



# Water Resources (Scotland) Act 2013

## 2013 asp 5

### PART 2

#### CONTROL OF WATER ABSTRACTION

##### *Appeal, monitoring and offence*

PROSPECTIVE

#### **16 Appeal against decision**

- (1) For the purpose of subsections (2) to (4), a relevant decision is one—
  - (a) following an application under section 10(1), not to approve a qualifying abstraction,
  - (b) to specify a period under section 12(1)(a),
  - (c) to attach any conditions under section 12(1)(b), or
  - (d) to impose a suspension or revocation under section 15(1)(b) or (c).
- (2) The applicant or (as the case may be) holder may appeal to the sheriff against a relevant decision, if aggrieved—
  - (a) in the case to which subsection (1)(a) or (d) relates, by the making of the relevant decision,
  - (b) in the case to which subsection (1)(b) relates, by the shortness of the period so specified,
  - (c) in the case to which subsection (1)(c) relates, by the nature or terms of the conditions so attached.
- (3) An appeal under subsection (2) must be made—
  - (a) by way of summary application,
  - (b) within the period of 21 days beginning with the day on which the relevant decision is duly intimated.
- (4) In the appeal, the sheriff may uphold, vary or quash the relevant decision.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Water Resources (Scotland) Act 2013, Cross Heading: Appeal, monitoring and offence. (See end of Document for details)*

## 17 Monitoring and records

- (1) The Scottish Ministers may by regulations make provision about the monitoring of—
  - (a) an abstraction of water from a body of inland water that is, or is suspected of being, a qualifying abstraction,
  - (b) any activities appearing to relate to such an abstraction of water or any associated operations.
- (2) The Scottish Ministers may by regulations make provision about—
  - (a) the keeping of records in connection with this Part, or
  - (b) the extent to which such records are to be made available to them, SEPA or other interested persons.
- (3) Regulations under subsection (1) or (2) may confer functions on the Scottish Ministers, SEPA or other specified persons.
- (4) Regulations under subsection (1) or (2) may include provision—
  - (a) allowing entry onto premises under a warrant or otherwise,
  - (b) about the steps that may be taken at premises so entered,
  - (c) for summary offences and penalties as respects—
    - (i) failure to comply with requirements imposed by the regulations, or
    - (ii) obstruction of persons exercising functions conferred by the regulations.

### Commencement Information

**II** S. 17 in force at 10.6.2013 by S.S.I. 2013/163, art. 3, Sch.

PROSPECTIVE

## 18 Abstraction-related offence

- (1) A person commits an offence if the person wilfully or recklessly—
  - (a) contravenes the prohibition constituted by section 6(1), or
  - (b) breaches any conditions to which the person is subject by virtue of section 12(2)(a).
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.

PROSPECTIVE

## 19 Corporate offending

- (1) Subsection (2) applies where—
  - (a) an offence under section 18(1) is committed by a relevant organisation, and

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- (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of, a responsible official of the organisation.
- (2) The responsible official (as well as the organisation) commits the offence.
- (3) “Relevant organisation” means—
- (a) company,
  - (b) limited liability partnership,
  - (c) ordinary partnership,
  - (d) other body or association.
- (4) “Responsible official” means—
- (a) in the case of a company, director, secretary, manager or similar officer,
  - (b) in the case of a limited liability partnership, member,
  - (c) in the case of an ordinary partnership, partner,
  - (d) in the case of another body or association, person who is concerned in the management or control of its affairs,
- but in each case also includes person purporting to act in such a capacity.

**Status:**

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**Changes to legislation:**

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