

FMP Reference Number: FMP-2022-9012

**SCOTTISH ENVIRONMENT PROTECTION AGENCY**  
**THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) ORDER 2015**  
**("the Order")**

**FIXED MONETARY PENALTY NOTICE**

**To: Keithick Farms Limited**  
**Keithick**  
**Coupar Angus**  
**Perthshire**  
**Blairgowrie**  
**PH13 9ME**

**Company number SC038561**

The Scottish Environment Protection Agency ("SEPA"), hereby notifies you that you are liable to a Fixed Monetary Penalty (FMP) because SEPA is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under Section 33(6) of the Environmental Protection Act 1990.

**Grounds for imposing the penalty:**

SEPA is satisfied that Keithick Farms Limited disposed of controlled waste on land without the authority of a waste management licence on the date and at the location specified below, in that an employee of the company disposed of waste there by burning and there is no waste management licence in place for the land. This is contrary to the Environmental Protection Act 1990, Section 33(1)(b)(i), which states that, "a person shall not dispose of controlled waste on any land except under and in accordance with a waste management licence". It is an offence under Section 33(6) of the Environmental Protection Act 1990 to contravene Section 33(1)(b)(i).

On the 11 May 2022, two authorised SEPA Officers attended the location below following a report of burning. SEPA Officers observed smoke emitting from the smouldering remnants of a fire. On closer inspection, SEPA Officers were able to identify a number of items of controlled waste within the remnants, including metals (paint tins, aerosols, lawnmower frame, food/drink containers, metal springs from mattresses, wire, bars/poles), treated wood (cabinets, drawers, brush, bed frame), insulation, slates, glass and a number plate. Photographs of this were taken by an authorised SEPA Officer.

The SEPA Officers then attended Keithick Farm and spoke to a witness who confirmed that he was aware of the disposal of waste by burning, that the fire has been set on 9 May 2022 and that he had instructed an employee to undertake this activity. He provided the name of the employee he had instructed. The witness advised that the waste disposed of consisted of "tattie boxes" and waste fly-tipped within the estate grounds. The witness advised that he had not been provided with instructions as to how to deal with fly-tipped waste, but is to deal with it as he sees fit.

On the 27 May 2022, two SEPA Officers spoke to the named employee. He confirmed that he is employed by Keithick Farms Limited and advised that the witness spoken to by SEPA Officers on 11 May 2022 is his manager. He confirmed that he had received instructions from his manager on 9 May 2022 to burn items of waste generated from the workshop and farm, fly-tipped waste within the estate and waste from renovations at a dwelling.

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Under Section 38 of the Regulatory Reform (Scotland) Act 2014, where a person commits a relevant offence while acting as the employee of another person, the latter also commits the relevant offence and is liable to be proceeded against accordingly. SEPA is satisfied, based on the above witness statements and observations made by two authorised SEPA Officers on site, that a relevant offence was committed by a person while acting as an employee of Keithick Farms Limited and therefore, in terms of Section 38, that Keithick Farms Limited also committed the relevant offence. SEPA is satisfied that in this instance Keithick Farms Limited failed to take all reasonable precautions and exercise all due diligence to prevent the offence being committed. On this basis SEPA has decided that proceedings should be taken against the company.

SEPA is satisfied that this was a waste disposal activity and that Keithick Farms Limited has no authorisation to dispose of controlled waste on this land by burning.

**Date of offence:** 09 May 2022 to 11 May 2022

**Location of offence:** Land on Keithick Farms at NO 19870 39252

The amount of the FMP is £600.

You are required to pay the sum in full within 56 days beginning with the day this notice is served on you.

Details of how to pay, what will happen if you do not pay and how to appeal against this Notice are provided overleaf.

Signed ..  Date: 10 August 2022  
Authorised to sign on behalf of  
The Scottish Environment Protection Agency

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### **Amount of Penalty and effect of payment**

The penalty has been set in accordance with the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Order”).

### **How to Pay a Fixed Monetary Penalty**

Acceptable payment methods are: Personal or Company Cheques, Debit Card, Credit Card, Postal Orders, and BACS.

Card payments can be made via the SEPA “Pay My Account” Service at [www.sepa.org.uk/payments](http://www.sepa.org.uk/payments). You should quote the FMP Reference Number as detailed on the front of this Notice in all communications with SEPA.

To make a BACS payment please email [invoices@sepa.org.uk](mailto:invoices@sepa.org.uk) or call 07388 371 621 for our bank account details or queries.

Cheques and Postal Orders should be made payable to: Scottish Environment Protection Agency and sent to FMP Unit, SEPA, Strathallan House, Castle Business Park, Stirling, FK9 4TZ

### **Late payment and Non-payment**

If you do not pay the full amount owed within 56 days beginning with the day this notice is served on you, the amount due will be increased by 40% in accordance with the Order. SEPA can recover sums due but not paid in full as a civil debt.

### **Appeals**

You can appeal against this Notice to the Scottish Land Court within 28 days beginning with the date of service of this Notice on the grounds that:

- The decision was based on an error of fact
- The decision was wrong in Law
- The decision was unreasonable
- any other reason, (with the exception that the Order states that it is not a valid ground of appeal that SEPA failed to comply with the Guidance issued to it by the Lord Advocate under the Act).

You should submit your Appeal to The Scottish Land Court, George House, 126 George Street, Edinburgh, EH2 4HH. An application form for an appeal can be obtained by contacting the Court on 0131 271 4360 or from the Court’s website at <http://www.scottish-land-court.org.uk/using/making-an-application>. It would be helpful if you also sent a copy of your appeal documentation to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ.

The bringing of an appeal will have the effect of suspending payment of the penalty until after the appeal has been determined or withdrawn.

### **Queries**

Any queries about this Notice should be addressed to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ or by email to [registry@sepa.org.uk](mailto:registry@sepa.org.uk). Please note that entering into correspondence does not alter the timescale for submission of an appeal or payment being due.

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### The Data Protection Act 2018

Any personal data, provided in connection with this Notice, will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to Scottish Government and other public bodies. We may also pass it on to our agents/representatives to act on our behalf in connection with this Notice. Please address any questions, comments and requests regarding our data processing practices to [dataprotection@sepa.org.uk](mailto:dataprotection@sepa.org.uk)

Additional information about how we use personal information in the context of monetary penalties is available in the relevant SEPA Privacy Notice, which can be accessed from our website [www.sepa.org.uk/help/privacy-policy/privacy-notices](http://www.sepa.org.uk/help/privacy-policy/privacy-notices)

Information in relation to penalties will be published and publicised in accordance with SEPA's Policy on Communicating Penalties and Undertakings, which can be accessed from our website.

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