



# Regulatory Enforcement and Sanctions Act 2008

## 2008 CHAPTER 13

### PART 3

#### CIVIL SANCTIONS

##### *Stop notices*

#### **46 Stop notices**

- (1) The provision which may be made under this section is provision conferring on a regulator the power to serve a stop notice on a person.
- (2) For the purposes of this Part a “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.
- (3) Provision under this section may only confer such a power in relation to a case falling within subsection (4) or (5).
- (4) A case falling within this subsection is a case where—
  - (a) the person is carrying on the activity,
  - (b) the regulator reasonably believes that the activity as carried on by that person is causing, or presents a significant risk of causing, serious harm to any of the matters referred to in subsection (6), and
  - (c) the regulator reasonably believes that the activity as carried on by that person involves or is likely to involve the commission of a relevant offence by that person.
- (5) A case falling within this subsection is a case where the regulator reasonably believes that—
  - (a) the person is likely to carry on the activity,

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*Status: This is the original version (as it was originally enacted).*

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- (b) the activity as likely to be carried on by that person will cause, or will present a significant risk of causing, serious harm to any of the matters referred to in subsection (6), and
  - (c) the activity as likely to be carried on by that person will involve or will be likely to involve the commission of a relevant offence by that person.
- (6) The matters referred to in subsections (4)(b) and (5)(b) are—
- (a) human health,
  - (b) the environment (including the health of animals and plants), and
  - (c) the financial interests of consumers.
- (7) The steps referred to in subsection (2) must be steps to remove or reduce the harm or risk of harm referred to in subsection (4)(b) or (5)(b).

#### **47 Stop notices: procedure**

- (1) Provision under section 46 must secure the results in subsection (2) in a case where a stop notice is served.
- (2) Those results are that—
- (a) the stop notice must comply with subsection (3),
  - (b) the person on whom it is served may appeal against the decision to serve it,
  - (c) where, after service of the notice, the regulator is satisfied that the person has taken the steps specified in the notice, the regulator must issue a certificate to that effect (a “completion certificate”),
  - (d) the notice ceases to have effect on the issue of a completion certificate,
  - (e) the person on whom the notice is served may at any time apply for a completion certificate,
  - (f) the regulator must make a decision as to whether to issue a completion certificate within 14 days of such an application, and
  - (g) the person on whom the notice is served may appeal against a decision not to issue a completion certificate.
- (3) To comply with this subsection a stop notice must include information as to—
- (a) the grounds for serving the notice,
  - (b) rights of appeal, and
  - (c) the consequences of non-compliance.
- (4) Provision pursuant to subsection (2)(b) must secure that the grounds on which a person may appeal against a decision of the regulator to serve a stop notice include the following—
- (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;
  - (e) that the person has not committed the relevant offence and would not have committed it had the stop notice not been served;
  - (f) that the person would not, by reason of any defence, have been liable to be convicted of the relevant offence had the stop notice not been served.

- (5) Provision pursuant to subsection (2)(g) must secure that the grounds on which a person may appeal against a decision of the regulator not to issue a completion certificate include the following—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unfair or unreasonable.

#### **48 Stop notices: compensation**

- (1) Provision under section 46 conferring power on a regulator to serve a stop notice on a person must include provision for the regulator to compensate the person for loss suffered as the result of the service of the notice.
- (2) Provision under subsection (1) may provide for compensation—
- (a) only in prescribed cases;
  - (b) only in relation to prescribed descriptions of loss.
- (3) Provision under subsection (1) must secure that the person on whom the stop notice is served is able to appeal against—
- (a) a decision by the regulator not to award compensation, or
  - (b) a decision of the regulator as to the amount of the compensation.

#### **49 Stop notices: enforcement**

- (1) Provision under section 46 conferring power on a regulator to serve a stop notice must provide that, where a person on whom a notice is served does not comply with it, the person is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding £20,000, or imprisonment for term not exceeding twelve months, or both, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (2) In the application of this section—
- (a) in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), or
  - (b) in Northern Ireland,
- the reference in subsection (1)(a) to twelve months is to be read as a reference to six months.