
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Offshore Environmental Civil Sanctions Regulations 2018

PART 3

Variable monetary penalties

Variable monetary penalties: duty to serve notice of intent

12.—(1) This regulation applies where the Secretary of State proposes to impose a variable monetary penalty on a person in relation to an act or omission constituting a VMP offence.

(2) Before imposing a variable monetary penalty, the Secretary of State must first serve on the person a notice of what is proposed (a “notice of intent”) that complies with regulation 13.

(3) But no notice of intent may be served if—

- (a) the Secretary of State has previously imposed a fixed or variable monetary penalty on the person in relation to an offence constituted by the act or omission;
- (b) the person has discharged liability to a fixed monetary penalty in relation to an offence constituted by the act or omission under regulation 5(4);
- (c) the act or omission constituted a breach of a term or condition of a relevant permit and the permit has been revoked because of the breach; or
- (d) criminal proceedings have been instituted in relation to an offence constituted by the act or omission.

(4) The person on whom the notice of intent is served may offer to the Secretary of State within the period of 35 days beginning with the day on which the notice of intent is received an undertaking as to action to be taken by the person (including the payment of a sum of money) to benefit any person affected by the offence in relation to which the notice of intent is served.

(5) The person on whom the notice of intent is served may make written representations and objections to the Secretary of State in relation to the proposed imposition of the variable monetary penalty within the period of 35 days beginning with the day on which the notice of intent is received.