

SCHEDULE 2

Variable monetary penalties, compliance notices, restoration notices and third party undertakings

Imposition of a variable monetary penalty, compliance notice or restoration notice

1.—(1) A regulator may by notice impose—

- (a) a requirement to pay a monetary penalty to a regulator of such amount as the regulator may determine (“a variable monetary penalty”),
- (b) a requirement to take such steps as a regulator may specify, within such period as it may specify, to secure that the offence does not continue or recur (“a compliance notice”), or
- (c) a requirement to take such steps as a regulator may specify, within such period as it may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed (“a restoration notice”),

in relation to an offence under a provision specified in Schedule 5 if the table in that Schedule indicates that such penalty or notice is possible for that offence.

(2) Before doing so the regulator must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) A requirement under this paragraph may not be imposed on a person on more than one occasion in relation to the same act or omission.

(4) Where a variable monetary penalty is imposed in relation to an offence that is—

- (a) triable summarily only, and
- (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),

the amount of the variable monetary penalty may not exceed the maximum amount [^{F1}(if any)] of that fine.

[^{F2}(5) In any event, in relation to an offence committed before 1st December 2023, the amount of a variable monetary penalty must not exceed £250,000.]

(6) Before serving a notice relating to a variable monetary penalty the regulator may require the person to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the offence.

Textual Amendments

- F1** Words in Sch. 2 para. 1(4) inserted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 5 para. 19](#) (with reg. 5(1))
- F2** Sch. 2 para. 1(5) substituted (1.12.2023) by [The Environmental Civil Sanctions \(England\) \(Amendment\) Order 2023 \(S.I. 2023/1045\)](#), arts. 1(1), [2\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Civil Sanctions (England) Order 2010, Paragraph 1.