

F1 SCHEDULE 1

Regulation 12

Textual Amendments

F1 Sch. 1 omitted (22.2.2018) by virtue of [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018 \(S.I. 2018/98\)](#), regs. 1(2), **28**

SCHEDULE 2

Regulation 25(1)(a)(i)

2014 Regulation provisions

<i>Provision of 2014 Regulation</i>	<i>Summary of subject matter</i>
Article 3(1)	Prohibition on the intentional release of fluorinated greenhouse gases into the atmosphere where not technically necessary for intended use.
Article 3(2)	Requirement on operators of equipment to take precautions to prevent leakage of fluorinated greenhouse gases. Requirement on operators of equipment to take measures to minimise leakage of fluorinated greenhouse gases.
Article 3(3)	Requirement on operators of equipment to ensure that equipment is repaired without undue delay where a leakage of fluorinated greenhouse gases is detected. Requirement on operators of equipment to ensure equipment is checked where the equipment is subject to leak checks under Article 4(1) (leak checks) and has been repaired.
Article 3(4)	Requirement on natural persons carrying out tasks referred to in Article 10(1)(a) to (c) (training and certification) to be certified and to take precautionary measures to prevent leakage of fluorinated greenhouse gases. Requirement on undertakings carrying out the installation, servicing, maintenance, repair or decommissioning of equipment referred to in Article 4(2)(a) to (d) to be certified and to take precautionary measures to prevent leakage of fluorinated greenhouse gases.
Article 4(1) (read in association with Article 4(2) to (4))	Requirement on operators of equipment to ensure that specified types of equipment are checked for leaks.
Article 5(1)	Requirement on operators of equipment listed in Article 4(2)(a) to (d) containing fluorinated greenhouse gases in quantities of 500 tonnes of CO ₂ equivalent or more to ensure that the equipment is provided with a leakage detection system.
Article 5(2)	Requirement on operators of equipment listed in Article 4(2)(f) and (g) containing fluorinated greenhouse gases in quantities of 500 tonnes of CO ₂ equivalent or more and installed from 1st

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	<p>January 2017 to ensure that the equipment is provided with a leakage detection system.</p>
Article 5(3)	<p>Requirement on operators of equipment listed in Article 4(2)(a) to (d) and (g) to ensure that leakage detection systems are checked at least once every 12 months.</p>
Article 5(4)	<p>Requirement on operators of equipment listed in Article 4(2)(f) (electrical switchgear) to ensure that leakage detection systems are checked at least once every six years.</p>
Article 6(1)	<p>Requirement on operators of equipment required to be checked for leaks under Article 4(1) to establish and maintain records for each piece of equipment specifying prescribed information.</p>
Article 6(2)	<p>Requirement on operators required to keep records under Article 6(1) to keep them for at least five years except where those records are stored in a database set up by [^{F2}the competent authorities][^{F2}the appropriate regulator].</p> <p>Requirement on undertakings carrying out the activities referred to in Article 6(1)(e) (record keeping) for operators to keep copies of the records for at least five years except where those records are stored in a database set up by [^{F2}the competent authorities][^{F2}the appropriate regulator].</p> <p>Requirement on operators of equipment and undertakings to make the records available on request to [^{F2}a competent authority or to the European Commission][^{F2}the appropriate regulator].</p>
Article 6(3) (read in association with Article 11(4))	<p>Requirement on undertakings supplying fluorinated greenhouse gases to establish records of relevant information on the purchasers including prescribed details.</p> <p>Requirement on undertakings to maintain the records for at least five years.</p> <p>Requirement on undertakings to make the records available on request to [^{F3}a competent authority or to the European Commission][^{F3}the appropriate regulator].</p>
Article 7(1)	<p>Requirement on producers of fluorinated compounds to take all necessary precautions to limit emissions of fluorinated greenhouse gases during production, transport and storage.</p>
Article 7(2)	<p>Prohibition, from 11th June 2015, on the placing on the market of fluorinated greenhouse gases and gases listed in Annex II, except, where relevant, the producer or importer provides evidence at the time of placing that trifluoromethane produced as a by-product during the manufacturing process, has been destroyed or recovered for subsequent use.</p>
Article 8(1)	<p>Requirement on operators of specified stationary equipment or refrigeration units of refrigerated trucks and trailers that contain fluorinated greenhouse gases not contained in foams to ensure that the recovery of the gases is carried out by natural persons certified under Article 10.</p>

