



Regulatory Enforcement and Sanctions Act 2008

2008 CHAPTER 13

PART 3

CIVIL SANCTIONS

Discretionary requirements

44 Discretionary requirements: criminal proceedings and conviction

- (1) Provision under section 42 must secure the result in subsection (2) in a case where—
 - (a) a discretionary requirement is imposed on a person, or
 - (b) an undertaking referred to in section 43(5) is accepted from a person.
- (2) The result in this subsection is that the person may not at any time be convicted of the relevant offence in respect of the act or omission giving rise to the discretionary requirement or undertaking except in a case referred to in subsection (3).
- (3) The case referred to in subsection (2) is a case where—
 - (a) a non-monetary discretionary requirement is imposed on the person or an undertaking referred to in section 43(5) is accepted from a person,
 - (b) no variable monetary penalty is imposed on the person, and
 - (c) the person fails to comply with the non-monetary discretionary requirement or undertaking.
- (4) Provision under section 42 may for the purposes of the case referred to in subsection (3) extend any period within which criminal proceedings may be instituted against the person.

Changes to legislation: Regulatory Enforcement and Sanctions Act 2008, Section 44 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Modifications etc. (not altering text)

- C1** Pt. 3 modified (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 68(1)**, 88(3)(b); S.I. 2023/1096, art. 2(c)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 70(6) inserted by [2018 c. 12 Sch. 19 para. 152\(3\)](#)