

FMP Reference Number: FMP-2022-9011

SCOTTISH ENVIRONMENT PROTECTION AGENCY

THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) ORDER 2015
("the Order")

FIXED MONETARY PENALTY NOTICE

To: **Keith McKenzie**
[REDACTED]
Aberdeen
AB16 [REDACTED]

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 110(2)(a) of the Environment Act 1995 ("the 1995 Act"), in that on 22 February 2022 without reasonable excuse you did fail to comply with a requirement imposed under Section 108 of the 1995 Act in that you failed to attend for interview to answer questions as the authorised person thought fit to ask and to sign a declaration of the truth of your answers.

Grounds for imposing the penalty: Section 110(2)(a) of the 1995 Act provides that it is an offence for a person, without reasonable excuse, to fail to comply with any requirement imposed under Section 108 of the 1995 Act.

Section 108(4) of the 1995 Act provides that the powers which a person may be authorised to exercise under Section 108(1) or (2) of the 1995 Act includes the power under Section 108(4)(c) of the 1995 Act to make such examination and investigation as may in any circumstances be necessary, and the power under Section 108(4)(j) of the 1995 Act to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under Section 108(4)(c) of the 1995 Act to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers, and to attend at such place and at such reasonable time as the authorised person may specify to answer those questions and sign such a declaration.

During an investigation under Section 108(4)(c) of the 1995 Act by SEPA officers authorised under Section 108(1) of the 1995 Act you, Keith McKenzie, were identified as a person whom the authorised officers had reasonable cause to believe was able to give information relevant to the said investigation and as such you were required to attend at SEPA Aberdeen Office, Inverdee House, Baxter Street, Aberdeen, AB11 9QA on 22 February 2022 at 10am to answer questions and sign a declaration of truth as to your answers under section 108(4)(j) of the 1995 Act.

On 1 February 2022 a letter was posted by recorded delivery to you at [REDACTED]. It was explained to you in said letter that you were required to attend at the specified place and time to answer questions and sign a declaration of truth as to your answers under section 108(4)(j) of the 1995 Act. It was explained that failure to comply with the requirement is a criminal offence under section 110(2)(a) of the 1995 Act.

On 22 February 2022 the said authorised SEPA officers were present at the specified place and time to ask you such questions as they thought fit to ask and require you to sign a declaration of truth as to your answers under section 108(4)(j) of the 1995 Act.

You failed to attend at the specified place and time to answer those questions and sign such a declaration. No excuse was provided to SEPA for your non-attendance.


Date of offence: 22 February 2022

Location of offence: SEPA Aberdeen Office, Inverdee House, Baxter Street, Aberdeen, AB11 9QA

The amount of the FMP is £300.

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: 20/06/2022
Authorised to sign on behalf of
The Scottish Environment Protection Agency

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. 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 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, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ

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, SEPA, 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, SEPA, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ or by email to enforcement@sepa.org.uk. Please note that entering into correspondence does not alter the timescale for submission of an appeal or payment being due.

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

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

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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