



Regulatory Reform (Scotland) Act 2014

2014 asp 3

PART 3

ENVIRONMENTAL REGULATION

CHAPTER 2

SEPA'S POWERS OF ENFORCEMENT

Non-compliance penalties

26 Undertakings under section 24: non-compliance penalties

- (1) Provision under section 23 may include provision for a person to pay a monetary penalty (in this Part, a “non-compliance penalty”) to SEPA if the person fails to comply with an undertaking referred to in section 24(5) which is accepted from the person.
- (2) Where such provision is included, it may also—
 - (a) specify the amount of the non-compliance penalty,
 - (b) provide for the amount to be calculated by reference to criteria specified by order by the Scottish Ministers,
 - (c) provide for the amount to be determined by SEPA (subject to any maximum amount set out in the provision),
 - (d) provide for the amount to be determined in any other way.
- (3) Where provision is included as mentioned in subsection (1), it must provide that the maximum amount of the non-compliance penalty that may be imposed in any case is not to exceed the maximum amount of the variable monetary penalty to which the non-compliance penalty relates in such a case.
- (4) Where provision is included as mentioned in subsection (1), it must secure that—
 - (a) the non-compliance penalty is imposed by notice served by SEPA, and
 - (b) the person on whom it is imposed may appeal against the notice.
- (5) Provision pursuant to subsection (4)(b) must secure that the grounds on which a person may appeal against a notice referred to in that subsection include that—

Changes to legislation: There are currently no known outstanding effects for the Regulatory Reform (Scotland) Act 2014, Cross Heading: Non-compliance penalties. (See end of Document for details)

- (a) the decision to serve the notice was based on an error of fact,
- (b) the decision was wrong in law,
- (c) the decision was unreasonable for any reason (including, in a case where the amount of the non-compliance penalty was determined by SEPA, that the amount is unreasonable).

Commencement Information

II S. 26 in force at 30.6.2014 by S.S.I. 2014/160, art. 2(1)(2), Sch.

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