

SCHEDULES

SCHEDULE 3

Regulation 5(2)

Compliance notices and stop notices

PART 1

Compliance notices

Imposition of a compliance notice

1.—(1) A food authority may by notice impose a requirement to take such steps as the food authority may specify, within such period as it may specify, to secure that an offence under these Regulations does not continue or recur (a “compliance notice”).

(2) Before doing so the food authority must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) A compliance notice may not be imposed on a person on more than one occasion in relation to the same act or omission.

Contents of compliance notice

2. The compliance notice must include information as to—

- (a) the grounds for imposing the notice;
- (b) what compliance is required and the period within which it must be completed;
- (c) the rights of appeal; and
- (d) the consequences of failing to comply with the notice.

Appeals

3.—(1) A person receiving a compliance notice may appeal against it.

(2) The grounds of appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the nature of the requirement is unreasonable;
- (d) that the decision was unreasonable for any other reason.

Criminal proceedings

4.—(1) If a compliance notice is imposed on any person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the compliance notice except where that person fails to comply with the compliance notice.

(2) Criminal proceedings for offences to which a compliance notice relates may be instituted at any time up to six months from the date when the food authority notifies the person that such person has failed to comply with that notice.

PART 2

Stop notices

Stop notices

5.—(1) The food authority may serve a stop notice on any person in accordance with this Part in relation to an offence under these Regulations.

(2) A “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(3) A stop notice may only be served in a case where—

- (a) the person is carrying on the activity; and
- (b) the food authority reasonably believes that the activity as carried on by that person involves or is likely to involve the commission of an offence under these Regulations.

Contents of a stop notice

6. A stop notice must include information as to—

- (a) the grounds for serving the stop notice;
- (b) the steps the person must take to comply with the stop notice;
- (c) rights of appeal; and
- (d) the consequences of non-compliance.

Appeals

7.—(1) The person on whom a stop notice is served may appeal against the decision to serve it.

(2) The grounds of appeal are—

- (a) that the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that any step specified in the notice is unreasonable;
- (e) that the person has not committed the offence and would not have committed it had the stop notice not been served;
- (f) that the person would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been served.

Completion certificates

8.—(1) Where, after service of a stop notice, the food authority is satisfied that the person has taken the steps specified in the notice, the food authority must issue a certificate to that effect (a “completion certificate”).

(2) The stop notice ceases to have effect on the issue of a completion certificate.

(3) The person on whom the stop notice is served may at any time apply for a completion certificate.

(4) The food authority must make a decision as to whether to issue a completion certificate within 14 days of such an application.

(5) The person on whom the stop notice was served may appeal against a decision not to issue a completion certificate on the grounds that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unfair or unreasonable.

Compensation

9.—(1) A food authority must compensate a person for loss suffered as the result of the service of the stop notice or the refusal of a completion certificate if that person has suffered loss as a result of the notice or refusal and—

- (a) a stop notice is subsequently withdrawn or amended by the food authority because the decision to serve it was unreasonable or any step specified in the notice was unreasonable;
- (b) the person successfully appeals against the stop notice and the court finds that the service of the notice was unreasonable; or
- (c) the person successfully appeals against the refusal of a completion certificate and the court finds that the refusal was unreasonable.

(2) A person may appeal against a decision not to award compensation or the amount of compensation—

- (a) on the grounds that the food authority's decision was unreasonable;
- (b) on the grounds that the amount offered was based on incorrect facts;
- (c) for any other substantial reason.

Offences

10. Where a person on whom a stop notice is served does not comply with it within the time limit specified in the notice, the person is guilty of an offence and liable to a fine.