



Reservoirs (Scotland) Act 2011

2011 asp 9

PART 1

RESERVOIRS

CHAPTER 9

CIVIL ENFORCEMENT, EMERGENCY POWERS AND FURTHER OFFENCES

Stop notices

74 Stop notices: procedure

- (1) Provision under section 73(1) must secure the results in subsection (2) in a case where a stop notice is given.
- (2) The results are that—
 - (a) the stop notice must comply with subsection (3),
 - (b) the reservoir manager to whom it is given may appeal to the Scottish Ministers against the decision to issue it,
 - (c) where, after giving of the notice, SEPA is satisfied that the manager has taken the steps specified in the notice, SEPA must give a certificate to that effect (a “completion certificate”),
 - (d) the notice ceases to have effect on the giving of a completion certificate,
 - (e) the reservoir manager to whom the notice is given may at any time apply for a completion certificate,
 - (f) SEPA must make a decision as to whether to give a completion certificate before the end of the period of 14 days beginning with the day on which the application for the certificate was made,
 - (g) the reservoir manager to whom the notice is given may appeal to the Scottish Ministers against a decision not to give a completion certificate.
- (3) To comply with this subsection a stop notice must include information as to—
 - (a) the grounds for giving the notice,

Changes to legislation: There are currently no known outstanding effects for the Reservoirs (Scotland) Act 2011, Section 74. (See end of Document for details)

- (b) rights of appeal,
 - (c) the consequences of non-compliance.
- (4) Provision pursuant to subsection (2)(b) must secure that the grounds on which a reservoir manager may appeal against a decision of SEPA to give a stop notice include that—
- (a) the decision was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unreasonable,
 - (d) any step specified in the notice is unreasonable,
 - (e) the reservoir manager has not committed the offence and would not have committed it had the stop notice not been given,
 - (f) the manager would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been given.
- (5) Provision pursuant to that subsection may include provision about the determining by or under the order of a fee, and the charging of any fee so determined, in connection with an appeal and may require the return of a fee paid in relation to an appeal which is upheld.
- (6) Provision pursuant to subsection (2)(g) must secure that the grounds on which a reservoir manager may appeal against a decision of SEPA not to give a completion certificate include that—
- (a) the decision was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unfair or unreasonable.

Commencement Information

II S. 74 in force at 1.1.2015 by S.S.I. 2014/348, art. 2, Sch.

Changes to legislation:

There are currently no known outstanding effects for the Reservoirs (Scotland) Act 2011, Section 74.