
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 266

The Environmental Liability (Scotland) Regulations 2009

Appeals and interim measures

13.—(1) The operator may appeal to the sheriff on questions of fact and law if aggrieved by a requirement imposed under—

- (a) regulation 10(4)(b);
- (b) regulation 12(3)(b); or
- (c) regulation 12(3)(c).

(2) An appeal to the sheriff under paragraph (1) shall be by way of summary application.

(3) The period within which an appeal under paragraph (1) may be brought shall be 28 days from the date after the date of intimation of the decision containing the requirement an operator is desiring to appeal.

(4) The sheriff in determining an appeal may—

- (a) confirm the decision of the competent authority;
- (b) quash the decision and, where the sheriff considers that the competent authority has acted unreasonably in imposing the requirement which is the subject of the appeal, order the competent authority to reimburse any costs incurred in complying with the requirement;
- (c) remit the decision to the competent authority for re#determination; or
- (d) make such other order as the sheriff thinks just.

(5) The sheriff's determination on an appeal is final.

(6) Subject to paragraph (7), the bringing of an appeal under paragraph (1) removes the need to comply with the requirement which is the subject of the appeal until the appeal has been withdrawn or finally determined by the sheriff.

(7) Paragraph (6) does not apply where—

- (a) in the opinion of the competent authority there is an imminent risk to human health, or an imminent threat of environmental damage; and
- (b) the competent authority has notified the operator of this opinion when imposing the requirement in question.