

SCHEDULE 4

Civil sanctions

PART 2

Stop notices

Stop notices

- 13.**—(1) The market surveillance authority may serve a notice (a “stop notice”) on any person—
- (a) in relation to an offence committed under regulation 11(1), prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice;
 - (b) where the market surveillance authority is of the opinion that a person is likely to make available on the market a product which does not comply with an EU measure, a requirement to take such steps as the market surveillance authority may specify within such period as it may specify, to secure that its being made available on the market is prohibited or restricted.
- (2) A stop notice may only be served where the person is—
- (a) carrying on the activity, and
 - (b) the market surveillance authority reasonably believes that—
 - (i) the activity as carried on by that person involves or is likely to involve the commission of an offence under regulation 11(1); or
 - (ii) that person is likely to make available on the market a product which does not comply with an EU measure.
- (3) The steps referred to in sub-paragraph (1)(a) and (b) must be steps to eliminate the risk of the offence being committed, or of products which do not comply with an EU measure being made available on the market.

Contents of a stop notice

- 14.** A stop notice must include information as to—
- (a) the grounds for serving the stop notice and the activity which is prohibited;
 - (b) the steps the person must take to comply with the stop notice;
 - (c) the consequences of non-compliance;
 - (d) the period within which the activity must stop.

Appeals

- 15.**—(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;
 - (d) that any step specified in the notice is unreasonable;

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- (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 was not likely to make a product available on the market and would not have made it available on the market if the stop notice had not been served;
- (g) 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;
- (h) that the decision was wrong for any other reason.

Completion certificates

16.—(1) The market surveillance authority must issue a certificate (a “completion certificate”) if, after service of a stop notice, the market surveillance authority is satisfied that the person has taken the steps specified in the notice.

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

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

(4) The market surveillance authority must decide whether to issue a completion certificate within 14 days of the application.

(5) A person on whom the stop notice was served may appeal against a decision not to issue a completion certificate on the grounds that—

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

Compensation

17.—(1) The market surveillance authority must compensate a person for loss suffered as the result of the service of the stop notice or the refusal of a completion certificate if a person has suffered loss as a result of the notice or refusal and—

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

(2) A person may appeal against a decision not to award compensation or the amount of compensation on the grounds that—

- (a) the market surveillance authority’s decision was unreasonable;
- (b) the amount offered was based on incorrect facts;
- (c) the decision was wrong for any other reason.

Offences

18. If 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 on summary conviction to a fine not exceeding level 5 on the standard scale.