
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 266

The Environmental Liability (Scotland) Regulations 2009

Preventive measures

10.—(1) In the event of an imminent threat of environmental damage caused by an activity, the operator of that activity must without delay take the necessary preventive measures.

(2) If, notwithstanding the taking of preventive measures, an imminent threat of environmental damage remains, the operator must as soon as practicable notify the competent authority of the circumstances of the threat.

(3) In the absence of any notification by an operator, if a competent authority has reasonable grounds for believing that there is an imminent threat of environmental damage it may require an operator to provide information about the threat.

(4) The competent authority may, at any time—

- (a) require an operator to provide it with such additional information as may be required by it following notification of a threat under paragraph (2); or
- (b) require an operator to take the necessary preventive measures.

(5) Where an operator—

- (a) fails to comply with the requirements of paragraph (1) or (4)(b);
- (b) cannot be identified; or
- (c) is not required to pay the costs in accordance with these Regulations,

the competent authority instead of the operator may itself take preventive measures.

(6) Failure by an operator to comply with any of the requirements of paragraphs (1) to (4) without reasonable excuse is an offence.