- Article 8(2) Requirement on undertakings that use a fluorinated greenhouse gases container immediately prior to disposal to arrange for the recovery of any residual gases to make sure they are recycled, reclaimed or destroyed.
- Article 8(3) Requirement on operators of products and equipment not listed in Article 8(1) that contain fluorinated greenhouse gases to arrange for the recovery of the gases by appropriately qualified natural persons or to arrange for their destruction.
- [^{F4}Article 10(11) Requirement on undertakings assigning tasks referred to in Article 10(1) to another undertaking to take reasonable steps to ascertain that the latter holds the necessary certificates for the required tasks.]
- Article 11(1) (read in Prohibition on the placing on the market of products and association with Article 11(2) and (3)) equipment listed in Annex III, with the exception of military equipment, from the date specified in the Annex.
- Article 11(4) Prohibition on the sale and purchase of fluorinated greenhouse gases for the purposes of carrying out the installation, servicing, maintenance or repair of equipment that contains fluorinated greenhouse gases or whose functioning relies upon those gases, except by undertakings who hold relevant certifications or attestations in accordance with Article 10.
- Article 11(5) Prohibition on the sale of non-hermetically sealed equipment charged with fluorinated greenhouse gases to the end user without the provision of evidence that the installation is to be carried out by an undertaking certified in accordance with Article 10.
- Article 12(1) (read in Prohibition on the placing on the market of specified products association with Article 12(3), and equipment that contain or whose functioning relies upon (4) and (6) to (13)) fluorinated greenhouse gases unless they are labelled.
- Article 12(5) Prohibition on the placing on the market of foams and pre-blended polyols that contain fluorinated greenhouse gases unless the fluorinated greenhouse gases are identified with an accepted industry designation or, if not available, its chemical name.
- Article 13(1) Prohibition on the use of sulphur hexafluoride in magnesium die-casting and in the recycling of magnesium die-casting alloys (from 1st January 2018 in relation to installations using a quantity of sulphur hexafluoride below 850kg per year).
- Article 13(2) Prohibition on the use of sulphur hexafluoride to fill vehicle tyres.
- Article 13(3) Prohibition, from 1st January 2020 (1st January 2030 in relation to specified categories of fluorinated greenhouse gases), on the use of fluorinated greenhouse gases with a global warming potential of 2,500 or more, to service or maintain refrigeration equipment with a charge size of 40 tonnes of CO₂ equivalent or more, except for military equipment or equipment intended for applications designed to cool products to temperatures below -50°C.
- Article 14(1) Prohibition, from 1st January 2017, on the placing on the market of refrigeration, air conditioning and heat pump equipment charged with hydrofluorocarbons unless the hydrofluorocarbons

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charged into the equipment are accounted for within the quota system referred to in Chapter IV.

Article 14(2) (read in association with Article 14(3)) Requirement on manufacturers and importers of equipment placing pre-charged equipment on the market to ensure that compliance with Article 14(1) (pre-charging of equipment with hydrofluorocarbons) is fully documented and to draw up a declaration of conformity.

Requirement, from 1st January 2018, on importers of equipment containing hydrofluorocarbons not placed on the market prior to the charging of the equipment to ensure that by 31 March every year the accuracy of the documentation and declaration of conformity is verified, for the preceding calendar year, by an independent auditor.

Requirement on manufacturers and importers of equipment referred to in Article 14(1) to keep the documentation and declaration of conformity for a period of at least five years after the placing on the market of that equipment.

Article 15(1) (read in association with Article 15(2) and (3)) Requirement on producers and importers to ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that each of them places on the market does not exceed their quota allocated pursuant to Article 16 (allocation of quotas for placing hydrofluorocarbons on the market) or transferred pursuant to Article 18 (transfer of quotas and authorisation to use quotas for the placing on the market of hydrofluorocarbons in imported equipment).

