



# 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,

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*Status: This is the original version (as it was originally enacted).*

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- (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.