Commencement Order made on 20 November 2003 anticipated the plans for implementation during 2004. No Commencement Orders were therefore necessary during 2004.



In this section we report on progress during 2004, on a section-by-section basis in relation to the various objectives set out in the WEWS Act, and comment briefly on the work planned for 2005.

6 Responsible Authorities

Under Section 2 of the WEWS Act 2003, Ministers have powers to designate public authorities as “responsible authorities” in relation to any of their functions which impact upon the water environment. The purpose of such a designation is to ensure that public bodies with functions that have an impact on the water environment carry out those functions in a way that helps to ensure compliance with the objectives of the Directive.

Section 2 of the Water Environment and Water Services (Scotland) Act 2003 sets out the responsibilities for public bodies that are designated as follows:

- to exercise their designated functions to secure compliance with the Directive;
- to have regard to the social and economic impact of such exercise of those functions;
- so far as is consistent with the purposes of the relevant enactment or designation function in question –
 - (a) to promote sustainable flood management;
 - (b) to act in the way best calculated to contribute to the achievement of sustainable development; and
 - (c) so far as is practicable, to adopt an integrated approach by co-operating with each other with a view to co-ordinating the exercise of their respective functions.

We have identified a range of possible responsible authorities and have made considerable progress in setting out the implications of designation for those bodies in a draft discussion paper. This paper will shortly be issued to candidate responsible authorities and other interested organisations, inviting comments. Having taken those comments on board we then plan to lay a Designation Order before Parliament later in 2005.

7 Relevant Enactments

The section 2 general duties of the WEWS Act provide that SEPA and the Scottish Ministers must exercise their functions under this part of the Act, and any other relevant enactments that are identified by Ministers by order.

This provision ensures that the requirements applying to the responsible authorities, as outlined above, also apply to Scottish Ministers and SEPA.

Considerable progress has been made in identifying the relevant enactments to be designated. We plan to lay a Designation Order before Parliament later in 2005. This Order will make it clear to the Scottish Ministers and SEPA under which particular enactments they must exercise their functions so as to secure compliance with the requirements of the Directive.

8 Transitional Waters

“Transitional waters” are those areas of water to be found at river mouths and estuaries which are partly saline in nature but are also substantially affected by freshwater flows from upstream.

One of SEPA's statutory obligations is the reporting of coastline, riverine and estuarine water quality. In order to report this information effectively SEPA needs to know the exact locations of the boundaries between these different types of classified waters.

The WEWS Act contains provisions for the production of maps showing the limits of Scottish transitional waters. Section 3(11) of the Act requires Scottish Ministers to deposit with SEPA maps showing what appear to them to be the landward and seaward limits of every body of transitional water.

These maps were produced at the end of 2004 and issued to SEPA in February 2005. A summary map of the Transitional Waters can be viewed at:

<http://www.scotland.gov.uk/Topics/Environment/Water/17316/TransitionalWaters>

9 Pressures and Impacts on Scotland's Water Environment

The WEWS Act requires that a report is produced describing the pressures and impacts upon the water environment within each river basin district by 22 December 2004. Last year we reported the designation of river basin districts (RBDs), the characterisation of Scotland's water into different water categories, and the identification of individual water bodies. During 2004 SEPA was responsible for producing the reports detailing the analysis of pressures and impacts on the water bodies within the Scotland and Solway Tweed RBDs, liaising with the Environment Agency on the latter. These reports represent the most detailed description ever produced on the pressures and impacts on the water environment in Scotland, and will form the basis of our future work to protect and improve our water environment. In particular the reports will form the basis upon which the water environment monitoring programme is developed and will support the development of the “programmes of measures”.

Pressure and impact assessments were undertaken by a working group chaired by SEPA which consisted of: Scottish Natural Heritage; Fisheries Research Services; British Geological Survey; Scottish Water; British Waterways; Macaulay Institute; and the Scottish Executive.

The reports identify those water bodies which are at risk of not meeting their environmental objectives in 2015. A consultation on the results was held between 1 July and 23 September 2004. To our knowledge SEPA was the only responsible authority in Europe which encouraged public participation by publishing a consultation report and holding workshops for stakeholders over a three month period. Responses were taken into account during the finalisation of the Scotland and Solway Tweed RBD analysis.

In the Scotland RBD, the initial assessment indicates that overall about 43 per cent of water bodies may not meet the Directive's environmental objectives, including 913 river, 167 loch, 23 estuarine, 128 coastal and 25 groundwater bodies. Along with abstraction and flow regulation pressures rivers and lochs are also commonly at risk from modifications to their banks and beds. For rivers, diffuse pollution is as important as abstraction and flow regulation. Transitional, coastal and groundwater bodies are mainly at risk from point and

diffuse source pollution pressures. These causes reflect the diverse geographic nature of the district. While many of the causes of risk arise from larger population centres and more intensively farmed areas, some of the more remote areas are at risk from pressures such as acid deposition and hydropower schemes.

