
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

The Environmental Authorisations (Scotland) Regulations 2018

PART 10

Costs recovery notices

Costs recovery notices

51.—(1) SEPA may serve a notice on a person specified in paragraph (2) requiring that person to pay the costs necessarily incurred by SEPA in relation to, and up to the time of, service of the notice (a “costs recovery notice”).

(2) The persons specified are—

- (a) a person on whom a regulatory notice has been served;
- (b) a person on whom a revocation notice has been served;
- (c) where SEPA takes steps, or arranges for steps to be taken, to remove or reduce a risk of significant environmental harm under regulation 62(1), the authorised person;
- (d) where SEPA takes steps, or arranges for steps to be taken, under regulation 62(2) or (3), the person on whom the regulatory notice, surrender notice or revocation notice was served or would have been served.

(3) In this regulation, “costs” include—

- (a) investigation costs (including the costs of monitoring the environment to determine the harm to which the notice relates);
- (b) costs incurred by SEPA in taking steps, or arranging for steps to be taken, under regulation 62 (including any compensation paid to the grantors of any rights as were necessary for SEPA to take the steps, or arrange for the steps to be taken);
- (c) administration costs; and
- (d) costs of obtaining expert advice (including legal advice).

(4) The costs recovery notice must specify—

- (a) the amount required to be paid;
- (b) how payment may be made;
- (c) the period within which payment must be made;
- (d) that SEPA may be required to provide a detailed breakdown of the amount (unless such a breakdown is provided by SEPA with the notice itself);
- (e) the rights of appeal; and
- (f) the consequences of non-payment as set out in regulation 53.

(5) The person on whom the notice is served may require SEPA to provide a detailed breakdown of the amount required to be paid (unless such a breakdown has already been provided).

(6) SEPA must take such steps as are reasonable to ensure that the detailed breakdown is sent to the person requesting it within a period of 21 days beginning with the date of the request.

Payment requirements for costs recovery notices

52.—(1) The amount required to be paid under the costs recovery notice must be paid by the person on whom the notice is served within such period as SEPA may specify in the notice.

(2) In the case of an appeal, any costs which fall to be paid (whether because the penalty was upheld or because the appeal was withdrawn) are payable within—

- (a) the period referred to in the costs recovery notice by virtue of regulation 51(4)(c);
- (b) the period of 28 days beginning with the day the appeal is determined or withdrawn; or
- (c) such period as the Scottish Ministers may, in determining the appeal, specify,

whichever period ends the latest.

Recovery of payments

53. SEPA may recover as a civil debt any costs required to be paid under a costs recovery notice.