

SCHEDULE

Enforcement

PART 2

Civil sanctions

Interpretation

9. In Parts 2, 3 and 4 of this Schedule, “civil sanction” means a compliance notice issued in accordance with paragraph 10 or a civil penalty imposed in accordance with paragraph 11.

Compliance notice

10.—(1) Subject to sub-paragraph (2), where the enforcement authority considers that a person has breached regulation 5, 6, 7, 8, 9, 10 or 11, the enforcement authority may serve a compliance notice on the person considered to be in breach requiring the person to take such steps as the enforcement authority considers appropriate in relation to the breach.

(2) The enforcement authority may not serve a compliance notice on a person unless it has first complied with paragraphs 13 to 15.

(3) The notice must be in writing and dated, and must—

- (a) set out the reasons for which the notice has been served;
- (b) describe the steps required to remedy the breach;
- (c) specify the date, which must not be less than 28 days from the date of the notice, by which the breach must be remedied;
- (d) set out the consequences of failing to comply with the notice; and
- (e) set out the rights of appeal in accordance with paragraphs 16 and 17.

(4) Without limiting the generality of sub-paragraph (1) above, where the enforcement authority considers that a person has breached regulation 5, 6, 7, 8, 9, 10 or 11, a compliance notice may prohibit the person from installing further public charge points until that person has remedied any breach set out in the compliance notice.

Civil penalties

11.—(1) Subject to sub-paragraph (2), where—

- (a) a person does not comply with a compliance notice under paragraph 10, or
- (b) the enforcement authority considers that there has been a breach of paragraph 8 by a person,

the enforcement authority may serve a notice (a “penalty notice”) on the person requiring them to pay a civil penalty.

(2) The enforcement authority may not serve a penalty notice on a person unless it has first complied with paragraphs 13 to 15.

(3) The enforcement authority may not require a person to pay a civil penalty if the authority is satisfied on the balance of probabilities that there was a reasonable excuse for the non-compliance or the breach.

(4) The enforcement authority may require a person to pay a civil penalty without first serving a compliance notice under paragraph 10 if it considers it appropriate to do so.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (5) A penalty notice must be in writing, dated and include—
- (a) the reasons for imposing the civil penalty;
 - (b) the amount to be paid;
 - (c) how payment is to be made;
 - (d) the period within which payment must be made, which must be not less than 28 days from the date of the final decision;
 - (e) the rights of appeal in accordance with paragraphs 16 and 17; and
 - (f) the consequences of failing to comply with the notice.

Amount of civil penalty

- 12.**—(1) The maximum amount of a civil penalty is—
- (a) £10,000 for each public charge point in respect of which there has been a breach of regulation 5, 6, 8, 9, 10 or 11;
 - (b) £10,000 for a network of rapid charge points in respect of which there has been a breach of regulation 7;
 - (c) £250,000 for a breach of paragraph 8 of this Schedule.

(2) Before requiring a person to pay a civil penalty pursuant to paragraph 11, the enforcement authority may require the person to provide such information as is reasonable in connection with determining the appropriate amount of the civil penalty within such period as is reasonable.

Notice of intent

13.—(1) Subject to sub-paragraph (3), where the enforcement authority proposes to impose a civil sanction on a person, it must serve on that person a notice of what is proposed (a “notice of intent”).

- (2) The notice of intent must include—
- (a) the reasons for the proposed civil sanction;
 - (b) the requirements of the proposed compliance notice and, in the case of a proposed civil penalty, the amount to be paid; and
 - (c) information as to the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received.

(3) The requirement to serve a notice of intent does not apply where the enforcement authority reasonably considers that, in consequence of one or both of the matters referred to in sub-paragraph (4), it is appropriate to impose a civil sanction without first serving a notice of intent.

- (4) The matters referred to in sub-paragraph (3) are—
- (a) a risk of harm to, or disruption of, the electricity system;
 - (b) a risk to public health or safety.

Representations and objections

14. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the enforcement authority in relation to the proposed civil sanction.

Final decision

15.—(1) Sub-paragraph (2) applies where a notice of intent has been served pursuant to paragraph 13.

(2) After the end of the period for making representations and objections, the enforcement authority must, taking into account any representations or objections made in accordance with paragraph 14, decide whether to impose the proposed civil sanction, with or without modifications to the matters set out in the notice of intent.

Appeals

16.—(1) A person on whom a civil sanction is imposed may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision to impose a civil sanction was based on an error of fact;
- (b) that the decision to impose a civil sanction was wrong in law;
- (c) in the case of a civil penalty, that the amount of the civil penalty is unreasonable;
- (d) in the case of a compliance notice, that any steps required to remedy the breach are unreasonable;
- (e) that the decision to impose a civil sanction was unreasonable for any other reason;
- (f) that the decision to impose a civil sanction was wrong for any other reason.

17.—(1) Any appeal under paragraph 16 must be made to the First-tier Tribunal.

(2) An appeal must be brought within 28 days of the date on which the final decision is received.

(3) Any compliance notice relating to the subject matter of the appeal is suspended pending an appeal.

(4) The Tribunal may, in relation to a compliance notice—

- (a) withdraw the compliance notice;
- (b) confirm the compliance notice;
- (c) vary the compliance notice;
- (d) take such steps as the enforcement authority could take in relation to the act or omission giving rise to the compliance notice;
- (e) remit the decision whether to confirm the compliance notice, or any matter relating to that decision, to the enforcement authority.

(5) The Tribunal may, in relation to a civil penalty—

- (a) allow the appeal and cancel the civil penalty;
- (b) allow the appeal and reduce the amount of the civil penalty; or
- (c) dismiss the appeal.

(6) An appeal—

- (a) is to be a re-hearing of the enforcement authority's decision to impose a civil sanction; and
- (b) may be determined having regard to matters of which the enforcement authority was unaware.

(7) Sub-paragraph (6)(a) has effect despite any provision of rules of court.

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Enforcement of penalty decision

18.—(1) This paragraph applies where a sum is payable to the enforcement authority as a civil penalty pursuant to these Regulations.

(2) In England and Wales, the civil penalty is recoverable as if it were payable under an order of the County Court.

(3) In Scotland, the civil penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant of execution issued by the Sheriff Court of any sheriffdom.

(4) In Northern Ireland, the civil penalty is recoverable as if it were payable under an order of the County Court.

(5) Where action is taken under this paragraph for the recovery of a sum payable as a civil penalty pursuant to these Regulations, the civil penalty is, in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003⁽¹⁾ (register of judgments and orders etc.) as if it were a judgement entered in the county court.

(1) 2003 c. 39; section 98 has been amended by sections 48(1) and 106(2) of, and paragraph 55(1), (2), (3)(a) and (b) of Schedule 8 and paragraph 15 of Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15) and section 17(5) of, and paragraph 40(a) and (c) of Part 2 of Schedule 9 to, the Crime and Courts Act 2013 (c. 22). Further amendments made by the Tribunals, Courts and Enforcement Act 2007 have yet to be brought into force.