



Regulatory Reform Act 2001

2001 CHAPTER 6

Enforcement practice

9 Codes of practice relating to enforcement of regulatory requirements

(1) If it appears to the appropriate authority—

- (a) that the effect of the provision made by any enactment is such as to impose, or to authorise or require the imposition of, a restriction, requirement or condition affecting any person, and
- (b) that the practice followed by enforcement officers in relation to the enforcement of the restriction, requirement or condition ought to be improved so far as fairness, transparency and consistency are concerned,

the appropriate authority may issue a code of practice setting out recommended practice in relation to the enforcement of the restriction, requirement or condition.

(2) A code of practice under this section may, in particular, relate to—

- (a) the practice to be adopted by all enforcement officers in enforcing all restrictions, requirements or conditions imposed by specified enactments, or
- (b) the practice to be adopted by enforcement officers of a specified description, or by enforcement officers in specified areas.

(3) Where—

- (a) a court or tribunal finds that a person has failed to comply with a restriction, requirement or condition,
- (b) a code of practice under this section applies in relation to the enforcement of that restriction, requirement or condition, and
- (c) it appears to the court or tribunal that there has been a failure to comply with the code,

the court or tribunal may take the failure to comply with the code into account in deciding how to deal with the failure to comply with the restriction, requirement or condition.

Status: This is the original version (as it was originally enacted).

(4) A code of practice under this section may not include any provision which, if contained in an Act of the Scottish Parliament, would be within the legislative competence of that Parliament.

(5) In this section and section 10—

““the appropriate authority” means—

- (a) in the case of a code of practice which relates to enforcement action which is a function of the National Assembly for Wales, the Assembly or a Minister of the Crown acting with the agreement of the Assembly, or
- (b) in any other case, a Minister of the Crown;

“enactment” includes an enactment comprised in subordinate legislation but not an enactment comprised in Northern Ireland legislation, as defined by section 24(5) of the Interpretation Act 1978 (c. 30);

“enforcement action”—

- (a) in relation to any restriction, requirement or condition, means any action taken with a view to or in connection with imposing any sanction (whether criminal or otherwise) for failure to observe or comply with it, and
- (b) in relation to a restriction, requirement or condition relating to the grant or renewal of licences, includes any refusal to grant, renew or vary a licence, the imposition of any condition on the grant or renewal of a licence and any variation or revocation of a licence;

“enforcement officer” does not include—

- (a) the Director of Public Prosecutions,
- (b) the Lord Advocate or a procurator fiscal, or
- (c) the Director of Public Prosecutions for Northern Ireland,

but, subject to that, means any person who is authorised, whether by or under an enactment or otherwise, to take enforcement action;

“licence” includes any authorisation (by whatever name called) to do anything which would otherwise be unlawful.”