

# Reservoirs Act 1975

## Timing of service reservoir inspections

July 2018

### Introduction

The Environment Agency is the enforcement authority for the Reservoirs Act 1975 (the Act) in England. We have a legal duty to secure that reservoir undertakers observe and comply with the requirements of the Act.

It has recently become apparent that the legal requirements for the timing of service reservoir inspections are not being followed properly. This note clarifies the Environment Agency's interpretation of the situation.

### Reservoirs Act requirements

Section 10(2) of the Reservoirs Act 1975 (as amended) states that 'Unless it is at the time under the supervision of a construction engineer ... a high-risk reservoir must be inspected under this section at the time specified by regulations made by the Minister.'

Regulation 6 of SI 2013 No.1896 sets out the requirements for periodical inspections of high-risk reservoirs. Depending on the circumstances, the next inspection is due within 6 months, 2 years, 10 years or at any time recommended by the supervising engineer or inspecting engineer. The 10-year period is a stand-alone requirement and is not an alternative to the other requirements. Therefore, there are no circumstances in which a high-risk reservoir may be inspected more than 10 years after the date of the previous inspection. The Environment Agency has a duty to enforce the 10-year maximum period between high-risk reservoir inspections.

Regulation 6(3) of the SI states that 'The requirement to have a reservoir inspected under this regulation is not fulfilled where the inspection is limited to part of the reservoir.'

Section 10(3) requires the inspecting engineer to make a report of the inspection as soon as practicable after the inspection is complete. If the report has not been provided 6 months after completion of the inspection, section 10(3A) requires the inspecting engineer to notify the Environment Agency and provide a written statement of the reasons. The 6-month period starts from completion of the inspection, that is, after the final site visit, if more than one visit is required to complete the inspection.

### Implications for service reservoirs

Section 21(5) of the Act requires reservoir undertakers to afford all reasonable facilities for the effective performance of the inspecting engineer's functions.

It is normal practice for inspecting engineers to require service reservoirs to be drained down, to enable them to inspect the interior of the reservoir. If, in the view of the inspecting engineer, such an internal inspection is required for reservoir safety reasons, then the section 10 inspection is not complete until the internal part of the inspection has been carried out. The date of the last visit must not overrun the 10-year maximum period between inspections.

Sometimes the undertaker may not wish to drain the reservoir down for the inspection, because of operational water supply restrictions. In these circumstances, there may be a conflict of interest between water supply and reservoir safety requirements. Given the timescales involved, there should be very few occasions when an internal inspection cannot be programmed by making temporary alternative arrangements for water supply and distribution. Reservoir undertakers of service reservoirs should plan

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and commission statutory inspections well in advance of the due date for completion of the inspection, allowing extra time as appropriate to manage the risk that sometimes it may be inopportune to drain the reservoir down for operational reasons.

We have come across cases where inspecting engineers have issued their section 10 inspection reports following an external or partial internal inspection only, due to delays in gaining access to one or more internal compartments of the service reservoir, and specified a further timescale for the overdue internal inspection as a 'measure to be taken in the interests of safety'. Occasionally this leads to parts of the reservoir not being inspected for significantly longer than the 10-year maximum period between inspections. In our view, this does not satisfy the requirements of the Act.

Although the 6-month period from the date of completion of the inspection when the inspecting engineer must notify the Environment Agency does not start until the whole inspection is complete, nevertheless, it would be helpful if the reservoir undertaker or the inspecting engineer could keep us informed if the report appears to be late because of inspection delays due to internal access problems (or any other reason).

## Legal implications of non-compliance

If a section 10 inspection has not been completed within the required period from the date of the last inspection, then the reservoir undertaker is likely to be committing an offence under section 22(1)(a) of the Act. Furthermore, they may be committing an offence under section 22(3) of the Act. The Environment Agency would have to decide what action it was appropriate to take, in accordance with our enforcement and sanctions policy.