

SCHEDULES

SCHEDULE 1

CIVIL SANCTIONS

PART 6

GENERAL AND SUPPLEMENTAL

Combination of sanctions

- 19 (1) The Secretary of State may not serve on a person a notice under paragraph 2(1) (notice of proposed monetary penalty) in relation to any act or omission in relation to which a stop notice has been served on that person.
- (2) The Secretary of State may not serve a stop notice on a person in relation to any act or omission in relation to which—
- (a) a monetary penalty has been imposed on that person, or
 - (b) the person's liability for a monetary penalty has been discharged as mentioned in paragraph 2(2).

Unincorporated associations

- 20 Any amount that is payable under this Schedule by an unincorporated association is to be paid out of the funds of the association.

Guidance as to enforcement

- 21 (1) The Secretary of State must prepare and publish guidance as to—
- (a) the sanctions that may be imposed on a person who commits an offence under section 12;
 - (b) the action that the Secretary of State may take in relation to such a person;
 - (c) the circumstances in which the Secretary of State is likely to take any such action.
- (2) The guidance must include guidance about the Secretary of State's use of the power to impose a monetary penalty, with information as to—
- (a) the circumstances in which such a penalty may not be imposed;
 - (b) the amount of such a penalty;
 - (c) the matters likely to be taken into account by the Secretary of State in determining that amount (including, where relevant, any discounts for voluntary reporting of non-compliance);
 - (d) how liability for such a penalty may be discharged and the effect of discharge;

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- (e) rights to make representations and objections and rights of appeal in relation to such a penalty.
- (3) The guidance must include guidance about the Secretary of State’s use of the power to serve a stop notice, with information as to—
- (a) the circumstances in which such a notice may not be served;
 - (b) rights of appeal in relation to such a notice.
- (4) The guidance must include guidance about the Secretary of State’s use of the power to serve an enforcement cost recovery notice, with information as to—
- (a) the circumstances in which such a notice may not be served;
 - (b) the amount that a person may be required to pay;
 - (c) the matters likely to be taken into account by the Secretary of State in determining that amount;
 - (d) how liability for the costs to which the notice relates may be discharged and the effect of discharge;
 - (e) rights to make representations and objections and rights of appeal in relation to those costs.
- (5) The guidance must include guidance about the Secretary of State’s use of the power to accept an enforcement undertaking.
- (6) Where appropriate, the Secretary of State must revise guidance published under this paragraph and publish the revised guidance.
- (7) The Secretary of State must consult—
- (a) the Welsh Ministers, the Scottish Ministers and the Northern Ireland department, and
 - (b) any other persons the Secretary of State considers appropriate,
- before publishing guidance or revised guidance under this paragraph.
- (8) The Secretary of State must have regard to the guidance or revised guidance published under this paragraph in exercising his or her functions under this Schedule.

Pre-commencement consultation

- 22 If, before the day on which this Schedule comes into effect, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of paragraph 15 or 21, those requirements may to that extent be taken to have been satisfied.

Reports on use of civil sanctions

- 23 (1) The Secretary of State must from time to time publish reports about the use made by the Secretary of State of his or her powers under this Schedule.
- (2) Each report must, in particular, specify—
- (a) the cases in which a monetary penalty was imposed, or a stop notice or enforcement costs recovery notice was served, during the period to which the report relates (other than cases in which the penalty or notice was overturned on appeal);
 - (b) the cases in which liability for a monetary penalty was discharged as mentioned in paragraph 2(2);

- (c) the cases in which an enforcement undertaking was accepted.
- (3) This paragraph does not require the Secretary of State to include in a report any information that, in his or her opinion, it would be inappropriate to include on the ground that to do so—
 - (a) would or might be unlawful, or
 - (b) might adversely affect any current investigation or proceedings.

Disclosure of information

- 24 (1) Information held by or on behalf of—
- (a) a police or customs officer,
 - (b) the Crown Prosecution Service,
 - (c) a procurator fiscal, or
 - (d) the Public Prosecution Service for Northern Ireland,
- may be disclosed to the Secretary of State for the purpose of the exercise by the Secretary of State of any powers conferred on him or her under or by virtue of this Schedule.
- (2) It does not matter for the purposes of sub-paragraph (1) whether the information was obtained before or after this Schedule comes into force.
 - (3) A disclosure under this paragraph is not to be taken to breach any restriction on the disclosure of information (however imposed).
 - (4) Nothing in this paragraph authorises the making of a disclosure in contravention of—
 - (a) the data protection legislation, or
 - (b) Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
 - (5) This paragraph does not affect a power to disclose that exists apart from this paragraph.
 - (6) In this paragraph “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).