
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 383

The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015

PART 2

Enforcement measures

The enforcement measures

3.—(1) Schedule 1 makes provision for and about the imposition by SEPA of a fixed monetary penalty on a person in relation to a relevant offence.

(2) Schedule 2 makes provision for and about the imposition by SEPA of a variable monetary penalty on a person in relation to a relevant offence.

(3) Schedule 3 makes provision for and about enabling SEPA to accept an enforcement undertaking from a person in a case where SEPA has reasonable grounds to suspect that the person has committed a relevant offence.

Combination of sanctions

4.—(1) SEPA may not impose a fixed monetary penalty on a person in relation to an offence constituted by an act or omission if a fixed monetary penalty has already been imposed on that person in respect of the same offence constituted by the same act or omission.

(2) SEPA may not impose a variable monetary penalty on a person in relation to an offence constituted by an act or omission if a variable monetary penalty has already been imposed on that person in respect of the same offence constituted by the same act or omission.

(3) SEPA may not serve a notice of intent relating to a fixed monetary penalty on a person in relation to any act or omission where a variable monetary penalty has been imposed on that person in relation to the act or omission.

(4) SEPA may not serve a notice of intent relating to a variable monetary penalty on a person in relation to any act or omission where a fixed monetary penalty has been imposed on the person in relation to the act or omission.

(5) 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.

(6) Where a variable monetary penalty is imposed on a person, SEPA may not impose a fixed monetary penalty on the person in respect of the act or omission giving rise to the penalty.

(7) SEPA may not impose on a person a fixed monetary penalty or variable monetary penalty in respect of an offence constituted by an act or omission 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;

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- (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)(1);
- (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)(2);
- (e) the person has accepted, or is deemed to have accepted, a combined offer issued under section 302B of that Act (combined fixed penalty and compensation offer)(3); or
- (f) a work order has been made against the person under section 303ZA of that Act (work orders)(4).

(1) [1995 c.46](#). Section 302 was amended by section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 ([asp 6](#)) (“the 2007 Act”) and section 70(3) of the Criminal Justice and Licensing (Scotland) Act 2010 ([asp 13](#)) (“the 2010 Act”).

(2) Section 302A was added by section 50(2) of the 2007 Act and amended by section 70(4) of the 2010 Act.

(3) Section 302B was added by section 50(2) of the 2007 Act.

(4) Section 302ZA was added by section 51 of the 2007 Act and amended by section 70(5) of the 2007 Act.