



# Regulatory Reform (Scotland) Act 2014

## 2014 asp 3

### PART 3

#### ENVIRONMENTAL REGULATION

### CHAPTER 2

#### SEPA'S POWERS OF ENFORCEMENT

##### *Operation of penalties and cost recovery*

#### **28**      **Combination of sanctions**

- (1) Provision may not be made by order under section 20 and section 23 conferring powers on SEPA in relation to the same offence unless it secures that—
  - (a) SEPA may not serve a notice of intent referred to in section 21(2)(a) on a person in relation to an act or omission where a variable monetary penalty has been imposed on that person in relation to the act or omission, and
  - (b) SEPA may not serve a notice of intent referred to in section 24(2)(a) on a person in relation to any act or omission where—
    - (i) a fixed monetary penalty has been imposed on the person in relation to the act or omission, or
    - (ii) the person has discharged liability for a fixed monetary penalty in relation to that act or omission pursuant to section 21(3).
- (2) Provision under section 20 must secure that in a case where a notice of intent referred to in section 21(2)(a) is served on a person—
  - (a) SEPA may not, before the end of any period in which the person may discharge liability to the fixed monetary penalty pursuant to section 21(3), impose a variable monetary penalty on the person in respect of the act or omission to which the notice relates, and
  - (b) SEPA may not, if the person so discharges liability, impose a variable monetary penalty on the person in respect of that act or omission.

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*Changes to legislation: There are currently no known outstanding effects for the Regulatory Reform (Scotland) Act 2014, Section 28. (See end of Document for details)*

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- (3) Provision under section 20 must also secure that in a case where a fixed monetary penalty is imposed on a person, SEPA may not impose a variable monetary penalty on the person in respect of the act or omission giving rise to the penalty.
- (4) Provision under section 20 must also secure the result that a fixed monetary penalty in respect of an offence constituted by an act or omission may not be imposed on a person if, in respect of that offence as constituted by that act or omission—
- (a) criminal proceedings have been commenced against the person,
  - (b) the person has been given a warning by the procurator fiscal,
  - (c) the person has been sent a conditional offer (within the meaning of section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal)),
  - (d) the person has accepted, or is deemed to have accepted, a compensation offer issued under section 302A of that Act (compensation offer by procurator fiscal),
  - (e) the person has accepted, or is deemed to have accepted, a combined offer issued under section 302B of that Act, or
  - (f) a work order has been made against the person under section 303ZA of that Act (work orders).
- (5) Provision under section 23 must also secure the result that a variable monetary penalty in respect of an offence constituted by an act or omission may not be imposed on a person if, in respect of that offence as constituted by that act or omission—
- (a) criminal proceedings have been commenced against the person,
  - (b) the person has been given a warning by a procurator fiscal,
  - (c) the person has been sent a conditional offer (within the meaning of section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal)),
  - (d) the person has accepted, or is deemed to have accepted, a compensation offer issued under section 302A of that Act (compensation offer by procurator fiscal),
  - (e) the person has accepted, or is deemed to have accepted, a combined offer issued under section 302B of that Act, or
  - (f) a work order has been made against the person under section 303ZA of that Act (work orders).

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**Commencement Information**

**II** S. 28 in force at 30.6.2014 by [S.S.I. 2014/160](#), art. 2(1)(2), [Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulatory Reform (Scotland) Act 2014, Section 28.