

SCOTTISH ENVIRONMENT PROTECTION AGENCY

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

FIXED MONETARY PENALTY NOTICE

To: The Firm of D & J Thomson

██████████
██████████

**Aberfeldy
Perthshire
PH15** ██████████

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 the firm of D & J Thomson 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 a partner acting on behalf of the partnership 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).

In terms of Section 33(1)(b)(i) of the Environmental Protection Act 1990, a person shall not dispose of controlled waste in or on any land except under and in accordance with a waste management licence.

Disposal means any of the waste disposal operations listed in Part II of Schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011 and any other operation relating to waste which is not recovery, even where it has a secondary consequence. The burning of controlled waste is considered a waste disposal operation.

It is an offence under Section 33(6) of the Environmental Protection Act 1990 to contravene Section 33(1)(b)(i).

On 23 August 2022, two authorised SEPA Officers attended the location specified below following a report of burning on 21 August 2022. SEPA Officers observed the remnants of a fire. On closer inspection of said remnants, SEPA Officers were able to identify a number of items of controlled waste piled within the area, including treated wood, a red bike, a double bed, a mattress, a pillow, unmarked white plastic 5L container, half used roll of silage wrap, fencing wire, carpet samples, plastic drinks bottles, polypropylene bags and metals. The pile also included the burnt remains of wood, plastics and carpet. Photographs of these waste items were taken by an authorised SEPA Officer.

On 21 December 2022, authorised SEPA Officers interviewed [REDACTED] under caution. During the interview, [REDACTED] confirmed [REDACTED] was a partner of the firm D & J Thomson and that decisions regarding the location specified below are made by [REDACTED], both as partners of said firm. [REDACTED] also confirmed during the interview that on 21 August 2022, [REDACTED] had set alight the waste items in the pile detailed above, that were later found by SEPA officers to have been burnt.

SEPA is satisfied, based on the above interview under caution and the observations made by two authorised SEPA Officers at the location specified below, that the firm of D & J Thomson through [REDACTED], being a partner of said partnership and acting on behalf of the partnership, disposed of controlled waste by burning on the date and at the location specified below.

SEPA is satisfied that this was a waste disposal activity and that the firm of D & J Thomson has no authorisation to dispose of controlled waste by burning at the location specified below.

Date of offence: 21 August 2022

Location of offence: [REDACTED], Aberfeldy.

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: 15 June 2023

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 and Payment 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, Motherwell, 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, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, Motherwell, 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, Motherwell, ML1 4WQ or by email to registry@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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