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STATUTORY INSTRUMENTS

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**2017 No. 1200**

**The Control of Mercury (Enforcement) Regulations 2017**

**PART 4**

**Enforcement specific to Scotland**

**Enforcement notices**

- 26.**—(1) SEPA may give a person an enforcement notice if condition A or B is met.
- (2) An enforcement notice is a notice requiring the person to take action (including to stop doing any thing).
- (3) Condition A is that SEPA is of the opinion that the person has failed or is failing to comply with the relevant provision or provisions.
- (4) Condition B is that SEPA is of the opinion that the person is likely to fail to comply with the relevant provision or provisions.
- (5) The action which SEPA may require the person to take is any one or more of the following—
- (a) action to ensure compliance with the relevant provision or provisions in question;
  - (b) action to remediate any environmental damage attributable to the non-compliance in question;
  - (c) action to remove or mitigate any risk of non-compliance with the relevant provision or provisions in question.
- (6) An enforcement notice must state—
- (a) the matters constituting the failure or likelihood of failure,
  - (b) the action which must be taken under paragraph (5),
  - (c) the period (the “compliance period”) within which the action must be taken,
  - (d) that there is a right to appeal against the enforcement notice and how that right may be exercised, and
  - (e) the consequences of failing to comply with the enforcement notice (see regulations 27, 31, 32 and 41 which relate to action to ensure compliance, court proceedings, monetary penalties and offences respectively).
- (7) SEPA may withdraw an enforcement notice by informing the person to whom it was given in writing.
- (8) A person to whom an enforcement notice is given may appeal to the Scottish Ministers against it on one or more of the following grounds—
- (a) that the decision to give the enforcement notice was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the nature of what is required by the enforcement notice is unreasonable;
  - (d) that the decision was unreasonable for any other reason;

(e) any other ground.