Article 17(1) Requirement on prescribed persons to be registered in the electronic registry for quotas for placing hydrofluorocarbons on the market.

Article 19(1) Requirement on each producer, importer and exporter that produced, imported or exported one tonne or 100 tonnes of CO₂ equivalent or more of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year, as well as undertakings receiving quotas pursuant to Article 18(1), to report to the [^{F5}European Commission][^{F5}appropriate regulator] the data specified in Annex VII on each of those substances for that calendar year by 31st March 2015 and every year thereafter.

Article 19(2) Requirement on each undertaking that destroyed one metric tonne or 1,000 tonnes of CO₂ equivalent or more of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year to report to the [^{F6}European Commission][^{F6}appropriate regulator] the data specified in Annex VII on each of those substances for that calendar year by 31st March 2015 and every year thereafter.

Article 19(3) Requirement on each undertaking that used 1,000 tonnes of CO₂ equivalent or more of fluorinated greenhouse gases as feedstock during the preceding calendar year to report to the [^{F7}European Commission][^{F7}appropriate regulator] the data specified in Annex

	VII on each of those substances for that calendar year by 31st March 2015 and every year thereafter.
Article 19(4)	Requirement on each undertaking that placed 500 tonnes of CO ₂ equivalent or more of fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment on the market during the preceding calendar year to report to the [^{F8} European Commission][^{F8} appropriate regulator] the data specified in Annex VII on each of those substances for that calendar year by 31st March 2015 and every year thereafter.
Article 19(5)	Requirement on each importer that places on the market pre-charged equipment where hydrofluorocarbons contained in that equipment have not been placed on the market prior to the charging of the equipment to submit to the [^{F9} European Commission][^{F9} appropriate regulator] a verification document issued pursuant to Article 14(2).
Article 19(6)	Requirement on each undertaking which, under Article 19(1), reports on the placing on the market 10,000 tonnes of CO ₂ equivalent or more of hydrofluorocarbons during the preceding calendar year to ensure that the accuracy of the data is verified by an independent auditor by 30th June 2015 and every year thereafter. Requirement on undertakings to keep the verification report for at least five years. Requirement on undertakings to make the verification report available, on request, to [^{F10} a competent authority and to the European Commission][^{F10} the appropriate regulator].

Textual Amendments

- F2** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by virtue of [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(a)(i)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(a)(ii)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in Sch. 2 inserted (22.2.2018) by [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018](#) (S.I. 2018/98), regs. 1(2), **29**
- F5** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(b)(i)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(b)(ii)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(6)(b)(iii)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(b)(iv)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the The Fluorinated Greenhouse Gases Regulations 2015. (See end of Document for details)

- F9** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(b)(v)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Sch. 2 substituted (E.W.S.) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/583), regs. 1(1), **35(1)(6)(c)** (as amended by S.I. 2020/1616, regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, Sch. 5 para. 1(1)

SCHEDULE 3

Regulation 25(1)(a)(ii)

Commission Regulation provisions

[^{F11}Table 1**Certification for stationary refrigeration, air conditioning and heat pump equipment**

<i>Provision of Commission Regulation</i>	<i>Summary of subject matter</i>
2015/2067	
Article 3(1) (read in association with Articles 2 and 3(3) and (4))	Requirement on natural persons carrying out activities referred to in Article 2(1) (scope) to hold a certificate as referred to in Article 4 (certificates for natural persons) for the corresponding category as set out in Article 3(2) (certification of natural persons).
Article 5	Requirement on companies referred to in Article 2(2) to hold a certificate as referred to in Article 6 (company certificates).]

Textual Amendments

- F11** Sch. 3 Table 1 substituted (22.2.2018) by [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018](#) (S.I. 2018/98), regs. 1(2), **30(2)**

Table 2**Certification for stationary fire protection systems and fire extinguishers**

<i>Provision of Commission Regulation</i>	<i>Summary of subject matter</i>
304/2008	
Article 4(1) (read in association with Articles 2 and 4(2))	Requirement on personnel carrying out activities referred to in Article 2(1) (scope) to hold a certificate as referred to in Article 5 (personnel certificates).
Article 7(1)	Requirement on companies carrying out activities referred to in Article 2(2) to hold a certificate as referred to in Article 8 (company certificates).

