



Regulatory Enforcement and Sanctions Act 2008

2008 CHAPTER 13

PART 3

CIVIL SANCTIONS

Orders under Part 3: supplementary provision

51 Combination of sanctions

- (1) Provision may not be made under section 39 and section 42 conferring powers on a regulator in relation to the same offence unless it secures that—
 - (a) the regulator may not serve a notice of intent referred to in section 40(2)(a) on a person in relation to any act or omission where a discretionary requirement has been imposed on that person in relation to that act or omission, and
 - (b) the regulator may not serve a notice of intent referred to in section 43(2)(a) on a person in relation to any act or omission where—
 - (i) a fixed monetary penalty has been imposed on that person in relation to that act or omission, or
 - (ii) the person has discharged liability to a fixed monetary penalty in relation to that act or omission pursuant to section 40(2)(b).
- (2) Provision may not be made under section 39 and section 46 conferring powers on a regulator in relation to the same offence unless it secures that—
 - (a) the regulator may not serve a notice of intent referred to in section 40(2)(a) on a person in relation to any act or omission where a stop notice has been served on that person in relation to that act or omission, and
 - (b) the regulator may not serve a stop notice on a person in relation to any act or omission where—
 - (i) a fixed monetary penalty has been imposed on that person in relation to that act or omission, or

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- (ii) the person has discharged liability to a fixed monetary penalty in relation to that act or omission pursuant to section 40(2)(b).

52 Monetary penalties

- (1) An order under this Part which confers power on a regulator to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty under section 45(1) may include provision—
 - (a) for early payment discounts;
 - (b) for the payment of interest or other financial penalties for late payment of the penalty, such interest or other financial penalties not in total to exceed the amount of that penalty;
 - (c) for enforcement of the penalty.
- (2) Provision under subsection (1)(c) may include—
 - (a) provision for the regulator to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
 - (b) provision for the penalty, and any interest or other financial penalty for late payment to be recoverable, on the order of a court, as if payable under a court order.

53 Costs recovery

- (1) Provision under section 42 may include provision for a regulator, by notice, to require a person on whom a discretionary requirement is imposed to pay the costs incurred by the regulator in relation to the imposition of the discretionary requirement up to the time of its imposition.
- (2) Provision under section 46 may include provision for a regulator, by notice, to require a person on whom a stop notice is served to pay the costs incurred by the regulator in relation to the service of the notice up to the time of service.
- (3) In subsections (1) and (2), the references to costs include in particular—
 - (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).
- (4) Provision under this section must secure that, in any case where a notice requiring payment of costs is served—
 - (a) the notice specifies the amount required to be paid;
 - (b) the regulator may be required to provide a detailed breakdown of that amount;
 - (c) the person required to pay costs is not liable to pay any costs shown by the person to have been unnecessarily incurred;
 - (d) the person required to pay costs may appeal against—
 - (i) the decision of the regulator to impose the requirement to pay costs;
 - (ii) the decision of the regulator as to the amount of those costs.
- (5) Provision under this section may include the provision referred to in section 52(1)(b) and (c) and (2).
- (6) Provision under this section must secure that regulator is required to publish guidance about how it will exercise the power conferred by the provision.

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54 Appeals

- (1) An order under this Part may not provide for the making of an appeal other than to—
 - (a) the First-tier Tribunal, or
 - (b) another tribunal created under an enactment.
- (2) In subsection (1)(b) “tribunal” does not include an ordinary court of law.
- (3) An order under this Part which makes provision for an appeal in relation to the imposition of any requirement or service of any notice may include—
 - (a) provision suspending the requirement or notice pending determination of the appeal;
 - (b) provision as to the powers of the tribunal to which the appeal is made;
 - (c) provision as to how any sum payable in pursuance of a decision of that tribunal is to be recoverable.
- (4) The provision referred to in subsection (3)(b) includes provision conferring on the tribunal to which the appeal is made power—
 - (a) to withdraw the requirement or notice;
 - (b) to confirm the requirement or notice;
 - (c) to take such steps as the regulator could take in relation to the act or omission giving rise to the requirement or notice;
 - (d) to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the regulator;
 - (e) to award costs.

55 Other provision

- (1) An order under this Part may include consequential, supplementary, incidental or transitional provision.
- (2) The consequential provision referred to in subsection (1) includes—
 - (a) provision as to how any enactment passed or made before the day on which this Act is passed applies or operates in relation to the imposition of a fixed monetary penalty or discretionary requirement or service of a stop notice, and
 - (b) in particular, where such an enactment applies in relation to a person convicted of a criminal offence, provision to make the enactment apply in relation to a person on whom a fixed monetary penalty or discretionary requirement is imposed or a stop notice is served in relation to that offence.
- (3) The supplementary provision referred to in subsection (1) includes provision for the purpose of facilitating the use of powers conferred by an order under this Part, and in particular provision which for that purpose—
 - (a) confers or extends powers to require information;
 - (b) confers or extends powers of entry, search or seizure;
 - (c) where information is authorised to be used in evidence in criminal proceedings, authorises its use in relation to the use of any power to impose a civil sanction conferred under or by virtue of this Part.
- (4) The provision which may be made by an order under this Part may be made by repealing, revoking or amending an enactment (whenever passed or made).

Changes to legislation:

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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\(3\)](#)