
STATUTORY RULES OF NORTHERN IRELAND

2011 No. 81

**The Marine Licensing (Civil Sanctions)
Order (Northern Ireland) 2011**

PART 5

General provisions

Recovery of payments

26.—(1) The enforcement authority may recover any civil sanction imposed under this Order, and any financial penalty for late payment payable under Article 10, as a civil debt.

(2) The enforcement authority may recover any civil sanction imposed under this Order, and any financial penalty for late payment payable under Article 10, on the order of a court, as if payable under a court order.

Payment of certain discharge payments into Consolidated Fund

27. Where the enforcement authority receives any payment under Article 6, the authority must pay it into the Consolidated Fund of Northern Ireland⁽¹⁾.

Appeals – further provisions

28.—(1) Any appeal under this Order is to the Appeals Commission, and except as otherwise provided for in this Order, shall be determined in accordance with Articles 292 and 293 (Procedure of the Water Appeals Commission) of the Water and Sewerage Services (Northern Ireland) Order 2006.

(2) Notice of appeal against the imposition of either a fixed monetary penalty or a variable monetary penalty must be accompanied by either—

- (a) the final notice;
- (b) any relevant correspondence;
- (c) all documents upon which the appellant wishes to rely; and
- (d) such forms and other relevant information as may be required by the procedures of the Appeals Commission.

(3) Notice of appeal against the imposition of a cost recovery notice, served under Article 22 must be accompanied by a copy of the cost recovery notice and the information detailed in subparagraphs (b) to (d) of paragraph (4).

(4) Before determining any appeal the Appeals Commission shall, if either the appellant or the enforcement authority so desires, afford to each of them an opportunity of appearing before and being heard by the Appeals Commission.

⁽¹⁾ See also paragraph 12 of Schedule 7 to the Marine and Coastal Access Act 2009, which requires any fixed monetary penalty, variable monetary penalty or other financial penalty for late payment under this Order to be paid into the Consolidated Fund of Northern Ireland.

- (5) In any appeal the burden of proof is on the enforcement authority, and—
- (a) if the appeal involves an alleged commission of an offence the enforcement authority must prove the commission of the offence beyond reasonable doubt; and
 - (b) the Appeals Commission must determine the burden and standard of proof in any other case.
- (6) A notice which is the subject of an appeal, and any requirement in such a notice, is suspended pending determination of that appeal.
- (7) The Appeals Commission may, in respect of an appeal under Article 12 quash or confirm the requirement or notice;
- (8) The Appeals Commission may, in respect of an appeal under Article 20 or 22 quash, confirm or vary the requirement or notice.

Service of notices

29.—(1) Any notice that is required or authorised to be served on or given to a person under this Order may be served on or given to the person by any of the following methods—

- (a) personal delivery;
 - (b) addressing it to the person and leaving it at the appropriate address;
 - (c) addressing it to the person and sending it to that address by post;
 - (d) in a case where an address for service using electronic communications has been given by the person, sending it using electronic communications, in accordance with the condition set out in paragraph (4), to that person at that address.
- (2) In paragraph (1), “the appropriate address” means—
- (a) in the case of a body corporate, its registered or principal office in the United Kingdom;
 - (b) in the case of a firm, the principal office of the partnership;
 - (c) in the case of an unincorporated body or association, the principal office of the body or association;
 - (d) in any other case, the person’s usual or last known place of residence in the United Kingdom or last known place of business in the United Kingdom.
- (3) In the case of—
- (a) a company registered outside the United Kingdom;
 - (b) a firm carrying on business outside the United Kingdom; or
 - (c) an unincorporated body or association with offices outside the United Kingdom,

the references in paragraph (2) to its principal office include references to its principal office within the United Kingdom (if any).

- (4) The condition mentioned in paragraph (1)(d) is that the notice must be—
- (a) capable of being accessed by the person mentioned in that provision;
 - (b) legible in all material respects; and
 - (c) in a form sufficiently permanent to be used for subsequent reference.

(5) For the purposes of paragraph (4), “legible in all material respects” means that the information contained in the notice is available to that person to no lesser extent than it would be if served or given by means of a notice in printed form.

Amending or withdrawing final notices

30. The enforcement authority may at any time withdraw a final notice, reduce the amount payable in any final notice, or amend a final notice to correct an error.