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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 323**

**The Pollution Prevention and  
Control (Scotland) Regulations 2000**

**PART VII**

**PROVISION AS TO OFFENCES**

**Offences**

**30.**—(1) It is an offence for a person—

- (a) to contravene regulation 6(1);
- (b) to fail to comply with or to contravene a condition of a permit;
- (c) to fail to comply with regulation 12(1);
- (d) to fail to comply with the requirements of an enforcement notice or a suspension notice;
- (e) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under regulation 26(2);
- (f) to make a statement which that person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
  - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations; or
  - (ii) for the purpose of obtaining the grant of a permit issued under these Regulations to that or any other person, or the variation, transfer or surrender of a permit;
- (g) intentionally to make a false entry in any record required to be kept under the condition of a permit;
- (h) with intent to deceive, to forge or use a document issued or authorised to be issued under the condition of a permit or required for any purpose under a condition of such a permit or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
- (i) to fail to comply with an order made by a court under regulation 33.

(2) A person guilty of an offence under sub-paragraph (a), (b), (d) or (i) of paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(3) A person guilty of an offence under sub-paragraph (c) and (e) to (h) of paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) Where an offence under this regulation committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity (or, in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, paragraph (4) shall apply in relation to the acts or defaults of a member in connection with the functions of management of that member as if that member were a director of the body corporate.

(6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

### **Enforcement by the Courts**

**31.** If SEPA is of the opinion that proceedings for an offence under regulation 30(1)(d) would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice or a suspension notice, it may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the notice.

### **Admissability of evidence**

**32.** Where—

(a) by virtue of a condition of a permit, an entry is required to be made in any record as to the observance of any condition of the permit; and

(b) the entry has not been made,

that fact shall be admissible as evidence that that condition has not been observed.

### **Power of court to order cause of offence to be remedied**

**33.—(1)** Where a person is convicted of an offence under regulation 30(1)(a), (b) or (d) in respect of any matters which appear to the court to be matters which it is in the power of that person to remedy, the court may, in addition to or instead of imposing any punishment, order that person, within such time as may be fixed by the order of the court, to take such steps as may be specified in that order for remedying those matters.

(2) The time fixed by an order of the court under paragraph (1) may be extended or further extended by a further order of the court on an application made before the end of the time as originally fixed or extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under regulation 30 in respect of those matters in so far as they continue during the time fixed by the order of the court or any further time allowed under paragraph (2).