

SCHEDULE 2

Fixed monetary penalties

PART 1

Imposition of fixed monetary penalties and procedure

Decision whether to impose a fixed monetary penalty

6.—(1) At the end of the 28 day period for making representations and objections under paragraph 5, the Administrator shall decide whether to impose the fixed monetary penalty.

(2) In making a decision under this paragraph the Administrator shall take into consideration any representations or objections made by the seller in accordance with paragraph 5.

(3) The Administrator may not decide to impose a fixed monetary penalty in any of the following circumstances—

- (a) if liability to a fixed monetary penalty in respect of the same breach has been discharged by payment of the specified sum;
- (b) if a fixed penalty has previously been imposed in respect of the same breach;
- (c) if a discretionary requirement has been imposed in respect of the same act or omission.

(4) Without restricting the power under sub-paragraph (1), the Administrator may decide not to impose a fixed penalty if the Administrator considers that in all the circumstances of the case it would be inexpedient to do so.

(5) Where the Administrator decides to impose the fixed monetary penalty it shall do so by serving by post a final notice on the seller.

(6) The final notice shall comply with paragraph 7.