In the Solway Tweed RBD, the initial assessment indicates that overall 56 per cent of water bodies may not meet the Directive's environmental objectives, including 289 river, 21 lake, 6 transitional, 2 coastal and 16 groundwater water bodies. Diffuse pollution and pressures arising from modifications to the banks and beds are the most common causes of rivers and lakes being at risk. Transitional water bodies are mainly at risk from point source pollution and pressures arising from modifications to the banks and beds. Coastal water bodies are at risk from point and diffuse source pollution, whereas groundwater bodies are mainly at risk from diffuse pollution. These pressures again reflect the geographic nature of the district. Much of the area is rural in nature, and agriculture is the predominant land use.

As the Northumbria RBD covers only a very small part of Scotland its characterisation has been undertaken by the Environment Agency. There are currently no surface water bodies identified in this part of Scotland. The groundwater underlying the Scottish part of the RBD is allocated to the Solway Tweed RBD and so reported in the Solway Tweed report.

Previous environmental assessments have focused on pollution pressures, and in 2003 SEPA considered that about 18% of our waters should be classified as polluted. These more recent assessments include a much wider range of pressures than just pollution, and do not represent a deterioration in the quality of Scotland's water. Indeed Scotland's results compare favourably with those emerging across Europe, and with the introduction of the Controlled Activities Regulations we are well-placed to address the range of pressures on our water environment.

The reports were presented to the Executive in December and submitted as required to the European Commission in March 2005. They can be viewed at:
<http://www.defra.gov.uk/environment/water/wfd/article5/index.htm>

10 Economic Analysis

An important part of Scotland's progress towards the development of River Basin Management Planning is the development of our understanding of the economic value of water use. This will help provide the context which will allow us to take a balanced view of the environmental, economic and social demands in order to promote sustainable water use.

SEPA has worked with its stakeholders to produce two reports on the economics of water use in the Scotland and Solway Tweed RBDs. An innovative component of these reports is that they include a number of sections authored by industry describing the economic value of water use from their perspective.

The two reports examine the relationships between the environmental pressures and impacts on Scotland's water and the value that our people and economy receive from the use of that water.

Considerable commercial value is derived from the use of water for a wide variety of uses. Much water use is non-consumptive with it being used to dilute pollution or dissipate heat.

The reports also look at the changing demand for water use, taking account of existing trends to 2015. From this we learn that the only sector where water usage is expected to fall (by about an eighth) is agriculture, largely due to restructuring around the CAP reform. The paper, electricity and chemicals industries are, on the other hand, expected to increase their demand for water by between a fifth and a quarter.

As with the pressures and impacts reports, the economics reports were presented to the Executive in December and submitted as required to the European Commission in March 2005. They can be viewed at:

<http://www.defra.gov.uk/environment/water/wfd/article5/index.htm>

11 Register of Protected Areas

The Water Environment (Register of Protected Areas) (Scotland) Regulations 2004 SSI/2004/516 came into force on 22 December 2004. These Regulations outlined requirements in respect of a Register of Protected Areas. The Register was produced by SEPA in December 2004. The register outlines designated Protected Areas, and identifies the legislation under which the designation has been made. These include designations under the following Directives:

- Council Directive 79/923/EEC of 30th October 1979 on the quality required of Shellfish Waters;
- Council Directive 78/659/EEC of 18th July 1978 on the quality of freshwaters needing protection or improvement to support fish life;
- Council Directive 76/160/EEC of 8th December 1975 concerning the quality of bathing water;
- Council Directive 91/676/EEC of 12th December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- Council Directive 91/27/EEC of 21st May 1991 concerning Urban Waste Water Treatment;
- Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora; and
- Council Directive 79/409/EEC of 2nd April 1979 on the conservation of wild birds.

The Register also includes Drinking Water Protected Areas, a new category of protected area that will replace the system of drinking water protection currently provided by the Surface Water Abstraction Directive (75/440/EEC) (to be repealed at the end of 2007). Section 12 provides further information on this.

The Regulations apply only to Scotland RBD. Scottish Ministers do not have powers to apply these Regulations in respect of the Solway-Tweed or the Northumbria RBDs. The register for the Solway-Tweed RBD was prepared jointly by SEPA and the Environment Agency. The responsibility for preparing the register for the Northumbria RBD lies solely with the Environment Agency.

