



**sepa**

Scottish Environment  
Protection Agency  
Buidheann Dion  
Àrainneachd na h-Alba

**FMP Reference Number: FMP-2023-9012**

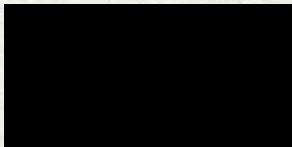
**Payment Reference Number: 9038023**

**SCOTTISH ENVIRONMENT PROTECTION AGENCY**

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

**FIXED MONETARY PENALTY NOTICE**

**To: Mr Barry Bain**



**INVERNESS**

**IV63**

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 Act").

**Grounds for imposing the penalty:**

SEPA is satisfied that on the date and at the location specified below you, Barry Bain, failed to comply with a requirement imposed by an authorised person under Section 108 of the Act. No reasonable excuse was provided for the failure to comply with the requirement.

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

Section 110(6) of the Act provides that "authorised person" means a person authorised under Section 108. Section 108 allows SEPA, as an enforcing authority, to authorise persons who appear suitable to it to exercise certain powers. The Officer referred to below is so authorised and accordingly is an authorised person.



The powers of an authorised person are set out at Section 108(4) of the Act. This includes the power under Section 108(4)(c) of the Act to make such examination and investigation as may, in any circumstances, be necessary and the power under Section 108(4)(j) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under Section 108(4)(c) 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 their answers.

During an investigation by authorised SEPA Officers under Section 108(4)(c) of the Act you, Barry Bain, were identified as a person whom the authorised Officers had reasonable cause to believe was able to give information relevant to that investigation. As such, on 28 February 2023, a letter was posted by recorded delivery to you at the above address requiring you, in terms of Section 108(4)(j) of the Act, to attend at SEPA, Graesser House, Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB on 9 March 2023 to answer questions and sign a declaration of truth as to your answers. Tracking information from Royal Mail confirmed that the letter was delivered at 14:09 on 4 March 2023 at the above address and signed for by "Barry."

On 9 March 2023 you failed to attend the specified place at the time required. A SEPA Officer contacted you to enquire into your absence. You confirmed you had received the letter, but you were not currently in Inverness. A rescheduled appointment was suggested but you declined adding that you would never provide a statement.

It was explained that any failure to comply with a requirement imposed under Section 108(4)(j), without reasonable excuse, would be an offence under Section 110(2)(a) of the Act. You confirmed your understanding of this. Details of this conversation were noted in the authorised Officer's official notebook immediately after the call.

SEPA is satisfied, based on the above, that you failed to comply with a requirement imposed under Section 108, namely a requirement made under Section 108(4)(j), which is an offence under Section 110(2)(a) of the Act.

**Date of offence:** 9 March 2023

**Location of offence:** SEPA, Graesser House, Fodderty Way, Dingwall Business Park, Dingwall IV15 9XB

**The amount of the FMP is £300.**





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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.

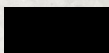
Signed

[Redacted Signature]

Date: 1/8/23

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 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](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, 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,





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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](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.

### **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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