
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Offshore Environmental Civil Sanctions Regulations 2018

PART 4

Miscellaneous

Guidance as to use of civil sanctions

20.—(1) The Secretary of State must before 1 November 2018 prepare and publish guidance about the Secretary of State’s use of the powers to impose fixed monetary penalties, variable monetary penalties and non-compliance penalties.

(2) The guidance must contain information as to—

- (a) the circumstances in which a penalty is likely to be imposed;
- (b) the circumstances in which a penalty may not be imposed;
- (c) in the case of a fixed monetary penalty—
 - (i) the amount of the penalty; and
 - (ii) how liability for the penalty may be discharged and the effect of discharge;
- (d) in the case of a variable monetary penalty or a non-compliance penalty, the matters likely to be taken into account by the Secretary of State in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance);
- (e) rights to make representations and objections;
- (f) rights of appeal.

(3) The Secretary of State must from time to time review the guidance and, where appropriate, prepare and publish revised guidance.

(4) The Secretary of State must consult such persons as the Secretary of State considers appropriate before publishing the guidance or any revised guidance.

(5) The Secretary of State must have regard to the guidance, or any revised guidance, in exercising the Secretary of State’s functions under these Regulations.

Publication of enforcement action

21.—(1) The Secretary of State must from time to time publish a report specifying—

- (a) the cases in which a fixed or variable monetary penalty or a non-compliance penalty has been imposed (other than cases where the penalty has been imposed but overturned on appeal);
- (b) the cases in which liability for a fixed monetary penalty has been discharged by payment under regulation 5(4);
- (c) the cases in which an undertaking is accepted from a person under regulation 14(1)(b).

(2) But the Secretary of State is not required to include in the report anything that the Secretary of State thinks is not appropriate for publication.

Service, etc. of notices

22.—(1) Any notice that the Secretary of State must or may serve on or give to a person under these Regulations may be served or given in any of the following ways—

- (a) by delivering it to the person;
- (b) by leaving it at the person’s proper address;
- (c) by sending it by post to the person at the person’s proper address;
- (d) if the person is a body corporate, by serving it in accordance with sub-paragraph (a), (b) or (c) on the secretary of the body;
- (e) if the person is a partnership, by serving it in accordance with sub-paragraph (a), (b) or (c) on a partner or a person having the control or management of the partnership business;
- (f) in a case where an address for correspondence using electronic communications is given by the person, by sending it using electronic communications to the person at that address, provided that the condition referred to in paragraph (2) is satisfied.

(2) The condition is that the notice is—

- (a) capable of being accessed by the person;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(3) Paragraph (1)(f) does not apply if the person notifies the Secretary of State (before any notice is served or given) that the person does not wish the notice to be sent using electronic communications.

(4) For the purposes of this regulation and section 7 of the Interpretation Act 1978(1)(which relates to the service of documents by post) in its application to this regulation, the proper address of any person on or to whom a notice is to be served or given is the person’s last-known address, except that—

- (a) in the case of service on a body corporate or its secretary, it is the address of the registered or principal office of the body;
- (b) in the case of service on a partnership, a partner or a person having control or management of a partnership business, it is the address of the principal office of the partnership;

and for the purposes of this paragraph (except where the company or partnership has no office in the United Kingdom) the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(5) If a person to be served with a notice, or to whom a notice is to be given, under these Regulations notifies the Secretary of State that an address within the United Kingdom other than the person’s proper address (as determined under paragraph (4)) is the one at which the person or someone on the person’s behalf will accept service of notices under these Regulations, that address must also be treated as the person’s proper address for the purposes of this regulation and for the purposes of section 7 of the Interpretation Act 1978 in its application to this regulation.

(6) In this regulation—

“address”, in relation to electronic communications, means any number or address used for the purposes of such communications;

“electronic communication” has the same meaning as in the Electronic Communications Act 2000(2);

Recovery of payments

23.—(1) In England, Wales and Northern Ireland the Secretary of State may recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed under these Regulations as if payable under a court order.

(2) In Scotland the Secretary of State may recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed under these Regulations as if payable under an extract registered decree arbitral bearing a warrant for execution by a sheriff of any sheriffdom.

(2) [2000 c.7](#). The definition of “electronic communication” is in section 15(1). The definition was amended by paragraph 158 of Schedule 17 to the Communications Act [2003 \(c.21\)](#).