Scotland's register can be viewed at:

www.sepa.org.uk/wfd

12 Drinking Water Protected Areas

The WEWS Act requires Scottish Ministers to identify surface water and groundwater sources that are used to supply drinking water of more than 10 m³/day or for more than 50 people. These must be designated as Drinking Water Protected Areas.

To inform this designation SEPA obtained data on public water supplies from Scottish Water, and data on abstractions for brewing and bottled water supplies from the respective industries. There was insufficient data available on private water supplies to include them in this current designation exercise. Scottish Ministers can make further designations as more accurate information becomes available. The Executive is currently consulting on proposals to introduce regulations during 2006 to meet the requirements of the Drinking Water Directive, and work with local authorities to establish a data base of all private water supplies. In due course this will enable further accurate designations to be made.

There are no adverse implications for the protection of drinking water sources from this phased approach to designation. The Controlled Activities Regulations, to be introduced during 2005, will be the key tool for ensuring better protection of drinking water throughout Scotland.

The Drinking Water Protected Areas Order was laid before Parliament in February 2005.

In line with the requirements of the Solway-Tweed Regulations, the Secretary of State for Environment, Food and Rural Affairs and Scottish Ministers acting jointly have identified drinking water protected areas within the RBD. An order was not required in this case.

The Drinking Water Protected Areas Order can be viewed at:

<http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/ssi2005/20050088.htm>

The Draft Private Water Supplies (Scotland) Regulations 2005 and Proposals for a Private Water Supplies Grant Scheme can be viewed at:

<http://www.scotland.gov.uk/Publications/2005/03/20902/55270>

13 Monitoring

The WFD requires the development of a "Monitoring Programme" for the water environment in Scotland by December 2006. Three main types of monitoring will be required:

- Operational – monitoring the impacts of known pressures on the water environment in response to characterisation risk assessments;
- Surveillance – monitoring of long-term changes in background conditions, and general validation of risk assessment results; and
- Investigative – monitoring in response to specific incidents, or to improve understanding of specific problems.

The WEWS Act identifies SEPA as the responsible authority for leading monitoring efforts in Scotland. SEPA is responsible for monitoring the status of the water environment and for preparing a programme for monitoring. The monitoring may be undertaken by SEPA or other persons.

To deliver this monitoring programme will require the development of sophisticated new tools for monitoring pollution, abstractions and habitat damage. Classification schemes will be used to represent the ecological quality of the water environment. Biological monitoring will play an increased role in assessing the effects of human pressures on the water environment.

Throughout 2004, SEPA has continued to work in partnership with other agencies in the UK and the Republic of Ireland to develop the new biological monitoring tools that will be needed to assess ecological quality. To support this technical development work and to ensure it is applicable to Scotland, SEPA collected new monitoring information during 2004 from many Scottish surface water bodies. Further information will be collected during 2005 and the first of the new tools will become available for testing by SEPA staff during 2006.

During 2004, SEPA also continued to lead UK input into a pan-European exercise designed to ensure that Member States' ecological status classification schemes are comparable. SEPA contributed to the first phase of this exercise by identifying sites in Scotland for inclusion on an international register of sites. The sites will be used in comparing Member States' classification schemes. SEPA also helped establish the approach to checking comparability that will be used in the second phase of the exercise. In 2005, SEPA will work closely with other Member States on this next phase. The exercise is scheduled to end in 2006.

SEPA has worked in partnership with the other UK agencies to agree the common principles that will underpin implementation of the new monitoring requirements. These principles will be finalised during 2005. In Scotland, a group consisting of Scottish partner organisations with monitoring skills and experience was formed and began discussions on how to most cost-effectively adapt Scotland's existing water environment monitoring programmes to deliver the new requirements. These discussions will continue in 2005 paving the way for the establishment of a Scottish Aquatic Environment Monitoring Strategy. The Strategy will begin to inform SEPA's monitoring programme from 2006, facilitating the transition to the full monitoring programmes in 2007.

14 River Basin Management Planning

The WEWS Act requires the production of a River Basin Management Plan (RBMP) for each River Basin District in order to report the following:

- Environmental Objectives;
- Programmes of Measures to achieve objectives;
- Monitoring Programmes;
- Protected Area Register;
- Heavily Modified and Artificial Water Register;
- Consultation and participation activities undertaken during production; and
- Responsible authorities involved in plan production.

Section 2 Progress On Implementation

The WEWS Act identifies SEPA as the authority to lead the RBMP production process in Scotland. However, a number of responsible authorities and interested parties will be involved in plan production throughout the whole, and at different, stages in the process.