[^{F12}Table 3**Certification for electrical switchgear**

<i>Provision of Commission Regulation 2015/2066</i>	<i>Summary of subject matter</i>
Article 2(1) (read in association with Articles 2(2) and (3) and 9)	Requirement on natural persons carrying out the activities referred to in Article 1 (subject matter and scope) to hold a certificate as referred to in Article 3 (issuance of certificates to natural persons).]

Textual Amendments

F12 Sch. 3 Table 3 substituted (22.2.2018) by [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018 \(S.I. 2018/98\)](#), regs. 1(2), **30(3)**

Table 4**Certification for recovery of fluorinated greenhouse gas-based solvents from equipment**

<i>Provision of Commission Regulation 306/2008</i>	<i>Summary of subject matter</i>
Article 2(1) (read in association with Article 2(2))	Requirement on personnel carrying out the activity referred to in Article 1 (subject matter and scope) to hold a certificate as referred to in Article 3 (issuance of certificates to personnel).

Table 5**Attestation for air conditioning systems in motor vehicles**

<i>Provision of Commission Regulation 307/2008</i>	<i>Summary of subject matter</i>
Article 2(1) (read in association with Article 2(2))	Requirement on personnel carrying out the activity referred to in Article 1 (subject matter) hold a training attestation as referred to in Article 3 (issuance of training attestations to personnel).

[^{F13}Table 6**Declaration of conformity and verification document for equipment charged with hydrofluorocarbons**

<i>Provision of Commission Regulation 2016/879</i>	<i>Summary of subject matter</i>
Article 1(2)	Requirement for importers of equipment charged with hydrofluorocarbons to ensure that a copy of the declaration of conformity is available to the customs authorities when the customs declaration is submitted.

Changes to legislation: There are currently no known outstanding effects for the The Fluorinated Greenhouse Gases Regulations 2015. (See end of Document for details)

<i>Provision of Commission Regulation 2016/879</i>	<i>Summary of subject matter</i>
Article 4	Requirement for importers of equipment to submit the verification document using the reporting tool made available by the [F14Commission][F14appropriate regulator] under Article 1 of Commission Regulation 1191/2014 by 31st March every year for the preceding calendar year.]

Textual Amendments

- F13** Sch. 3 Table 6 inserted (22.2.2018) by [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018 \(S.I. 2018/98\)](#), regs. 1(2), **30(4)**
- F14** Words in Sch. 3 Table 6 substituted (E.W.S) (31.12.2020) by [The Ozone-Depleting Substances and Fluorinated Greenhouse Gases \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/583\)](#), regs. 1(1), **35(1)(7)** (as amended by [S.I. 2020/1616](#), regs. 1(2), **2(2)(18)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

[F15]SCHEDULE 4

Regulation 31A(8)

Civil penalties

Textual Amendments

- F15** Schs. 4, 5 inserted (E.S.) (1.4.2018) by [The Fluorinated Greenhouse Gases \(Amendment\) Regulations 2018 \(S.I. 2018/98\)](#), regs. 1(2), **31**

Imposition of a civil penalty

1.—(1) A relevant enforcing authority may by notice impose on any person, in relation to a failure to comply with any provision referred to in regulation 31A, a requirement to pay a civil penalty to the relevant enforcing authority of such an amount as the notice may specify or determine, subject to sub-paragraph (4).

(2) The standard of proof to be applied by a relevant enforcing authority imposing a civil penalty under these Regulations is on a balance of probabilities.

(3) A civil penalty may not be imposed—

- (a) on more than one occasion in relation to the same act or omission;
- (b) in relation to an act or omission that resulted in a criminal conviction.

