

## SCHEDULE 7

Regulations 3(1), 31,33(1) and 34(1)

### ENFORCEMENT NOTICES

#### **Power to serve enforcement notice**

1.—(1) Where the enforcing authority reasonably believes, in respect of a supply of water to a point of compliance in its area—

- (a) that a person has contravened a requirement of these Regulations and the contravention is likely to recur; or
- (b) that a person is contravening a requirement of these Regulations and the contravention is likely to continue or to recur or both,

and (in either case) that the person is not taking appropriate steps for the purpose of rectifying the contravention or (as the case may be) preventing its recurrence, the enforcing authority may serve on the person an enforcement notice.

(2) In considering whether to serve an enforcement notice the enforcing authority may consult—

- (a) the local authority for any area affected by the contravention; and
- (b) the Health Board for any such area.

(3) An enforcement notice must specify—

- (a) the contravention to which it relates;
- (b) the enforcing authority's reasons for believing (as the case may be) that the contravention—
  - (i) has occurred and is likely to recur; or
  - (ii) is occurring and is likely to continue or to recur or both;
- (c) the date by which the person is required to rectify the contravention or (as the case may be) take steps to prevent its recurrence;
- (d) any particular steps which the enforcing authority requires the person to take for that purpose; and
- (e) the date on which the notice is to take effect.

(4) An enforcement notice may specify different dates by which different steps specified under sub-paragraph (3)(d) must be completed.

(5) The date referred to in paragraph (3)(e) must be no earlier than the day following the last day on which an appeal may be brought under paragraph 2(1).

(6) The enforcing authority must—

- (a) send a copy of an enforcement notice to the Drinking Water Quality Regulator for Scotland and to any local authority or Health Board consulted by the enforcing authority under sub-paragraph (2); and
- (b) arrange for the notice to be published in such manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may be affected, by the contravention.

(7) In sub-paragraph (1), the references to “person” do not include—

- (a) an enforcing authority;
- (b) the Drinking Water Quality Regulator for Scotland; or
- (c) the Scottish Ministers.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Right of appeal against enforcement notice**

2.—(1) A person on whom an enforcement notice has been served may, within a period of 14 days beginning with the date of service, appeal to the sheriff against the notice.

(2) Where an appeal is brought under sub-paragraph (1) the enforcement notice is of no effect until the appeal is withdrawn or finally determined.

(3) On an appeal under sub-paragraph (1) the sheriff may make such order as the sheriff thinks fit.

(4) The decision of the sheriff on such an appeal is final.

(5) Where a person has rectified the contravention specified in an enforcement notice, the enforcing authority must publish (or arrange for the publication of) information to this effect, in such a manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may have been affected, by the contravention.

### **Failure to comply with enforcement notice**

3.—(1) This paragraph applies where, in relation to an enforcement notice, a person—

(a) fails to rectify, or (as the case may be) to take steps to prevent the recurrence of, a contravention specified in the notice by the date specified in relation to the contravention under paragraph 1(3)(c); or

(b) fails to complete a step specified under paragraph 1(3)(d) by a date specified in relation to that step under paragraph 1(4),

(or, in either case, by such later date as the enforcing authority may have substituted under regulation 33(1)(b)).

(2) Where this paragraph applies, the enforcing authority may—

(a) enter any premises and carry out the work necessary to rectify or prevent the recurrence of the contravention or, as the case may be, to complete the step; and

(b) recover from the person any expenses which the enforcing authority reasonably incurs in carrying out, or securing the carrying out, of that work.

(3) The expenses which may be recovered under sub-paragraph (2)(b) include such proportion of the enforcing authority's administrative expenses (including expenses incurred in establishing the contravention and in connection with the enforcement notice) as the enforcing authority considers appropriate.

### **Offences in relation to enforcement notice**

4.—(1) A person commits an offence if the person fails to do anything which an enforcement notice requires the person to do (including a failure to complete a step required by a specified date).

(2) A person commits an offence if the person intentionally obstructs a person acting in the exercise of any power conferred by paragraph 3(2)(a).

(3) A person who commits an offence under sub-paragraph (1) or (2) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.