

VMP Reference Number: VMP/2023-9001
Payment Reference Number: 9026317

SCOTTISH ENVIRONMENT PROTECTION AGENCY

THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND)
ORDER 2015

VARIABLE MONETARY PENALTY NOTICE

To: Mr James Roberts Marshall

██████████

██████████

Perth

PH2 ██████████

Notice is hereby given that, in terms of the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (the Order”), you are liable to pay a Variable Monetary Penalty (“VMP”) of £3500. Please refer to the accompanying Calculation to see how the amount has been calculated.

You are required to pay the VMP in full within 56 days beginning with the day this notice is served on you or you may pay in instalments by paying the amounts and by the dates specified in the attached schedule. If you wish to pay in instalments, you must complete and return the attached payment plan and provide a receipt confirmation of a standing order in place with your bank within 10 days of the date of this notice.

[REDACTED]
[REDACTED]

You are liable to pay a VMP because the Scottish Environment Protection Agency (“SEPA”) is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under Environmental Protection Act 1990, Section 33(1)(b)(i) and Section 33(6).

Date of offence: between 17 December 2018 and 18 January 2019

Location of offence: [REDACTED] Perth, PH2 [REDACTED]

Grounds for imposing the penalty:

SEPA is satisfied on the balance of probabilities that you James Roberts Marshall knowingly caused or permitted controlled waste, namely batteries, hard plastics, rope, lawnmower tyres, metals, packaging, cables, aluminium, small steering wheel, chipboard, smooth and ribbed piping, fabrics, treated and untreated wood, black plastics, paper and plaster board to be disposed of in land at the above location without the authority of a waste management licence between the dates specified above, in that you James Roberts Marshall did instruct persons to dispose of the said controlled waste by burial in the said land when no waste management licence was in place authorising said activity.

This is contrary to the Environmental Protection Act 1990, Section 33(1)(b)(i), which states that, “a person shall not knowingly cause or knowingly permit controlled waste to be disposed of in 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).

Witnesses state that they were working for James Roberts Marshall at the time of the offence and were instructed to excavate a hole at the above location and to bury a portacabin and its contents in it.

On 4 November 2019 two SEPA officers attended the site and requested a hole be excavated. The SEPA officers were able to identify the above waste material within the excavated hole, some of which were noted by the officers as being the remains of a waste portacabin. A number of documents from James Roberts Marshall’s business activities which were dated between 2008 and 2011 were also found within the buried waste

SEPA officers checked the Public Register and confirmed there was no valid waste management licence in place authorising the said activity or exemption from the requirement to hold the same.

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]

Date: 4 May 2023

Authorised to sign on behalf of
The Scottish Environment Protection Agency

[REDACTED]



How to Pay a Variable Monetary Penalty

Currently the ONLY acceptable payment methods are: Personal or Company Cheques, or BACS. Any payment needs to clearly state the Payment Reference number (on the back of the cheque or on the BACS payment). If no reference is provided we may not be able to identify you have paid and you may get the automatic increase in charges after payment is due.

Cheques and Postal Orders should be made payable to: Scottish Environment Protection Agency and sent to:

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

If paying by BACS the account details are: sort code 83-34-00 account number: 00137187. Please ensure you include the Payment Reference in the BACS reference. The Payment Reference can be found at the top of the notice.

Late payment and Non-payment

You must pay the full amount owed within 56 days beginning with the day this notice is served on you or, if agreed with SEPA, the dates specified for payment of that amount in the attached schedule. Failure to pay on time will result in late payment interest on the outstanding amount accruing on a daily basis at a rate of 8% per annum until the date payment is made in full.


SEPA CAN RECOVER SUMS DUE BUT NOT PAID, TOGETHER WITH ANY LATE PAYMENT INTEREST, IN FULL AS A CIVIL DEBT.

Appeals

You can appeal against SEPA's decision to impose the VMP 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 amount of the penalty is unreasonable
- The decision was unreasonable for any other reason, or
- 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 Regulatory Reform (Scotland) Act 2014).

Your appeal should be made to The Principal Clerk, 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.

If you appeal then (unless you withdraw it) you will not have to pay the VMP unless the Scottish Land Court has confirmed that SEPA's decision was correct.

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. Please note that entering into correspondence with SEPA does not alter the timescale for submission of an appeal or the date on which payment must be made.

The Data Protection Act 2018

Any personal data included in this Notice will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to the 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.

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.

Please address any questions, comments and requests regarding our data processing practices to dataprotection@sepa.org.uk.