SEPA, recognising that in Scotland this new process would require much development prior to commencement, started the process of producing a Scottish RBMP Strategy in 2003. This work has continued in 2004.

This final strategy will provide a clear guide to interested parties as to how basin planning will be developed in Scotland in the three key areas of:

- Developing administrative arrangements and principles;
- Delivering effective participative and consultative opportunities; and
- Effectively integrating and co-ordinating the RBMP with other plans and planning.

To inform proposals in these areas the views of stakeholders were considered crucial and a number of seminars were held to gather views and opinions early in the policy development process. Stakeholder views were considered and incorporated within a public consultation issued by SEPA in summer 2004.

Responses received were supportive and SEPA is currently developing its final RBMP Strategy to be published during 2005. Ongoing dialogue and engagement with key parties is taking place to refine the final strategy. The active involvement of stakeholders in informing the development of proposals, responding to the consultation itself and in providing further contributions to refine final intentions has been very valuable and demonstrated the value of working in this open and transparent manner.

During 2005 SEPA will work with a range of stakeholders and partners to begin to implement the final Scottish RBMP Strategy.

SEPA has also contributed to developing proposals and policy for joint working in the Solway-Tweed RBD. In this District SEPA and the Environment Agency have joint responsibilities for producing the required outputs and mechanisms for effective joint working must be developed and agreed.



15 Controlled Activities Regulations

In April 2004, we launched our consultation paper on Controlled Activities Regulations, setting out our proposals for a single cohesive framework of controls to protect and improve our water environment. The consultation paper built on the issues raised in, and responses received to, our two previous consultations.

The number of responses received was encouraging and indicated that there is general support for the Executive's proposals from a wide range of stakeholders, but there were two key areas where stakeholders asked for consideration to be given to making changes – registration and general binding rules.

The original proposals for registration were based on the need for SEPA to obtain sufficient data to enable them to assess the risk to the environment from cumulative impacts of relatively minor activities. After consideration of the risks, we believe that the greatest cumulative risks are posed by a limited number of activities. We therefore propose to focus on those activities, and remove the requirement to register activities where harm to the environment is considered a very low risk.

The original thinking behind general binding rules (GBRs) was that they would be a simple form of regulation which could be easily applied where mitigation measures were predictable. However in practice these proved extremely difficult to draft in a way that were sufficiently flexible to apply to a wide range of different circumstances. As a result, neither stakeholders nor regulators were convinced of the usefulness of GBRs. Moreover the requirement to register under a particular GBR appeared to place an unnecessary burden on both stakeholders and SEPA given the relatively moderate risk to the environment.

We therefore reviewed our thinking on GBRs. We removed the requirement to register under a GBR; and we carried out a fundamental review of all GBRs with a view to introducing very simple general rules which would apply to certain activities in any variety of circumstances. This approach has been broadly welcomed by stakeholders. A further consultation on the revised proposals for general binding rules was carried out during March 2005. Work on the draft Regulations is currently being finalised and it is expected that the Regulations will be laid before Parliament in April 2005. The development of these Regulations has been done in close co-operation with our National Stakeholder Forum and SEPA, and is, we believe, a key example of partnership working.

The Consultation can be viewed at:

<http://www.scotland.gov.uk/consultations/environment/carc04-00.asp>

The Analysis of Responses can be viewed at:

<http://www.scotland.gov.uk/library5/environment/twecar-00.asp>

The Revised Proposals for General Binding Rules can be viewed at:

<http://www.scotland.gov.uk/library5/environment/carrpg-00.asp>

16 Water Environment Charging Scheme

SEPA will recover the costs of undertaking their WEWS regulatory and monitoring functions through a new charging scheme. The Water Environment Charging Scheme will replace the charging schemes under the Control of Pollution Act, Groundwater Regulations and the Natural Heritage Act. It will represent SEPA's single most important charging scheme.

Concern has been expressed that SEPA's original cost estimates of the annual additional work required to implement WFD peaked at over £15 million. We have worked closely with SEPA to produce revised implementation plans, with the aim of reducing both the regulatory and cost burden on stakeholders, whilst achieving effective implementation of WFD. As a result SEPA's estimates of the annual additional cost of implementing the WFD have been reduced by £25 million. In addition, the funds allocated by Ministers in the recent spending review will further offset that cost.

In recognition of the importance of this new charging scheme to both SEPA and charge payers, SEPA has taken an innovative approach to the development of this scheme, creating a stakeholder group which has been involved in the development of the scheme. The consequence has been major changes in the structure of the scheme and this should result in a robust, proportionate and fair charging scheme.

