SCHEDULE

Civil sanctions

PART 4

Non-compliance penalties

Non-compliance penalties

23.—(1) If a person fails to comply with a compliance notice, stop notice, third party undertaking or enforcement undertaking, irrespective of whether a variable monetary penalty was also imposed, the Secretary of State may serve a notice on that person imposing a monetary penalty ("a non-compliance penalty").

(2) The amount of the non-compliance penalty must be determined by the Secretary of State, and must be a percentage of the costs of fulfilling the remaining requirements of the notice, third party undertaking or enforcement undertaking.

(3) The percentage must be determined by the Secretary of State having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) The notice must include information as to—

    (a) the grounds for imposing the non-compliance penalty;

    (b) the amount to be paid;

    (c) how payment must be made;

    (d) the period within which payment must be made, which must not be less than 28 days;

    (e) rights of appeal;

    (f) the consequences of failure to make payment in the specified period;

    (g) any circumstances in which the Secretary of State may reduce the amount of the penalty.

(5) If the requirements of the compliance notice, stop notice, third party undertaking or enforcement undertaking are fulfilled before the time set for payment of the non-compliance penalty, the penalty is not payable.

(6) The person on whom the notice imposing the non-compliance penalty is served may appeal against it.

(7) The grounds of appeal are—

    (a) that the decision to serve the notice was based on an error of fact;

    (b) that the decision was wrong in law;

    (c) that the decision was unfair or unreasonable for any reason;

    (d) that the amount of the penalty was unreasonable;

    (e) that the decision was wrong for any other reason.

(8) The Secretary of State may recover any non-compliance penalty imposed under this paragraph as if payable under order of the court.