

## SCHEDULE 6

### APPEALS: FURTHER PROVISION

#### Determination of appeal

9.—(1) The Scottish Ministers must give to the reservoir manager—

- (a) notice in writing (“the decision notice”) of—
  - (i) their determination of the appeal; and
  - (ii) their reasons for that determination; and
- (b) where paragraph 8(9) applies in relation to the appeal, a copy of the report given to Scottish Ministers under that paragraph (“the report”).

(2) Where sub-paragraph (1)(b) applies, the Scottish Ministers must determine the appeal having regard to the report.

(3) The Scottish Ministers must, at the same time as giving the decision notice under sub-paragraph (1), send to SEPA a copy of the notice and, if a hearing was held, a copy of the report.

(4) On determining an appeal against—

- (a) a decision of SEPA—
  - (i) to issue a stop notice under paragraph 1 of Schedule 1;
  - (ii) to impose a further enforcement measure by restoration notice or by restraint notice under paragraph 1 of Schedule 2; or
  - (iii) to give a notice under section 69(2) (enforcement notice: safety and other measures) of the Act,

the Scottish Ministers may affirm or quash the decision (or any part of it) and may affirm or quash the notice (or any part of it), and if they affirm the notice (or part of it) they may do so in its original form or with such modifications as they think fit;

- (b) a decision of SEPA under paragraph 4 of Schedule 1 not to give a completion certificate, the Scottish Ministers may affirm or quash the decision, and if they quash the decision they may also direct SEPA to give the appellant a completion certificate in such terms as they think fit;

(c) a decision of SEPA under paragraph 5(4) of Schedule 1—

- (i) not to award compensation; or
- (ii) as to the amount of compensation,

the Scottish Ministers may affirm or quash the decision, and if they quash the decision they may also direct SEPA to award compensation or, as the case may be, as to the amount of compensation to be awarded;

- (d) a notice (imposing a non-compliance penalty) under paragraph 9 of Schedule 2, the Scottish Ministers may affirm or quash the notice (or any part of it), and if they affirm the notice (or part of it) they may do so in its original form or with such modifications as they think fit; or

(e) a decision of SEPA (by virtue of an expenses recovery notice) under paragraph 1 of Schedule 3—

- (i) to impose a requirement to pay expenses; or
- (ii) as to the amount of the expenses,

the Scottish Ministers may affirm or quash the decision (or any part of it) and may affirm or quash the notice (or any part of it), and if they affirm the notice (or part of it), they may do so in its original form or with such modifications as they think fit.

(5) Where the Scottish Ministers affirm a notice (or part of it) with modifications under sub-paragraph (4)(a), (d) or (e), they may direct SEPA to make those modifications to the notice.

(6) Where the Scottish Ministers direct SEPA to make modifications to a notice (“the relevant notice”) under sub-paragraph (5), SEPA may, by notice given to the reservoir manager who was given the relevant notice, make those modifications to the relevant notice.

(7) For the purposes of these Regulations, where SEPA modifies a notice in accordance with sub-paragraph (6), a reference to the notice is to be treated as a reference to the notice as modified.

(8) Where SEPA takes action pursuant to, and in accordance with, a direction under sub-paragraph (4) or (5) the action in question may not be appealed to the Scottish Ministers.