
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

The Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations 2020

PART 6

Appeals and recovery of financial penalties

Appeals

22.—(1) If after a review the penalty notice is confirmed by the enforcement authority, the recipient may appeal against the penalty notice to the sheriff court of the sheriffdom in which the domestic PR property is situated.

(2) An appeal against a penalty notice must be made within the period of 28 days beginning with the day after that on which the notice under regulation 21(2)(c) is served.

(3) The sheriff may extend the period for appealing against the notice on cause shown.

(4) An appeal must be on one (or more) of the following grounds—

- (a) the issue of the penalty notice was based on an error of fact,
- (b) the issue of the penalty notice was based on an error of law,
- (c) the penalty notice does not comply with a requirement imposed by these Regulations, or
- (d) in the circumstances of the case it was inappropriate for the penalty notice to be served on L.

(5) An appeal against a penalty notice must be by summary application.

Effect and determination of appeal

23.—(1) The bringing of an appeal suspends the penalty notice being appealed taking effect, pending determination or withdrawal of the appeal.

(2) The sheriff may—

- (a) quash the penalty notice, or
- (b) affirm the penalty notice, whether in its original form or with such modification as the sheriff sees fit.

(3) If the penalty notice is quashed, the enforcement authority must repay any amount paid as a financial penalty in pursuance of the notice.

(4) A decision of a sheriff may be appealed against as if it were a decision constituting final judgment in civil proceedings within the meaning of the Courts Reform (Scotland) Act 2014(1).

Recovery of financial penalty

24.—(1) The amount of an unpaid financial penalty is recoverable from L as a debt owed to the enforcement authority unless the notice has been withdrawn or quashed.

- (2) Proceedings for the recovery of the financial penalty may not be commenced—
- (a) before the expiry of the period for requesting a review specified in the penalty notice by virtue of regulation 18(2)(h)(ii),
 - (b) where a review has been requested under regulation 21(1), before the enforcement authority has served notice of its decision under regulation 21(2)(c), and
 - (c) where the enforcement authority has served notice of its decision under regulation 21(2)(c) confirming the penalty notice, before the expiry of the period within which L may appeal under regulation 22.
- (3) In proceedings for the recovery of a financial penalty, a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority, and
 - (b) states that payment of the financial penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

Service of documents

- 25.**—(1) Any notice served under these Regulations must be in writing and may be sent by post.
- (2) Any such notice may be given—
- (a) in the case of a body corporate, to the secretary or clerk of that body corporate,
 - (b) in the case of a Scottish partnership, to any partner or to a person having control or management of the partnership.