

SCHEDULE 3

Article 3

Stop notices

Stop notices

1.—(1) The regulator may serve a stop notice on any person in accordance with this Schedule in relation to an offence under a provision specified in Schedule 5 if the table in that Schedule indicates that such notice is possible for that offence.

(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 falling within sub-paragraph (4) or (5).

(4) A case falling within this sub-paragraph is a case where—

- (a) the person is carrying on the activity,
- (b) the regulator reasonably believes that the activity as carried on by that person is causing, or presents a significant risk of causing, serious harm to any of the matters referred to in sub-paragraph (6), and
- (c) the regulator reasonably believes that the activity as carried on by that person involves or is likely to involve the commission of an offence under a provision specified in Schedule 5 by that person.

(5) A case falling within this sub-paragraph is a case where the regulator reasonably believes that—

- (a) the person is likely to carry on the activity,
- (b) the activity as likely to be carried on by that person will cause, or will present a significant risk of causing, serious harm to any of the matters referred to in sub-paragraph (6), and
- (c) the activity as likely to be carried on by that person will involve or will be likely to involve the commission of an offence under a provision specified in Schedule 5 by that person.

(6) The matters referred to in sub-paragraphs (4)(b) and (5)(b) are—

- (a) human health,
- (b) the environment (including the health of animals and plants).

(7) The steps referred to in sub-paragraph (2) must be steps to remove or reduce the harm or risk of harm referred to in sub-paragraph (4)(b) or (5)(b).

Contents of a stop notice

2. 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

3.—(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, have been liable to be convicted of the offence had the stop notice not been served;
- (g) any other reason.

Completion certificates

4.—(1) Where, after service of a stop notice, the regulator is satisfied that the person has taken the steps specified in the notice, the regulator 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 regulator 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;
- (d) the decision was wrong for any other reason.

Compensation

5.—(1) A 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) a 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 operator successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable; or
- (c) the operator successfully appeals against the refusal of a completion certificate and the Tribunal 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 regulator’s decision was unreasonable;
- (b) on the grounds that the amount offered was based on incorrect facts;
- (c) for any other reason.

Offences

6.—(1) Where a person on whom a 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—

- (a) on summary conviction, to a fine not exceeding £20,000, or imprisonment for a term not exceeding twelve months, or both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (2) In the application of this paragraph in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in sub-paragraph (1) (a) to twelve months is to be read as a reference to six months.