All SEPA charging schemes are subject to public consultation and ministerial approval. Two new charging schemes will be introduced.

A transitional charging scheme consultation will be issued in spring 2005. Subject to approval, the scheme will be implemented in October 2005 to recover the costs of transferring currently licensed point source, abstraction and impoundment activities plus applications for significant water resource activities, not yet licensed, by 31 March 2006.

In late summer 2005 a subsistence charging scheme consultation will be issued, with charges to become effective from 1 April 2006. This scheme will set charges to recover ongoing annual WEWS costs.

17 Diffuse Pollution

Diffuse pollution has been identified as a significant cause of poor water quality, and measures to tackle it will be needed for Scotland to achieve the quality targets of the WFD. The WEWS Act requires us to introduce measures by which to control pollution from diffuse sources. However given the nature of diffuse pollution it was not considered appropriate to adopt the approach set out in CAR to introduce similar controls over diffuse pollution.

In 2004 we set up a separate working group on diffuse pollution. The group has now reviewed the scope of the problem, and a strategic plan for action is currently under development. We are aiming to consult on these issues during 2005.

18 Remedial and Restoration Measures

Section 22 of the WEWS Act confers power on the Scottish Ministers to make regulations for or in connection with any remedial or restoration measures that they consider are necessary for the purposes of achieving the environmental objectives in river basin management plans. Remedial or restoration measures might include, for example, the removal of a redundant weir or lade or the clean up of historical pollution where these threaten the achievement of the environmental objectives for the body of water concerned.

We set up a working group in 2004 to consider and draw up draft procedures/requirements for restoration and remedial works undertaken in relation to pollution control, impoundment, abstraction and engineering activities. At present the group has not made any firm proposals for taking forward this matter.



19 Fixing of Charges for Water Services

Section 23 gives Ministers the power to make regulations about how charges for water services are made where that is necessary or expedient for the protection of the water environment. This section will give us the ability to make regulations about how Scottish Water and any other supplier of “water services” charges for those services where that is necessary to protect the water environment.

We have not had the need to use these powers to date and are satisfied that arrangements included in the recently enacted Water Services etc. (Scotland) Act 2005, for charging for water services in Scotland, comply with the requirements of Article 9 of the WFD. It is anticipated that Scottish Water will be designated as a responsible authority under the WEWS Act, and will be required to carry out its duties so as to ensure compliance with the WFD, including Article 9.

Neither the Directive nor the Act will force a move to domestic metering for Scotland.

20 Planning Permission: Fish Farming

Statutory planning controls do not currently extend “out to sea”, i.e. below the mean low water mark of ordinary spring tide. Section 24 amends the Town and Country Planning (Scotland) Act 1997 to provide for the introduction of statutory planning controls over marine fish farms. It allows the Scottish Ministers to make orders enabling planning authorities to discharge planning functions in relation to such developments in transitional or coastal waters i.e. out to the 3 nautical mile limit. It does not provide for the general extension of planning authority boundaries seawards, and does not therefore apply to any other types of development offshore.

This is an enabling power. The extension of controls will come into force once appropriate secondary legislation has been approved by Parliament. The new regime will replace the current non-statutory scheme for development consents administered by The Crown Estate. The current scheme is sometimes considered to be lacking in transparency and democratic accountability with The Crown Estates effectively operating both as quasi “regulator” of marine fish farm developments and as the landlord for the farms themselves. A conflict of interest between its dual roles is therefore perceived.

The extension of statutory planning controls will ensure that marine fish farming proposals are subjected to a more effective, transparent and democratically accountable system of regulation at a local level. It will also ensure consistency of approach with controls over associated land-based developments, and with proposals for freshwater fish farms (already subject to control under the Town and Country Planning (Scotland) Act 1997).

The Executive has been engaging with key stakeholders, including local authorities, business and environmental interests and regulators, on proposals to take forward workable and robust measures. This has been done bilaterally and through the Highlands and Islands Aquaculture Forum. The planning measures were set out in a consultation paper published in October 2004. Following consideration of responses to the consultation paper, the Executive will introduce secondary legislation into the Parliament in early 2006 on current plans.

The consultation paper can viewed at:

<http://www.scotland.gov.uk/consultations/planning/epcmff-00.asp>

Implementation of the Water Environment and Water Services (Scotland) Act 2003

ANNEX – Useful web links

(Scottish Executive WFD)

<http://www.scotland.gov.uk/about/ERADEN/WEU/00017316/page849409863.aspx>

(Scottish Environment Protection Agency)

<http://www.sepa.org.uk>

(Water Framework Directive)

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