

SCHEDULE 6

Regulations 3(1), 30,33(1) and 34(1)

REMEDIATION NOTICES

**Power to serve remediation notice**

1.—(1) Where the enforcing authority reasonably believes that a supply of water to a point of compliance in its area—

- (a) poses a potential danger to human health;
- (b) has failed to meet one or more of the water quality standards and the failure is likely to recur; or
- (c) is failing to meet one or more of the water quality standards and the failure is likely to continue or to recur or both,

the enforcing authority may serve a remediation notice on a person who is, in relation to the supply of water, a relevant person.

(2) In considering whether to serve remediation notice the enforcing authority may consult—

- (a) the local authority for any area affected by the supply of water; and
- (b) the Health Board for any such area.

(3) A remediation notice must specify—

- (a) the supply of water to which it relates;
- (b) the enforcing authority's reasons for believing (as the case may be) that the supply of water—
  - (i) poses a potential danger to human health;
  - (ii) has failed to meet one or more of the water quality standards and the failure is likely to recur; or
  - (iii) is failing to meet one or more of the water quality standards and the failure is likely to continue or to recur or both;
- (c) the steps which the enforcing authority requires the person to take for the purposes of—
  - (i) protecting human health (including, where appropriate, action to prohibit the supply of water or to restrict its use, or to provide an alternative supply of water);
  - (ii) restoring the quality of the water supplied, or to be supplied, so that it meets (and continues to meet) the water quality standards; or
  - (iii) protecting the quality of the water supplied, or to be supplied, (including its source) so that it meets (and continues to meet) the water quality standards; and
- (d) the date on which the notice is to take effect.

(4) A remediation notice may specify different dates by which different steps specified under sub-paragraph (3)(c) must be completed.

(5) The date referred to in sub-paragraph (3)(d) must be no earlier than the day following the last day on which an appeal may be brought under paragraph 2(1).

(6) The enforcing authority must—

- (a) send a copy of the remediation notice to the Drinking Water Quality Regulator for Scotland and to any local authority or Health Board consulted by the enforcing authority under sub-paragraph (2); and

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- (b) arrange for the notice to be published in such manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may be affected, by the supply of water.

#### **Right of appeal against remediation notice**

2.—(1) A person on whom a remediation notice has been served may, within a period of 14 days beginning with the date of service, appeal to the sheriff against the notice.

(2) Where an appeal is brought under sub-paragraph (1) the remediation notice is of no effect until the appeal is withdrawn or finally determined.

(3) On an appeal under sub-paragraph (1) the sheriff may make such order as the sheriff thinks fit.

(4) The decision of the sheriff on such an appeal is final.

(5) Where a person has taken the steps required by a remediation notice, the enforcing authority must publish (or arrange for the publication of) information to this effect, in such a manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may have been affected, by the supply of water.

#### **Failure to comply with remediation notice**

3.—(1) This paragraph applies where, in relation to a remediation notice, a person fails to complete a step specified under paragraph 1(3)(c) by a date specified in relation to that step under paragraph 1(4) (or by such later date as the enforcing authority may have substituted under regulation 33(1)(b)).

(2) Where this paragraph applies, the enforcing authority may—

(a) enter any premises and carry out the work necessary to complete the step; and

(b) recover from the person any expenses which the enforcing authority reasonably incurs in carrying out, or securing the carrying out, of that work.

(3) The expenses which may be recovered under sub-paragraph (2)(b) include such proportion of the enforcing authority's administrative expenses (including expenses incurred in establishing any of the matters referred to in paragraph 1(1)(a) to (c) and in connection with the remediation notice) as the enforcing authority considers appropriate.

#### **Offences in relation to remediation notice**

4.—(1) A person commits an offence if the person fails to do anything which a remediation 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 a person intentionally obstructs a person acting in the exercise of any power conferred by paragraph 3(2)(a).

(3) A person who commits an offence under sub-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.