

SCHEDULE 1

PART 2

Discretionary Requirements

Variable monetary penalties: maximum amount

5. The maximum amount that the Commission may impose as a variable monetary penalty is £20,000.

Completion

6.—(1) Where, after the service of a compliance notice or a restoration notice on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they must issue a certificate to that effect.

(2) A compliance notice or a restoration notice ceases to have effect on the issue of a certificate relating to that notice.

(3) A person on whom a compliance notice or a restoration notice has been served may at any time apply for a certificate and the Commission must make a decision whether to issue a certificate within 28 days of the day on which they receive such an application.

(4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the compliance notice or restoration notice has been complied with.

(5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—

- (a) the grounds for the decision not to issue a certificate; and
- (b) rights of appeal.

(6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information, and if the Commission revoke a certificate, the compliance notice or restoration notice has effect as if the certificate had not been issued.

Appeals

7.—(1) An appeal under paragraph 6(6) of Schedule 19C against the decision to impose a discretionary requirement must be made within 28 days of the day on which the final notice was received.

(2) The requirement is suspended from the day on which the appeal is made.

(3) The suspension has effect until the day on which the appeal is determined or withdrawn.

8.—(1) A person served with a compliance notice or a restoration notice may appeal to a county court or (in Scotland) the sheriff against a decision not to issue a certificate under paragraph 6 on the ground that the decision was—

- (a) based on an error of fact;
- (b) wrong in law; or
- (c) unfair or unreasonable.

(2) An appeal must be made within 28 days of the day on which notification of the decision was received.

Late payment

9.—(1) Subject to sub-paragraphs (4) and (5), the variable monetary penalty must be paid within 28 days of the day on which the final notice was received.

(2) If the penalty is not paid within that period the amount payable is increased by 25%.

(3) If the penalty (as increased by sub-paragraph (2)) is not paid within 56 days of the day on which the final notice was received, the amount payable is the amount of the variable monetary penalty originally imposed increased by 50%.

(4) In the case of an appeal, any penalty which falls to be paid, whether because the court upheld the penalty or varied it, or because the appeal was withdrawn, is payable within 28 days of the day of determination or withdrawal of the appeal, and if it is not paid within that period the amount payable is increased by 25%.

(5) If the penalty (as increased by sub-paragraph (4)) is not paid within 56 days of the day of determination or withdrawal of the appeal the amount payable is the amount of the variable monetary penalty originally imposed increased by 50%.