



# Regulatory Enforcement and Sanctions Act 2008

## 2008 CHAPTER 13

### PART 3

#### CIVIL SANCTIONS

##### *Enforcement undertakings*

#### **50 Enforcement undertakings**

- (1) The provision which may be made under this section is provision—
  - (a) to enable a regulator to accept an enforcement undertaking from a person in a case where the regulator has reasonable grounds to suspect that the person has committed a relevant offence, and
  - (b) for the acceptance of the undertaking to have the consequences in subsection (4).
- (2) For the purposes of this Part, an “enforcement undertaking” is an undertaking to take such action as may be specified in the undertaking within such period as may be so specified.
- (3) The action specified in an enforcement undertaking must be—
  - (a) action to secure that the offence does not continue or recur,
  - (b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed,
  - (c) action (including the payment of a sum of money) to benefit any person affected by the offence, or
  - (d) action of a prescribed description.
- (4) The consequences in this subsection are that, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it—

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*Status: This is the original version (as it was originally enacted).*

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- (a) that person may not at any time be convicted of the relevant offence in respect of the act or omission to which the undertaking relates,
  - (b) the regulator may not impose on that person any fixed monetary penalty which it would otherwise have power to impose by virtue of section 39 in respect of that act or omission, and
  - (c) the regulator may not impose on that person any discretionary requirement which it would otherwise have power to impose by virtue of section 42 in respect of that act or omission.
- (5) Provision under this section may in particular include provision—
- (a) as to the procedure for entering into an undertaking;
  - (b) as to the terms of an undertaking;
  - (c) as to publication of an undertaking by a regulator;
  - (d) as to variation of an undertaking;
  - (e) as to circumstances in which a person may be regarded as having complied with an undertaking;
  - (f) as to monitoring by a regulator of compliance with an undertaking;
  - (g) as to certification by a regulator that an undertaking has been complied with;
  - (h) for appeals against refusal to give such certification;
  - (i) in a case where a person has given inaccurate, misleading or incomplete information in relation to the undertaking, for that person to be regarded as not having complied with it;
  - (j) in a case where a person has complied partly but not fully with an undertaking, for that part-compliance to be taken into account in the imposition of any criminal or other sanction on the person;
  - (k) for the purpose of enabling criminal proceedings to be instituted against a person in respect of the relevant offence in the event of breach of an undertaking or any part of it, to extend any period within which those proceedings may be instituted.