(4) The maximum civil penalty is £200,000, except as provided in the following table—

<i>Column 1</i>	<i>Column 2</i>
<i>Maximum civil penalty</i>	<i>Provision subject to civil penalty</i>
£100,000 in relation to the entries in column 2	Regulation 18

Article 3(2), (3) (except in relation to the failure of operators of equipment to ensure that equipment is repaired without undue delay

<i>Column 1</i>	<i>Column 2</i>
<i>Maximum civil penalty</i>	<i>Provision subject to civil penalty</i>
	where a leakage of fluorinated greenhouse gases is detected) and (4) of the 2014 Regulation
	Article 4(1) of the 2014 Regulation
	Article 5(1), (2), (3) and (4) of the 2014 Regulation
	Article 7(1) of the 2014 Regulation
	Article 8(1), (2) and (3) of the 2014 Regulation
	Article 13(1), (2) and (3) of the 2014 Regulation
	Article 17(1) of the 2014 Regulation
	Article 19(5) and (6) of the 2014 Regulation
	Article 3 of Commission Regulation 1497/2007
	Article 4(1), (2) and (4) of Commission Regulation 1497/2007
	Article 5 of Commission Regulation 1497/2007
	Article 6 of Commission Regulation 1497/2007
	Article 7 of Commission Regulation 1497/2007
	Article 2(1), (2), (3) and (4) of Commission Regulation 1516/2007
	Article 3 of Commission Regulation 1516/2007
	Article 4 of Commission Regulation 1516/2007
	Article 5 of Commission Regulation 1516/2007
	Article 6 of Commission Regulation 1516/2007
	Article 7(1) and (2) of Commission Regulation 1516/2007
	Article 8 of Commission Regulation 1516/2007
	Article 9 of Commission Regulation 1516/2007
	Article 10 of Commission Regulation 1516/2007
	Article 4(1) of Commission Regulation 304/2008
	Article 7(1) of Commission Regulation 304/2008
	Article 2(1) of Commission Regulation 307/2008
	Article 2(1) of Commission Regulation 2015/2066
	Article 3(1) of Commission Regulation 2015/2067
	Article 5 of Commission Regulation 2015/2067
£50,000 in relation to the entries in column 2	Regulation 19
	Article 6(1), (2) and (3) of the 2014 Regulation
	Article 12(1) of the 2014 Regulation
	Article 12(5) of the 2014 Regulation

Changes to legislation: There are currently no known outstanding effects for the The Fluorinated Greenhouse Gases Regulations 2015. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>
<i>Maximum civil penalty</i>	<i>Provision subject to civil penalty</i>
	Article 14(2) of the 2014 Regulation Article 2 of Commission Regulation 2015/2068
£10,000 in relation to the entries in column 2	Regulation 31A(2)(c) Article 19(1), (2), (3) and (4) of the 2014 Regulation Article 1(2) of Commission Regulation 2016/879 Article 4 of Commission Regulation 2016/879

(5) The Secretary of State or the Environment Agency may recover any civil penalty imposed by them under this Schedule as if payable under order of the court.

(6) The Scottish Ministers or SEPA may recover any civil penalty imposed by them under this Schedule as if it were payable under an extract registered decree arbitral bearing a warrant for execution by a sheriff of any sheriffdom.

(7) A relevant enforcing authority must, as soon as is reasonably practicable, pay the amount of any civil penalty that has been paid to it—

- (a) to the Secretary of State, in the case of the Environment Agency;
- (b) to the Scottish Ministers, in the case of SEPA.

Notice of intent

2.—(1) If a relevant enforcing authority proposes to impose a civil penalty on a person under this Schedule, the relevant enforcing authority must serve on that person a notice of what is proposed (“a notice of intent”).

- (2) The notice of intent must include—
 - (a) the grounds for the proposed penalty,
 - (b) the maximum amount of the penalty, and
 - (c) information as to the right to make written representations and objections within 28 days beginning with the day on which the notice of intent was received.

Making representations and objections

3. A person on whom a notice of intent is served by a relevant enforcing authority may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the relevant enforcing authority in relation to the proposed imposition of a civil penalty.

Civil penalty notice

4.—(1) After the end of the period for making representations and objections under paragraph 3, the relevant enforcing authority which served the notice of intent must decide whether to impose the civil penalty set out in the notice of intent, with or without modifications.

(2) Where the relevant enforcing authority decides to impose a civil penalty, the notice imposing it must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount to be paid,

- (c) how payment may be made,
- (d) the period within which payment must be made, which must be not less than 28 days,
- (e) rights of appeal, and
- (f) the consequences of failing to comply with the notice.

