



Reservoirs (Scotland) Act 2011

2011 asp 9

PART 1

RESERVOIRS

CHAPTER 9

CIVIL ENFORCEMENT, EMERGENCY POWERS AND FURTHER OFFENCES

Stop notices

76 Stop notices: enforcement

- (1) Provision under section 73(1) may provide that where a reservoir manager to whom a stop notice is given does not comply with it, the manager commits an offence and is liable on summary conviction—
 - (a) in the JP court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding level 4 on the standard scale, or to both,
 - (b) in the sheriff court—
 - (i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 (c.46)), or to both,
 - (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i), or to both.
- (2) Provision under section 73(1) must provide that it is a defence to a charge in proceedings for an offence created by the order for the person to show both—
 - (a) that the failure to comply with the stop notice was as a result of either an accident which could not reasonably have been foreseen or natural cause or force majeure which was exceptional and could not reasonably have been foreseen, and
 - (b) that the person—

Status: *This is the original version (as it was originally enacted).*

- (i) took all practicable steps to prevent an uncontrolled release of water from the reservoir,
- (ii) took all practicable steps as soon as was reasonably practicable to rectify the failure, and
- (iii) provided particulars of the failure to SEPA as soon as practicable after the failure arose.