



Regulatory Enforcement and Sanctions Act 2008

2008 CHAPTER 13

[^{F1}PART 2

REGULATORY ENFORCEMENT

[^{F1}Other regulators

Textual Amendments

- F1** Pt. 2 substituted (4.5.2016 for specified purposes, 1.10.2017 in so far as not already in force) by Enterprise Act 2016 (c. 12), ss. 20(1), 44(1)(c); S.I. 2017/473, reg. 3(b)

28A Support of primary authority by other regulators

- (1) This section applies to a person who has regulatory functions and who—
 - (a) is specified as a “supporting regulator” by the Secretary of State by regulations, and
 - (b) has a function which is not a relevant function of the person but which—
 - (i) is a designated function of the person, and
 - (ii) is, or is relevant to the exercise of, a partnership function.
- (2) The supporting regulator may do anything which it considers appropriate for the purpose of supporting the primary authority in the preparation of—
 - (a) advice or guidance under section 24A in relation to the partnership function, or
 - (b) an inspection plan in relation to the partnership function.
- (3) If the supporting regulator provides support under subsection (2), it must, in the exercise of the designated function in relation to the regulated person or a member of the regulated group, act consistently with any advice or guidance under section 24A, or any inspection plan—

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- (a) which is subsequently given or made in relation to the partnership function, and
 - (b) to which the supporting regulator has consented.
- (4) But, in the case of a regulated group, the duty under subsection (3) applies to the exercise of the designated function in relation to a member of the group only if the supporting regulator is aware that the member belongs to the group.
- (5) The duty under subsection (3) is a duty to act consistently so far as it is possible for the supporting regulator to do so in accordance with its other functions.
- (6) If—
 - (a) the supporting regulator provides support under subsection (2), and
 - (b) the regulated person or the co-ordinator of the regulated group has agreed in writing to the provision of that support,the supporting regulator may charge the regulated person or the co-ordinator such fees as it considers to represent the costs reasonably incurred by it in providing that support.
- (7) In the case of a regulated group, the co-ordinator of the group must make the following available free of charge, on request, to the supporting regulator—
 - (a) a copy of the group membership list maintained under section 23D(2);
 - (b) a copy of a list under section 26A(9) of group members to whom an inspection plan may be relevant.
- (8) The copy must be made available as soon as is reasonably practicable and in any event not later than the end of the third working day after the day on which the request is received by the co-ordinator.
- (9) Regulations under subsection (1)(a) require the consent of the Welsh Ministers to specify a person whose functions relate only to devolved Welsh matters.
- (10) In this section, “designated function”, in relation to a supporting regulator, means a regulatory function exercised by that regulator and specified by the Secretary of State by regulations.
- (11) Regulations under subsection (10)—
 - (a) may not specify a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters;
 - (b) may not specify a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters;
 - (c) require the consent of the Welsh Ministers to specify a regulatory function, so far as exercisable in relation to Wales, which relates to a devolved Welsh matter.
- (12) Regulations under subsection (10) may make different provision for—
 - (a) different purposes;
 - (b) different areas.
- (13) A supporting regulator who, apart from subsection (2), has power to provide the support described in that subsection, is not prevented by that power from exercising the power conferred by subsection (2).

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28B Other regulators to act consistently with primary authority advice etc

- (1) This section applies to a person who has regulatory functions and who—
 - (a) is specified as a “complementary regulator” by the Secretary of State by regulations, and
 - (b) has a function which is not a relevant function of the person, but which—
 - (i) is a designated function of the person,
 - (ii) is, or is equivalent to, a partnership function, and
 - (iii) is exercisable by the person in relation to the regulated person or a member of the regulated group.
- (2) The complementary regulator must act consistently with primary authority advice and guidance in the exercise of the designated function in relation to the regulated person or a member of the regulated group.
- (3) But, in the case of a regulated group, the duty under subsection (2) applies to the exercise of the designated function in relation to a member of the group only if the complementary regulator is aware that the member belongs to the group.
- (4) The duty under subsection (2) is a duty to act consistently so far as it is possible for the complementary regulator to do so in accordance with its other functions.
- (5) In subsection (2), “primary authority advice and guidance” means—
 - (a) advice and guidance given by the primary authority under section 24A to the regulated person or the co-ordinator of the regulated group in relation to the partnership function,
 - (b) advice and guidance given by the primary authority under that section to qualifying regulators as to how they should exercise the partnership function in relation to the regulated person or a member of the regulated group, and
 - (c) an inspection plan made by the primary authority in respect of the exercise of the partnership function in relation to the regulated person or a member of the regulated group.
- (6) In the case of a regulated group, the co-ordinator of the group must make the following available free of charge, on request, to the complementary regulator—
 - (a) a copy of the group membership list maintained under section 23D(2);
 - (b) a copy of a list under section 26A(9) of group members to whom an inspection plan may be relevant.
- (7) The copy must be made available as soon as is reasonably practicable and in any event not later than the end of the third working day after the day on which the request is received by the co-ordinator.
- (8) Regulations under subsection (1)(a) require the consent of the Welsh Ministers to specify a person whose functions relate only to devolved Welsh matters.
- (9) In this section, “designated function”, in relation to a complementary regulator, means a regulatory function exercised by that regulator and specified for the purposes of this section by the Secretary of State by regulations.
- (10) Regulations under subsection (9) specifying a function other than a partnership function must identify the partnership function to which the designated function is equivalent.
- (11) Regulations under subsection (9)—

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- (a) may not specify a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters;
 - (b) may not specify a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters;
 - (c) require the consent of the Welsh Ministers to specify a regulatory function, so far as exercisable in relation to Wales, which relates to a devolved Welsh matter.
- (12) Regulations under subsection (9) may make different provision for—
- (a) different purposes;
 - (b) different areas.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 70(6) inserted by [2018 c. 12 Sch. 19 para. 152\(3\)](#)