

SCHEDULE 5
CAMPAIGN RULES: CIVIL SANCTIONS

PART 4

ENFORCEMENT UNDERTAKINGS

Enforcement undertakings

- 18 (1) This paragraph applies where—
- (a) the Electoral Commission have reasonable grounds to suspect that a person has committed a campaign offence listed in Part 7,
 - (b) the person offers an undertaking (an “enforcement undertaking”) to take such action, within such period, as is specified in the undertaking,
 - (c) the action so specified is—
 - (i) action to secure that the offence does not continue or recur,
 - (ii) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not happened, and
 - (d) the Commission accept the undertaking.
- (2) Unless the person has failed to comply with the undertaking or any part of it—
- (a) the person may not at any time be convicted of a campaign offence in respect of the act or omission to which the undertaking relates,
 - (b) the Commission may not impose on the person any fixed monetary penalty that they would otherwise have power to impose by virtue of paragraph 1 in respect of that act or omission,
 - (c) the Commission may not impose on the person any discretionary requirement that they would otherwise have power to impose by virtue of paragraph 6 in respect of that act or omission.

Enforcement undertakings: further provision

- 19 (1) An enforcement undertaking must be in writing and include—
- (a) a statement that the undertaking is an enforcement undertaking regulated by this Act,
 - (b) the terms of the undertaking,
 - (c) the period within which the action specified in the undertaking must be completed,
 - (d) details of how and when a person is to be considered to have complied with the undertaking, and
 - (e) information as to the consequences of failure to comply in full or in part with the undertaking, including reference to the effect of paragraph 18(2).
- (2) The enforcement undertaking may be varied or extended if the person who has given the undertaking and the Electoral Commission agree.
- (3) The Commission may publish any enforcement undertaking which they accept in whatever manner they see fit.

Status: This is the original version (as it was originally enacted).

Compliance certificate

- 20 (1) Where, after accepting an enforcement undertaking from a person, the Electoral Commission are satisfied that the undertaking has been complied with in full they must issue a certificate to that effect.
- (2) An enforcement undertaking ceases to have effect on the issue of a certificate relating to that undertaking.
- (3) A person who has given an enforcement undertaking may at any time apply for a certificate, and the Commission must make a decision whether to issue a certificate within the period of 28 days beginning with the day on which they receive such an application.
- (4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the undertaking has been complied with.
- (5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—
- (a) the grounds for the decision not to issue a certificate, and
 - (b) rights of appeal.
- (6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information.
- (7) Where the Commission revoke a certificate, the enforcement undertaking has effect as if the certificate had not been issued.

Appeals

- 21 (1) A person who has given an enforcement undertaking may appeal to the sheriff against a decision not to issue a certificate under paragraph 20 on the ground that the decision was—
- (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unfair or unreasonable.
- (2) An appeal must be made within the period of 28 days beginning with the day on which notification of the Electoral Commission's decision is received.