



# Water Resources (Scotland) Act 2013

## 2013 asp 5

### PART 7

#### WATER SHORTAGE ORDERS

##### *Appeal and offence*

#### **43 Appeal against order**

- (1) A person who is aggrieved by a water shortage order may appeal to the sheriff against—
  - (a) the making of the order,
  - (b) the terms of the order.
- (2) An appeal under subsection (1) must be made—
  - (a) by way of summary application,
  - (b) within the period of 14 days beginning with the day on which notice of the order is published under paragraph 6 of schedule 1.
- (3) The sheriff may suspend the effect of the order (or of any part of it) pending the determination of the appeal.
- (4) In the appeal, the sheriff may—
  - (a) affirm the order,
  - (b) direct the Scottish Ministers to—
    - (i) amend the order in a specified manner,
    - (ii) revoke the order wholly or partly.
- (5) The sheriff's determination of the appeal is final, except on a point of law.

#### **44 Non-compliance offence**

- (1) A relevant person commits an offence if the person, without reasonable excuse, fails to comply with—
  - (a) a water saving measure imposed by a water shortage order, or

- (b) a restriction or prohibition on the abstraction of water imposed by such an order.
- (2) In subsection (1), “relevant person” means person who is, or ought to be, aware of the order.
- (3) 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.

#### **45 Corporate offending**

- (1) Subsection (2) applies where—
  - (a) an offence under section 44(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,
  - (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.