



Ethical Standards in Public Life etc. (Scotland) Act 2000

2000 asp 7

PART 2

ENFORCEMENT

26 Appeals by Water Industry Commissioner

- (1) If the Water Industry Commissioner for Scotland—
 - (a) is the subject of a finding under section 18 above of a contravention of the Water Commissioner's code issued under section 25 above;
 - (b) is made subject to a sanction under section 25(12) and (13) above,the Commissioner may appeal to the sheriff principal of the sheriffdom in which the principal office of the Commissioner is situated.
- (2) An appeal—
 - (a) under subsection (1)(a) above may be made on one or more of the following grounds—
 - (i) that the Commission's finding was based on an error of law;
 - (ii) that there has been procedural impropriety in the conduct of any hearing held under section 16(b) above;
 - (iii) that the Commission has acted unreasonably in the exercise of its discretion;
 - (iv) that the Commission's finding was not supported by the facts found to be proved by the Commission;
 - (b) under subsection (1)(b) above may be made on one or both of the following grounds—
 - (i) that the sanction imposed was excessive;
 - (ii) that the Commission has acted unreasonably in the exercise of its discretion.
- (3) An appeal under subsection (1) above shall be lodged within 21 days of—
 - (a) the sending of the finding under section 18 above to the Commissioner; or
 - (b) the imposition of the sanction under section 25(12) above.

Status: This is the original version (as it was originally enacted).

- (4) A finding made or sanction imposed by the Commission continues to have effect notwithstanding the lodging of an appeal under subsection (1) above.
- (5) The sheriff principal may—
 - (a) in an appeal under subsection (1)(a) above—
 - (i) confirm the finding under section 18 above;
 - (ii) quash the finding;
 - (iii) quash the finding and remit the matter to the Commission to reconsider its decision;
 - (b) in an appeal under subsection (1)(b) above—
 - (i) confirm the sanction;
 - (ii) quash the sanction and either substitute a lesser sanction or remit the matter back to the Commission;
 - (c) award expenses.
- (6) The decision of the sheriff principal under subsection (1) above is a final judgment for the purposes of section 28 (appeals to the Court of Session) of the Sheriff Courts (Scotland) Act 1907 (c. 51).
- (7) In an appeal from the sheriff principal by virtue of subsection (6) above, the Court of Session has the powers specified in subsection (5) above.
- (8) The Commission may be a party to any appeal under subsection (1) above and in any appeal from the decision of the sheriff principal.