Regulatory Reform (Scotland) Act 2014
2014 asp 3

PART 3

ENVIRONMENTAL REGULATION

CHAPTER 2

SEPA'S POWERS OF ENFORCEMENT

Fixed monetary penalties

22 Fixed monetary penalties: effect on criminal proceedings etc.

(1) Provision under section 20 must secure that in a case where a notice of intent referred to in section 21(2)(a) in respect of an offence constituted by an act or omission is served on a person—

    (a) no criminal proceedings may be commenced against the person in respect of that offence constituted by that act or omission—

        (i) before the end of any period in which the person may discharge liability for the fixed monetary penalty pursuant to section 21(3), or

        (ii) if the person so discharges liability, and

    (b) the period as mentioned in subsection (2) is not to be counted in calculating any period within which criminal proceedings in respect of that offence constituted by that act or omission must be commenced.

(2) The period is that beginning with the day on which the notice of intent is served and ending with the day which is the final day on which written representations may be made in relation to the notice.

(3) Provision under section 20 must also secure that, in a case where a fixed monetary penalty is imposed on a person in respect of an offence constituted by an act or omission, no criminal proceedings may be commenced against the person in respect of that offence constituted by that act or omission.

(4) The references in subsections (1)(a) and (3) to criminal proceedings being commenced are to be read as if they included references to—

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      (a)   a warning being given by the procurator fiscal,

      (b)   a conditional offer (within the meaning of section 302 of the Criminal Procedure (Scotland) Act 1995) being sent,

      (c)   a compensation offer under section 302A of that Act being sent,

      (d)   a combined offer under section 302B of that Act being sent, and

      (e)   a work order under section 302ZA of that Act being made.