
Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Environmental Better Regulation Act (Northern Ireland) 2016, Cross Heading: Enforcement and offences. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 1

MATTERS FOR, OR IN CONNECTION WITH, WHICH REGULATIONS MAY BE MADE UNDER SECTION 2

Enforcement and offences

- 12.**—(1) Conferring functions on regulators with respect to compliance with, and enforcement of, the regulations.
- (2) Conferring power on regulators—
- (a) to arrange for preventative or remedial action to be taken at the expense of persons carrying on regulated activities;
 - (b) to require such persons to provide such financial security as the regulators making the arrangements consider appropriate pending the taking of the preventative or remedial action; or
 - (c) to take samples or to make copies of information.
- (3) Regulating the procedure under which regulators may make arrangements, or impose requirements, such as are mentioned in sub-paragraph (2)(a) and (b).
- (4) Authorising regulators to serve on any persons carrying on regulated activities (whether or not the carrying on of those activities is authorised by or under the regulations) notices, including notices requiring such persons—
- (a) to notify the regulated activities being carried on by them;
 - (b) to take preventative or remedial action at their own expense, including such action in respect of contraventions (actual or potential) of authorisations, or of conditions of authorisations, relating to the regulated activities, and to provide such financial security as the regulators serving the notices consider appropriate pending the taking of such action;
 - (c) to take steps to remove risks of environmental harm (whether or not arising from any contraventions (actual or potential) of authorisations, or of conditions of authorisations, relating to the regulated activities); and

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- (d) to stop the carrying on of regulated activities (whether or not the notice also requires the person to take such preventative or remedial action as may be specified in the notice).
- (5) Authorising regulators who serve such notices to require the person on whom the notice is served to pay the costs incurred by the regulators in relation to the service of the notice up to the time of its service.
- (6) Authorising regulators, if such notices are not complied with by persons on whom they are served, to take, or arrange for the taking of, preventative or remedial action at the expense of those persons.
- (7) Providing for the enforcement of such notices in the High Court.
- (8) Creating offences and dealing with matters relating to such offences, including—
 - (a) the provision of defences; and
 - (b) evidentiary matters.
- (9) Providing for such an offence to be triable—
 - (a) only summarily; or
 - (b) either summarily or on indictment.
- (10) Providing for such an offence to be punishable—
 - (a) on summary conviction by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 6 months);
 - (ii) a fine not exceeding such amount as is specified (which must not exceed £50,000); or
 - (iii) both; or
 - (b) on conviction on indictment by—
 - (i) imprisonment for a term not exceeding such period as is specified (which must not exceed 5 years);
 - (ii) a fine; or
 - (iii) both.
- (11) Providing for continuing offences and for any such offences to be punishable by a daily or other periodic fine of such amount as is specified (in addition to any punishment provided for under sub-paragraph (10)).
- (12) Enabling, where a person has been convicted of an offence under the regulations—
 - (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment);
 - (b) regulators to arrange for such action to be taken at that person's expense; or

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- (c) a court dealing with that person for the offence to order that person to pay to a regulator an amount in respect of, but not exceeding, the costs incurred by the regulator in relation to its investigation of the conduct constituting the offence (in addition to or instead of imposing any punishment).

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