



Regulatory Enforcement and Sanctions Act 2008

2008 CHAPTER 13

PART 3

CIVIL SANCTIONS

Guidance

63 Guidance as to use of civil sanctions

- (1) Where power is conferred on a regulator under or by virtue of this Part to impose a civil sanction in relation to an offence, the provision conferring the power must secure the results in subsection (2).
- (2) Those results are that—
 - (a) the regulator must publish guidance about its use of the sanction,
 - (b) in the case of guidance relating to a fixed monetary penalty, discretionary requirement or stop notice, the guidance must contain the relevant information,
 - (c) the regulator must revise the guidance where appropriate,
 - (d) the regulator must consult such persons as the provision may specify before publishing any guidance or revised guidance, and
 - (e) the regulator must have regard to the guidance or revised guidance in exercising its functions.
- (3) In the case of guidance relating to a fixed monetary penalty, the relevant information referred to in subsection (2)(b) is information as to—
 - (a) the circumstances in which the penalty is likely to be imposed,
 - (b) the circumstances in which it may not be imposed,
 - (c) the amount of the penalty,
 - (d) how liability for the penalty may be discharged and the effect of discharge, and

- (e) rights to make representations and objections and rights of appeal.
- (4) In the case of guidance relating to a discretionary requirement, the relevant information referred to in subsection (2)(b) is information as to—
 - (a) the circumstances in which the requirement is likely to be imposed,
 - (b) the circumstances in which it may not be imposed,
 - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the regulator in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance), and
 - (d) rights to make representations and objections and rights of appeal.
- (5) In the case of guidance relating to a stop notice, the relevant information referred to in subsection (2)(b) is information as to—
 - (a) the circumstances in which the regulator is likely to serve the notice,
 - (b) the circumstances in which it may not be imposed, and
 - (c) rights of appeal.

64 Guidance as to enforcement of relevant offences

- (1) Where power is conferred on a regulator under or by virtue of this Part to impose a civil sanction in relation to an offence, the regulator must prepare and publish guidance about how the offence is enforced.
- (2) The guidance must include guidance as to—
 - (a) the sanctions (including criminal sanctions) to which a person who commits the offence may be liable,
 - (b) the action which the regulator may take to enforce the offence, whether by virtue of this Part or otherwise, and
 - (c) the circumstances in which the regulator is likely to take any such action.
- (3) A regulator may from time to time revise guidance published by it under this section and publish the revised guidance.
- (4) The regulator must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this section.

65 Publication of enforcement action

- (1) Where power is conferred on a regulator under or by virtue of this Part to impose a civil sanction in relation to an offence, the provision conferring the power must, subject to this section, secure the result in subsection (2).
- (2) That result is that the regulator must from time to time publish reports specifying—
 - (a) the cases in which the civil sanction has been imposed,
 - (b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged pursuant to section 40(2)(b), and
 - (c) where the civil sanction is a discretionary requirement, the cases in which an undertaking referred to in section 43(5) is accepted from a person.
- (3) In subsection (2)(a), the reference to cases in which the civil sanction has been imposed do not include cases where the sanction has been imposed but overturned on appeal.

- (4) The provision conferring the power need not secure the result in subsection (2) in cases where the relevant authority considers that it would be inappropriate to do so.