Withdrawing or amending a notice

5. The relevant enforcing authority may in writing, at any time before payment is made to it in accordance with a civil penalty notice, withdraw the notice or amend the amount specified in the notice.

Enforcement cost recovery notice

6.—(1) A relevant enforcing authority may by notice require a person on whom it has served a civil penalty notice to pay the costs incurred by the relevant enforcing authority in relation to the service of that civil penalty notice up to the time of its service.

- (2) Examples of costs include—
 - (a) costs of detaining goods;
 - (b) investigation costs;
 - (c) administration costs;
 - (d) costs of obtaining expert advice (including legal advice).
- (3) The enforcement cost recovery notice must specify—
 - (a) the grounds for serving the notice,
 - (b) the amount to be paid,
 - (c) how payment may be made,
 - (d) the period within which payment must be made, which must not be less than 28 days, and
 - (e) the right of appeal.

Publication of enforcement action

7.—(1) Each relevant enforcing authority must from time to time publish the following information about cases in which civil penalties have been imposed—

- (a) the name of the person on whom the penalty was imposed;
- (b) the nature of the breach to which the penalty relates;
- (c) the amount of the penalty.

(2) Information must not be published until after the expiry of the period for making an appeal or, where an appeal has been made, until after the appeal has been determined.

(3) The requirement to publish information does not include cases where a civil penalty notice has been served but is subsequently withdrawn or quashed.

SCHEDULE 5

Regulation 26(2A)

Appeals

Appeals against notices served by the Environment Agency or the Secretary of State

1.—(1) A person on whom an enforcement notice, a civil penalty notice or an enforcement cost recovery notice is served by the Environment Agency or the Secretary of State may appeal against it to the First-tier Tribunal.

(2) An appeal must be made within 28 days beginning with the day on which the notice subject to the appeal is served.

(3) A person bringing an appeal under sub-paragraph (1) may withdraw the appeal at any time before the appeal is determined.

(4) Where an appeal is made under sub-paragraph (1), the notice is suspended until the appeal is withdrawn or determined by the First-tier Tribunal in accordance with sub-paragraph (5).

(5) The First-tier Tribunal may—

- (a) affirm the notice;
- (b) direct the Environment Agency or Secretary of State to vary or withdraw the notice;
- (c) impose such other enforcement notice, civil penalty notice or enforcement cost recovery notice as the First-tier Tribunal thinks fit.

Appeals against notices served by the Scottish Ministers

2.—(1) A person on whom an enforcement notice, a civil penalty notice or an enforcement cost recovery notice is served by the Scottish Ministers may appeal against it to the sheriff.

(2) The appeal must be made within 28 days beginning with the day on which the notice is served.

(3) A person bringing an appeal under sub-paragraph (1) may withdraw the appeal at any time before the appeal is determined.

(4) Where an appeal is made under sub-paragraph (1), the notice is suspended until the appeal is withdrawn or determined by the sheriff in accordance with sub-paragraph (5).

(5) The sheriff may, without prejudice to any other powers the sheriff may exercise—

- (a) affirm the notice;
- (b) direct the Scottish Ministers to vary or withdraw the notice;
- (c) impose such other enforcement notice, civil penalty notice or, as the case may be, enforcement cost recovery notice as the sheriff thinks fit.

Appeals against notices served by SEPA

3.—(1) A person, other than the Scottish Ministers, on whom an enforcement notice, a civil penalty notice or an enforcement cost recovery notice is served by SEPA may appeal against it to the Scottish Ministers.

(2) Subject to sub-paragraph (3), an appeal under sub-paragraph (1) must be made by notice in writing (“appeal notice”) within a period of 28 days beginning with the day on which the notice which is the subject of the appeal is served.

(3) The Scottish Ministers may at any time allow an appeal to be made after the expiry of the period mentioned in sub-paragraph (2).

