
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 209

The Water Environment (Controlled Activities) (Scotland) Regulations 2011

PART VII

Offences

Offences

- 44.**—(1) [^{F1}Subject to paragraph (1A), it] is an offence for a person to—
- (a) contravene regulation 4;
 - (b) fail to comply with or contravene a general binding rule;
 - (c) fail to comply with or contravene a registration (including any condition imposed);
 - (d) fail to comply with or contravene a water use licence (including any condition imposed);
 - (e) obstruct an authorised person in the exercise of that person's powers under regulation 31(4) and Schedule 6;
 - (f) fail to comply with any requirement imposed in the exercise of that person's powers under regulation 31(4) and Schedule 6;
 - (g) fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by an authorised person in the exercise of that person's powers or duties under or by virtue of regulation 31(4) and Schedule 6;
 - (h) prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer, pursuant to regulation 31(4) and Schedule 6;
 - (i) pretend to be a person authorised in accordance with regulation 31(4);
 - (j) fail to comply with the requirements of a notice issued under regulation 32(2);
 - (k) fail to comply with the requirements of an information notice under regulation 36(2);
 - (l) make a statement which that person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, if the statement is made—
 - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations; or
 - (ii) for the purpose of obtaining an authorisation issued under these Regulations to that or any other person, or the variation, transfer or surrender of an authorisation;
 - (m) intentionally make a false entry in any record required to be kept as a condition of an authorisation;
 - (n) with intent to deceive, forge or use a document issued or authorised to be issued under the condition of an authorisation or required for any purpose under a condition of such

an authorisation or to make or have in that person's possession a document so closely resembling any such document so as to be likely to deceive; or

- (o) cause or permit any other person to commit an offence under sub-paragraphs (a) to (n) above.

[^{F2}(1A) Paragraph (1)(e) to (i) does not apply in relation to a person authorised in accordance with regulation 31(4) to exercise the powers specified in Part 1 of Schedule 6 in accordance with the requirements of Parts 2 and 3 of that Schedule where the powers are to be exercised for the purposes of discharging any of SEPA's functions under regulation 31(5)(e).]

(2) A person guilty of an offence under paragraph (1) is liable—

(a) on summary conviction—

- (i) to a fine not exceeding £40,000 or to imprisonment for a term not exceeding 12 months, or to both; and
- (ii) in the case of a continuing offence, to a further fine not exceeding £250 for every day during which the offence is continued after conviction;

(b) on conviction on indictment—

- (i) to a fine or to imprisonment for a term not exceeding 5 years, or to both; and
- (ii) in the case of a continuing offence to a further fine not exceeding £1,000 for every day during which the offence is continued after conviction.

F1 Words in [reg. 44\(1\)](#) substituted (1.4.2016) by [The Water Environment \(Remedial Measures\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/19\)](#), regs. 1, [22\(2\)](#) (with [reg. 20](#))

F2 [Reg. 44\(1A\)](#) inserted (1.4.2016) by [The Water Environment \(Remedial Measures\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/19\)](#), regs. 1, [22\(3\)](#) (with [reg. 20](#))

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (Controlled Activities) (Scotland) Regulations 2011, Section 44.