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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 383**

**The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015**

**PART 3**

**Administration and Enforcement**

**Guidance**

**9.**—(1) Where power is conferred on SEPA by this Order to impose an enforcement measure in relation to an offence, SEPA must publish guidance about—

- (a) how the offence is enforced;
- (b) the sanctions (including criminal sanctions) to which a person who commits the offence may be liable;
- (c) the action which SEPA may take to enforce the offence, whether by virtue of this Order or otherwise;
- (d) the circumstances in which SEPA is likely to take any such action;
- (e) SEPA's use of the enforcement measure; and
- (f) in the case of guidance relating to a fixed monetary penalty or variable monetary penalty, the guidance must contain the relevant information provided for in paragraph (2) or (3) as the case may be.

(2) In the case of guidance relating to a fixed monetary penalty, the relevant information referred to in paragraph (1)(f) is information as to—

- (a) the circumstances in which the penalty is likely to be imposed;
- (b) the circumstances in which it may not be imposed;
- (c) the amount of the penalty; and
- (d) rights to make representations and rights of appeal.

(3) In the case of guidance relating to a variable monetary penalty, the relevant information referred to in paragraph (1)(f) is information as to—

- (a) the circumstances in which the penalty is likely to be imposed;
- (b) the circumstances in which it may not be imposed;
- (c) the matters likely to be taken into account by SEPA in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance);
- (d) rights to make representations and rights of appeal; and
- (e) SEPA's use of non-compliance penalties.

(4) SEPA must have regard to the guidance in exercising its functions.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(5) An “enforcement measure” means a fixed monetary penalty, variable monetary penalty or enforcement undertaking (and any references to the imposition of an enforcement measure include acceptance of an enforcement measure).

(6) In this article, any references to guidance include references to any guidance revised by virtue of section 31(8) of the Act.