



2015 CHAPTER 8

PART 6

CIVIL ENFORCEMENT, EMERGENCY POWERS AND FURTHER OFFENCES

Other civil enforcement measures

PROSPECTIVE

Fixed monetary penalties: procedure etc.

84.—(1) Regulations made under section 83(1) must secure the results mentioned in subsection (2).

(2) The results are that—

- (a) where the Department proposes to impose a fixed monetary penalty on a reservoir manager, it must serve on the manager a notice of what is proposed (a “notice of intent”) which complies with subsection (3),
- (b) the notice of intent must also offer the manager the opportunity to discharge the manager's liability for the fixed monetary penalty by payment of a specified sum (which must be less than or equal to the amount of the penalty),
- (c) if the manager does not so discharge liability—
 - (i) the manager may make written representations and objections to the Department in relation to the proposed imposition of the fixed monetary penalty,

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Reservoirs Act (Northern Ireland) 2015, Section 84. (See end of Document for details)

- (ii) the Department must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty,
 - (d) where the Department decides to impose the fixed monetary penalty, the notice imposing it (“the final notice”) must be served on the reservoir manager and comply with subsection (5),
 - (e) the reservoir manager on whom a fixed monetary penalty is imposed may appeal to the Water Appeals Commission against the decision to impose it.
- (3) To comply with this subsection, the notice of intent must include information as to—
- (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) how payment to discharge the liability for a fixed monetary penalty may be made,
 - (c) the effect of payment of the specified sum,
 - (d) the right to make written representations and objections,
 - (e) the circumstances in which the Department may not impose the fixed monetary penalty,
 - (f) the period within which liability for the fixed monetary penalty may be discharged, which must not exceed the period of 28 days beginning with the day on which the notice of intent was served,
 - (g) the period within which representations and objections may be made, which must not exceed that period of 28 days.
- (4) Provision to secure the result referred to in subsection (2)(c)(ii)—
- (a) must secure that the Department may not decide to impose a fixed monetary penalty on a reservoir manager where it is satisfied that the manager would not, by reason of any defence, be liable to be convicted of the offence in relation to which it was imposed,
 - (b) may include provision for other circumstances in which the Department may not decide to impose a fixed monetary penalty.
- (5) To comply with this subsection, the final notice must include information as to—
- (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment must be made,
 - (d) any early payment discounts or late payment penalties,
 - (e) rights of appeal, including the grounds of appeal, the procedure for making an appeal and the period within which an appeal may be made,

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Reservoirs Act (Northern Ireland) 2015, Section 84. (See end of Document for details)

(f) the consequences of non-payment.

(6) Provision to secure the result in subsection (2)(e) must—

(a) secure that the grounds on which a reservoir manager may appeal against a decision of the Department include that—

(i) the decision was based on an error of fact,

(ii) the decision was wrong in law,

(iii) the decision was unreasonable,

(b) secure that the Commission may confirm or quash the decision.

(7) Regulations under section 83(1) may provide that, where a fixed monetary penalty remains unpaid after the expiry of the period for payment of the penalty, it is recoverable as if it were payable under a court order.

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Reservoirs Act (Northern Ireland) 2015, Section 84.