



Water Resources (Scotland) Act 2013

2013 asp 5

PART 2

CONTROL OF WATER ABSTRACTION

Appeal, monitoring and offence

16 Appeal against decision

- (1) For the purpose of subsections (2) to (4), a relevant decision is one—
 - (a) following an application under section 10(1), not to approve a qualifying abstraction,
 - (b) to specify a period under section 12(1)(a),
 - (c) to attach any conditions under section 12(1)(b), or
 - (d) to impose a suspension or revocation under section 15(1)(b) or (c).
- (2) The applicant or (as the case may be) holder may appeal to the sheriff against a relevant decision, if aggrieved—
 - (a) in the case to which subsection (1)(a) or (d) relates, by the making of the relevant decision,
 - (b) in the case to which subsection (1)(b) relates, by the shortness of the period so specified,
 - (c) in the case to which subsection (1)(c) relates, by the nature or terms of the conditions so attached.
- (3) An appeal under subsection (2) must be made—
 - (a) by way of summary application,
 - (b) within the period of 21 days beginning with the day on which the relevant decision is duly intimated.
- (4) In the appeal, the sheriff may uphold, vary or quash the relevant decision.

17 Monitoring and records

- (1) The Scottish Ministers may by regulations make provision about the monitoring of—

- (a) an abstraction of water from a body of inland water that is, or is suspected of being, a qualifying abstraction,
 - (b) any activities appearing to relate to such an abstraction of water or any associated operations.
- (2) The Scottish Ministers may by regulations make provision about—
- (a) the keeping of records in connection with this Part, or
 - (b) the extent to which such records are to be made available to them, SEPA or other interested persons.
- (3) Regulations under subsection (1) or (2) may confer functions on the Scottish Ministers, SEPA or other specified persons.
- (4) Regulations under subsection (1) or (2) may include provision—
- (a) allowing entry onto premises under a warrant or otherwise,
 - (b) about the steps that may be taken at premises so entered,
 - (c) for summary offences and penalties as respects—
 - (i) failure to comply with requirements imposed by the regulations, or
 - (ii) obstruction of persons exercising functions conferred by the regulations.

18 Abstraction-related offence

- (1) A person commits an offence if the person wilfully or recklessly—
- (a) contravenes the prohibition constituted by section 6(1), or
 - (b) breaches any conditions to which the person is subject by virtue of section 12(2)(a).
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.

19 Corporate offending

- (1) Subsection (2) applies where—
- (a) an offence under section 18(1) is committed by a relevant organisation, and
 - (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of, a responsible official of the organisation.
- (2) The responsible official (as well as the organisation) commits the offence.
- (3) “Relevant organisation” means—
- (a) company,
 - (b) limited liability partnership,
 - (c) ordinary partnership,
 - (d) other body or association.
- (4) “Responsible official” means—
- (a) in the case of a company, director, secretary, manager or similar officer,
 - (b) in the case of a limited liability partnership, member,
 - (c) in the case of an ordinary partnership, partner,

Status: This is the original version (as it was originally enacted).

- (d) in the case of another body or association, person who is concerned in the management or control of its affairs,
but in each case also includes person purporting to act in such a capacity.