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PROSPECTIVE

SCHEDULES

SCHEDULE 1

ENFORCEMENT ACTION UNDER [PART 1](#): PROCEDURE

PART 2

CIVIL SANCTIONS

Notices of intent

- 5 (1) Before issuing a compliance notice, redress notice or monetary penalty notice (“the principal notice”) to a regulated body, the Secretary of State must—
- (a) issue to the body a notice of intent, and
 - (b) consider any representations made by the body in response to (and in accordance with) that notice.
- (2) A notice of intent is a notice that—
- (a) states the Secretary of State’s intention to issue the principal notice,
 - (b) sets out the intended terms of that notice,
 - (c) explains the Secretary of State’s reasons for intending to issue that notice, and
 - (d) specifies the time by which, and manner in which, representations may be made.
- (3) A notice of intent may also—
- (a) state the Secretary of State’s intention to issue a costs notice in connection with the principal notice, and
 - (b) give a general indication of the nature of the costs that the Secretary of State is likely to seek to recover by way of the costs notice.

Commencement Information

II Sch. 1 para. 5 not in force at Royal Assent, see [s. 99\(1\)](#)

Costs

- 6 (1) If—
- (a) the Secretary of State issues a compliance notice, redress notice or monetary penalty notice (“the principal notice”) to a regulated body, and
 - (b) the notice of intent that preceded the principal notice included the contents set out in paragraph [5\(3\)](#),

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the Secretary of State may also issue a costs notice to that body.

- (2) A costs notice is a notice requiring the regulated body to pay a sum specified in the notice to the Secretary of State.
- (3) That sum must be no greater than the total of the costs reasonably incurred by the Secretary of State in connection with the principal notice.
- (4) The costs that may be taken into account for that purpose include—
 - (a) costs of investigating the matters to which the principal notice relates,
 - (b) administrative costs, and
 - (c) costs of obtaining expert advice (including legal advice).
- (5) A costs notice must—
 - (a) particularise the costs relied on in arriving at the sum specified in the notice,
 - (b) explain (if it is not otherwise apparent) how those costs have been calculated, and
 - (c) specify the time by which, and manner in which, the sum must be paid.
- (6) If a sum payable under a costs notice is not paid in time—
 - (a) the sum (or the unpaid part of it) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838;
 - (b) the Secretary of State may recover the sum (or the unpaid part of it), with the interest, as a civil debt.
- (7) The cancellation of a compliance notice, redress notice, or monetary penalty notice has the effect of cancelling any costs notice issued in connection with it.

Commencement Information

I2 Sch. 1 para. 6 not in force at Royal Assent, see [s. 99\(1\)](#)

Appeals

- 7 (1) A person to whom a compliance notice, redress notice, monetary penalty notice or costs notice is issued may appeal to the Tribunal.
- (2) The grounds on which an appeal may be brought are—
 - (a) in the case of a compliance notice or redress notice—
 - (i) that the failure to meet requirements, or commission of a traffic infraction, on the grounds of which the notice was issued did not occur, or
 - (ii) that the actions specified in the notice, or the time or period specified for taking them, are unreasonable;
 - (b) in the case of a monetary penalty notice—
 - (i) that the failure to meet requirements, or commission of a traffic infraction, on the grounds of which the notice was issued did not occur, or
 - (ii) that the sum or amount specified in the notice, or the time or manner specified for paying it, is unreasonable;
 - (c) in the case of a compliance notice, redress notice or monetary penalty notice issued under section [34\(2\)](#), [35\(2\)](#) or [36\(2\)](#), that the commission of a traffic

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- infraction on the grounds of which the notice was issued was caused as described in section 34(3), 35(3) or 36(3);
- (d) in the case of a costs notice—
 - (i) that costs relied on in arriving at the sum specified in the notice were not reasonably incurred as described in paragraph 6(3), or
 - (ii) that the time or manner specified for payment is unreasonable;
 - (e) that the Secretary of State failed to comply with a requirement of paragraph 5, or made some other procedural error, in respect of the notice.
- (3) If satisfied that any of those grounds is made out, the Tribunal must allow the appeal and do whichever of the following it considers appropriate—
- (a) cancel the notice,
 - (b) remit the matter to the Secretary of State with a direction that the Secretary of State consider, in accordance with the findings of the Tribunal and by such time as the Tribunal specifies, whether to cancel or vary the notice under section 37(2), or
 - (c) if the appeal is allowed on a ground in sub-paragraph (2)(b)(ii) or (d), vary the notice.
- (4) Otherwise, the Tribunal must dismiss the appeal.
- (5) Sub-paragraph (6) applies if a direction is made under sub-paragraph (3)(b) and—
- (a) the Secretary of State varies the notice further to the direction, or
 - (b) by the specified time, the Secretary of State has neither varied nor cancelled the notice.
- (6) The person who appealed against the notice may on application re-open the appeal—
- (a) on any of the original grounds further to which the direction under sub-paragraph (3)(b) was made, or
 - (b) in the case of a variation, on any further ground within sub-paragraph (2) that arises from the variation;
- and sub-paragraphs (3) and (4) apply again in relation to the grounds on which the appeal is re-opened.
- (7) The Tribunal (or any court on a further appeal) may make an interim order suspending the effect of a notice appealed against under this paragraph.
- (8) If a monetary penalty notice includes provision under section 36(6), either the Secretary of State or the person to whom the notice is issued may apply to the Tribunal for a determination of whether an additional sum has become payable under that provision in respect of a particular day.
- (9) In this paragraph, “the Tribunal” means the First-tier Tribunal, subject to sub-paragraph (10).
- (10) Tribunal Procedure Rules may provide for an appeal or application under this paragraph to be made to the Upper Tribunal instead of the First-tier Tribunal; and if that is done references to “the Tribunal” are to be read accordingly.

Commencement Information

I3 Sch. 1 para. 7 not in force at Royal Assent, see s. 99(1)

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Assignment of functions to traffic commissioners

- 8 (1) The Secretary of State may, by regulations, provide for the powers of the Secretary of State under section 34, 35 or 36 or paragraph 6 to be exercisable by a traffic commissioner instead of, or in addition to, the Secretary of State.
- (2) In relation to the exercise of power by a traffic commissioner further to such regulations, references in this Part of this Act (other than section 43(1)) to the Secretary of State are to be read as including a traffic commissioner.
- (3) The Secretary of State may, by regulations, provide for a procedure whereby a compliance notice, redress notice, monetary penalty notice or costs notice issued by the Secretary of State may be reviewed by a traffic commissioner on application by the person against whom it is issued.
- (4) In a case in which such regulations have effect, the right of appeal conferred by paragraph 7 does not arise until the exhaustion of the review procedure.
- (5) Money received by a traffic commissioner as a result of regulations under this paragraph must be paid into the Consolidated Fund in such manner as the Treasury may direct.

Commencement Information

- I4** Sch. 1 para. 8 not in force at Royal Assent, see s. 99(1)

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