(4) The appeal notice must be accompanied by—

- (a) a statement of the grounds of appeal,
 - (b) a copy of any correspondence or document relevant to the appeal, and
 - (c) a statement indicating whether the person making an appeal under sub-paragraph (1) (“the appellant”) wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.
- (5) The appellant must also serve on SEPA a copy of the appeal notice together with copies of any documents referred to in sub-paragraph (4) which accompanied it.
- (6) The appellant may, by further notice in writing to SEPA, withdraw the appeal made under sub-paragraph (1) at any time before the appeal is determined.
- (7) Where an appeal under sub-paragraph (1) is made under this paragraph, the notice is suspended until the appeal is either withdrawn under sub-paragraph (6) or determined in accordance with sub-paragraph (11).
- (8) The Scottish Ministers may—
- (a) appoint any person to exercise on their behalf, with or without payment, the function of determining the appeal in accordance with sub-paragraph (11), or
 - (b) refer for determination any matter involved in the appeal to such person as the Scottish Ministers may appoint for the purpose, with or without payment.
- (9) If the appellant requests that an appeal under sub-paragraph (1) is in the form of a hearing, or the Scottish Ministers so decide—
- (a) the appeal must be in the form of a hearing;
 - (b) the appeal must continue in the form of a hearing, despite previously being considered on the basis of written representations.
- (10) Except in a case where an appeal is withdrawn under sub-paragraph (6), the Scottish Ministers or, with the agreement of the Scottish Ministers, any person appointed to determine an appeal (“the appointed person”), must notify the appellant and SEPA in writing of the decision and the reasons for the decision.
- (11) The Scottish Ministers may—
- (a) affirm the notice which is subject to the appeal under sub-paragraph (1);
 - (b) vary or withdraw the notice;
 - (c) impose such other enforcement notice, civil penalty notice or, as the case may be, enforcement cost recovery notice as the Scottish Ministers think fit, or as the case may be, the appointed person thinks fit.
- (12) Where the determination is that the notice subject to the appeal under sub-paragraph (1) is to be varied or withdrawn, SEPA must give effect to the determination.
- (13) Where an enforcement notice, a civil penalty notice or an enforcement cost recovery notice is served by SEPA on the Scottish Ministers (“the relevant notice”), the Scottish Ministers may appeal against it to the sheriff.
- (14) An appeal under sub-paragraph (13) must be made within 28 days beginning with the day on which the relevant notice is served.
- (15) The Scottish Ministers bringing an appeal under sub-paragraph (13) may withdraw the appeal at any time before the appeal is determined.
- (16) Where an appeal is made under sub-paragraph (13), the relevant notice is suspended until the appeal is withdrawn or determined by the sheriff in accordance with sub-paragraph (17).
- (17) The sheriff may, without prejudice to any other powers the sheriff may exercise—
- (a) affirm the relevant notice;

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- (b) direct SEPA to vary or withdraw the relevant notice;
- (c) impose such other enforcement notice, civil penalty notice or, as the case may be, enforcement cost recovery notice as the sheriff thinks fit.

Grounds for appeal

4.—(1) The grounds for an appeal against an enforcement notice under paragraph 1(1), 2(1), 3(1) or 3(13) of this Schedule are that the relevant enforcing authority’s decision to serve the enforcement notice was—

- (a) based on an error of fact;
- (b) wrong in law;
- (c) wrong for any other reason;
- (d) unreasonable.

(2) The grounds for an appeal against a civil penalty notice under paragraph 1(1), 2(1), 3(1) or 3(13) of this Schedule are—

- (a) that the relevant enforcing authority’s decision to serve the civil penalty notice was—
 - (i) based on an error of fact;
 - (ii) wrong in law;
 - (iii) wrong for any other reason;
 - (iv) unreasonable;
- (b) that the amount specified in, or determined by, the notice is unreasonable.

(3) The grounds for an appeal against an enforcement cost recovery notice under paragraph 1(1), 2(1), 3(1) or 3(13) of this Schedule are—

- (a) that the relevant enforcing authority’s decision to serve the enforcement cost recovery notice was—
 - (i) based on an error of fact;
 - (ii) wrong in law;
 - (iii) wrong for any other reason;
 - (iv) unreasonable;
- (b) that the amount specified in the notice is unreasonable.]

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