
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 282

**The Water Intended for Human Consumption
(Private Supplies) (Scotland) Regulations 2017**

PART 9

OFFENCES: GENERAL DUTIES, ETC.

Offences: general duties

37.—(1) A person commits an offence if the person fails to comply with—

- (a) regulation 8 (duty to provide information);
- (b) regulation 12(1) (duties in relation to use of unused system);
- (c) regulation 13(1) (duties in relation to use of disused system);
- (d) regulation 16 (duty of care: supplies of water); or
- (e) regulation 17 (duty of care: substances and materials).

(2) In any proceedings against a person for an offence under paragraph (1), it is a defence to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) A person who commits an offence under paragraph (1)(a), (b) or (c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person who commits an offence under paragraph (1)(d) or (e) is liable—

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

Offence: failure to comply with an information notice

38.—(1) A person commits an offence if the person—

- (a) refuses or fails, without reasonable excuse, to do anything required of the person by a notice under regulation 28(1); or
- (b) intentionally alters, suppresses or destroys a document which the person is required by such a notice to produce.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence: obstruction, etc.

39.—(1) A person commits an offence if the person—

- (a) intentionally obstructs a person acting in the exercise of any power conferred by regulation 29(1); or

(b) refuses or fails, without reasonable excuse, to comply with a requirement made under regulation 29(4).

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences: emergency notices, etc.

40.—(1) A person commits an offence if the person fails to do anything which an emergency 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 any person acting in the exercise of a power conferred by regulation 32(3)(a).

(3) A person who commits an offence under 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.

Offence: false statements

41.—(1) A person commits an offence if the person—

- (a) making an application for a derogation under schedule 5; or
- (b) furnishing information—
 - (i) pursuant to regulation 8; or
 - (ii) in connection with a notice given to the person under regulation 28(1),

makes a statement which that person knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences by bodies corporate etc.

42.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect of the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body; or
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.