

SCHEDULE 3

Civil sanctions

PART 2

Stop notices

Stop notices

18.—(1) The regulator may serve a notice (a “stop notice”) on any person prohibiting that person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(2) A stop notice may only be served where—

- (a) the person is carrying on the activity or the regulator reasonably believes that the person is likely to carry on the activity;
- (b) the regulator reasonably believes that the activity is causing, or is likely to cause, economic or environmental harm, or adverse effects to human health; and
- (c) the regulator reasonably believes that the activity carried on, or likely to be carried on, by that person involves or is likely to involve the commission of an offence under Part 2 of this Order.

(3) The steps referred to in sub-paragraph (1) must be steps to eliminate the risk of the offence being committed.

Contents of a stop notice

19. A stop notice must include information as to—

- (a) the grounds for serving the stop notice;
- (b) the activity which is prohibited;
- (c) the steps the person must take to comply with the stop notice and the period within which they must be completed;
- (d) rights of appeal; and
- (e) the consequences of failing to comply with the notice.

Appeals

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

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that 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, permit or licence have been liable to be convicted of the offence had the stop notice not been served;

- (g) that the decision was wrong for any other reason.

Completion certificates

21.—(1) The regulator must issue a certificate (a “completion certificate”) if, after service of a stop notice, the regulator is satisfied that the person on whom it was served has taken the steps specified in the notice.

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

(3) The regulator may require the person on whom the stop notice was served to provide sufficient information to determine that the steps specified in the notice have been taken.

(4) A person on whom a stop notice is served may at any time apply for a completion certificate.

(5) The regulator must decide whether to issue a completion certificate and give written notice of the decision to the applicant (including information as to the right of appeal) within 14 days of the application.

(6) The applicant may appeal against a decision not to issue a completion certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

Compensation

22.—(1) The regulator 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) the stop notice is subsequently withdrawn or amended by the regulator because the decision to serve it was unreasonable or any step specified in the notice was unreasonable;
- (b) the regulator is in breach of its statutory obligations;
- (c) the person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable; or
- (d) the person successfully appeals against the refusal of a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

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

- (a) the regulator’s decision was unreasonable;
- (b) the amount offered was based on incorrect facts; or
- (c) the decision was wrong for any other reason.

Offences

23. If 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 on summary conviction to a fine.