

THE SCHEDULE

Civil Sanctions

PART 2

Stop Notices

Stop notices

9.—(1) The regulator may serve a stop notice on any person in a case falling within sub-paragraph (3) or (4).

(2) A “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(3) A case falling within this sub-paragraph is a case where the regulator reasonably believes that—

- (a) the person is carrying on the activity;
- (b) the activity as carried on by that person is causing, or presents a significant risk of causing, harm to the environment (including the health of animals); and
- (c) the activity as carried on by that person involves or is likely to involve the commission of an offence under regulation 3(1) or (2).

(4) A case falling within this sub-paragraph is a case where the regulator reasonably believes that—

- (a) the person is likely to carry on the activity;
- (b) the activity as likely to be carried on by that person will cause, or will present a significant risk of causing, harm to the environment (including the health of animals); and
- (c) the activity as likely to be carried on by that person will involve or will be likely to involve the commission of an offence under regulation 3(1) or (2).

(5) The steps referred to in sub-paragraph (2) must be steps to remove or reduce the harm or risk of harm to the environment (including the health of animals).

Contents of a stop notice

10. A stop notice must include information as to—

- (a) the grounds for serving the notice;
- (b) the steps the person must take to comply with the stop notice;
- (c) rights of appeal; and
- (d) the consequences of non-compliance.

Appeals against stop notices

11.—(1) The person on whom a stop notice is served may appeal against the decision to serve it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;

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- (d) that any step specified in the notice is unreasonable;
- (e) that the person has not committed the offence and would not have committed it had the stop notice not been served;
- (f) that the person would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been served;
- (g) any other reason.

Completion certificates

12.—(1) Where, after service of a stop notice, the regulator is satisfied that the person has taken the steps specified in the notice, the regulator must issue a certificate to that effect (“a completion certificate”).

(2) The stop notice ceases to have effect on the issue of a completion certificate.

(3) The person on whom the stop notice is served may at any time apply for a completion certificate.

(4) The regulator must make a decision as to whether to issue a completion certificate, and give written notice of the decision to the applicant, within 14 days of such an application.

Appeals against decision not to issue a completion certificate

13. The person on whom the stop notice was served may appeal against a decision not to issue a completion certification on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

Compensation

14. The regulator must compensate a person for loss suffered as the result of the service of a stop notice or the refusal of a completion certificate if—

- (a) a stop notice is subsequently withdrawn or amended by the regulator because the decision to serve it was unreasonable or any step specified in the notice was unreasonable;
- (b) the person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable; or
- (c) the person successfully appeals against the refusal of a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

Appeal against compensation decision

15. A person may appeal against a decision not to award compensation or the amount of compensation—

- (a) on the grounds that the regulator’s decision was unreasonable;
- (b) on the grounds that the amount offered was based on incorrect facts;
- (c) for any other reason.

Offence

16.—(1) Where a person on whom a stop notice is served does not comply with it within the time limit specified in the notice, the person is guilty of an offence and liable—

- (a) on summary conviction, to a fine, or imprisonment for a term not exceeding twelve months, or both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(2) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (1)(a) to twelve months is to be read as a reference to six months.