
STATUTORY INSTRUMENTS

2017 No. 1200

The Control of Mercury (Enforcement) Regulations 2017

PART 4

Enforcement specific to Scotland

Recovery of enforcement costs

- 28.**—(1) SEPA may give a person a costs recovery notice if condition A or B is met.
- (2) A costs recovery notice is a notice requiring the person to pay SEPA’s costs.
- (3) Condition A is that the SEPA has given the person an enforcement notice.
- (4) Condition B is that SEPA has taken action to ensure compliance with an enforcement notice under regulation 27.
- (5) In paragraph (2), the reference to costs is a reference—
- (a) if condition A is met, to any costs relating to preparing and giving the enforcement notice, and
 - (b) if condition B is met, to any costs relating to the action taken,
- and includes a reference to the costs of any related investigation or expert advice (including legal advice).
- (6) The costs must be paid by the person within the period (the “payment period”)—
- (a) of 56 days beginning with the day on which the costs recovery notice is given, where the costs recovery notice has not been appealed under paragraph (11);
 - (b) of 28 days beginning with the day on which the appeal has been determined or withdrawn, where the costs recovery notice has been appealed under paragraph (11);
 - (c) of so many days as the Scottish Ministers may specify, where the costs recovery notice has been appealed under paragraph (11) and the Scottish Ministers have so specified.
- (7) The costs recovery notice must state—
- (a) the amount of the costs which must be paid,
 - (b) in general terms, how those costs have arisen,
 - (c) the payment period,
 - (d) how payment must be made,
 - (e) the consequences of failing to make payment within the payment period (see paragraph (9)), and
 - (f) that there is a right to appeal against the costs recovery notice and how that right may be exercised.
- (8) Following the payment period, SEPA may recover the costs referred to in the costs recovery notice and any related interest under regulation 29 as a civil debt.

(9) The costs are recoverable as if they were payable under an extract registered decree arbitral bearing a warrant for execution issued by a sheriff of any sheriffdom.

(10) SEPA may withdraw a costs recovery notice given by it by informing the person to whom it was given in writing.

(11) A person to whom a costs recovery notice is given may appeal to the Scottish Ministers against it on one or more of the following grounds—

- (a) that the decision to give the costs recovery notice was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that some or all of the costs were not incurred or were unnecessarily incurred;
- (d) any other ground.