

## EXECUTIVE NOTE

### THE WATER ENVIRONMENT (DRINKING WATER PROTECTED AREAS) (SCOTLAND) ORDER 2007 SSI/2007/529

1. The Water Environment (Drinking Water Protected Areas) (Scotland) Order 2007 (“the 2007 Order”) was made by the Scottish Ministers in exercise of the powers conferred by section 6(1) and (2) of the Water Environment and Water Services (Scotland) Act 2003 (“the WEWS Act”). The instrument is subject to negative resolution procedure.
2. The 2007 Order identifies bodies of surface water and bodies of groundwater in the Scotland River Basin District which are used, or are intended to be used, for the abstraction of drinking water; in doing so it implements the Scottish Minister’s obligations to identify such water bodies as set out in paragraph 1 of Article 7 of Directive 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy (O.J. No. L327 22.12.2000, p. 1). The 2007 Order revokes the Water Environment (Drinking Water Protected Areas) (Scotland) Order 2005 (“the 2005 Order”) and provides a ‘one stop shop’ for access to maps of water bodies and their designated Drinking Water Protected Areas (“DWPAs”).

#### Background

3. The Water Framework Directive (“the Directive”) is a comprehensive piece of legislation that sets out, *inter alia*, clear quality objectives for all European waters, including inland surface waters, transitional waters, coastal waters and groundwater. The Directive introduces the concept of “water bodies” which are used for reporting and assessing compliance with its principal environmental and ecological objectives.
4. The Directive was implemented by the WEWS Act and identifies the Scottish Environment Protection Agency (“SEPA”) as the competent authority for implementing the Directive. The WEWS Act establishes a structure for managing river basins, through the production of River Basin Management Plans (“RBMP”), within which demanding environmental and ecological targets will be set for the water environment.
5. As part of the overall RBMP process SEPA is required by section 6 of the WEWS Act to identify bodies of water within the Scotland River Basin District which are used, or intended to be used, for the abstraction of drinking water, if they provide more than 10 m<sup>3</sup> per day, or serve more than 50 persons. The WEWS Act and the Directive recognise that the identification and characterisation of water bodies is an iterative and ongoing process requiring refinement and where necessary adjustment as general understanding improves. This process has enabled SEPA to review and update their initial characterisation of groundwater bodies.
6. The 2007 Order designates all groundwater bodies as DWPAs. The reason for this is that all groundwater bodies in Scotland either already supply, or at a future date are intended to supply, 10 m<sup>3</sup> of drinking water a day as an average or serve 50 or more persons either through the public supply network or the estimated 21,000 private water supplies which are scattered across Scotland. This is seen as a sensible and proportionate approach to better protect current and future abstractions of drinking water both public and private.

7. A similar exercise to review bodies of surface water will be undertaken when better information becomes available in relation to abstractions of private water supplies which are used for human consumption.

### **Legal issues**

8. Section 6 of the WEWS Act requires the Scottish Ministers to formally designate DWPA's within the Scotland River Basin District by reference to an Order and maps prepared for that purpose and laid before Parliament. Initial designations under section 6 of the WEWS Act were notified to Parliament by the 2005 Order.

9. Section 4(3) of the WEWS Act requires that a relevant body of groundwater should form part of the nearest river basin district. Maps numbered 12 and 22 also identify groundwater bodies which, on the recommendation of SEPA, the Scottish Ministers determined should form part of the Solway / Tweed River Basin District rather than the Scotland River Basin District.

### **Financial implications**

10. The revised Designation Order and associated maps do not represent an additional regulatory burden for communities and businesses. However, financial implications will arise for Scottish Water and SEPA from the need to establish a monitoring network to assess compliance with the environmental standards and objectives for water bodies under the Directive. The monitoring network uses a risk based selection of drinking water abstractions and as a result the designation of all groundwater bodies as DWPA's does not automatically give rise to an increase in the monitoring costs. It is estimated that costs will continue at around £500k per year across Scotland, in line with the additional expenditure incurred as a result of coming into force of the 2005 Order.

### **Maps**

11. All maps are at 1 in 250,000 scale in order to meet the reporting requirements of the European Commission. For the purposes of the 2007 Order, the bodies of surface water and their designated DWPA's are identified in maps 1 to 11 but these designations are unchanged from the 2005 Order. Updated groundwater bodies and their designated DWPA's are identified in maps 12 to 22.

12. Section 6(3) of the WEWS Act requires the Scottish Ministers to send a copy of the Order and the maps to SEPA. Under the Water Environment (Register of Protected Areas) (Scotland) Regulations 2004, SEPA is required to include these designations in its Register of Protected Areas; and to make the Register publicly available on its website at: [www.sepa.org.uk](http://www.sepa.org.uk)

13. The Order and the maps will also be published by the Scottish Ministers and made available on their website at: [www.scotland.gov.uk](http://www.scotland.gov.uk)