

## SCHEDULE

### Civil sanctions

## **PART 2**

### Stop notices

#### **Stop notice**

- 12.**—(1) The Secretary of State may serve a notice (“a stop notice”) on any person—
- (a) in relation to a failure to comply with any provision referred to in regulation 8(1), prohibiting that person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice;
  - (b) where a person is likely to make available on the market a product developed by means of the utilisation of genetic resources or traditional knowledge associated with genetic resources for which the obligations under the EU Regulation have not been met, requiring that person to take such steps and, within such period as the notice may specify, to secure that its being made available on the market is prohibited or restricted.
- (2) A stop notice may only be served where—
- (a) the person is carrying on the activity, and
  - (b) the Secretary of State reasonably believes that—
    - (i) the activity carried on by that person involves or is likely to involve a failure to comply with any provision referred to in regulation 8(1); or
    - (ii) that person is likely to make available on the market a product developed by means of the utilisation of genetic resources or traditional knowledge associated with genetic resources for which the obligations under the EU Regulation have not been met.

#### **Contents of a stop notice**

- 13.** A stop notice must include information as to—
- (a) the grounds for serving the stop notice and the activity which is prohibited;
  - (b) the steps the person must take to comply with the stop notice;
  - (c) the period within which the activity must stop;
  - (d) rights of appeal; and
  - (e) the consequences of failing to comply with the notice.

#### **Appeals**

- 14.**—(1) The person on whom a stop notice is served may appeal against the decision to serve it.
- (2) The grounds for the appeal are—
- (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 failed to comply and would not have failed to comply had the stop notice not been served;
- (f) that the person is not likely to make available on the market a product developed by means of the utilisation of genetic resources or traditional knowledge associated with genetic resources for which the obligations under the EU Regulation have not been met;
- (g) that the person would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been served;
- (h) that the decision was wrong for any other reason.

### **Completion certificates**

**15.**—(1) The Secretary of State must issue a certificate (a “completion certificate”) if, after service of a stop notice, the Secretary of State is satisfied that the person has taken the steps specified in the notice.

(2) A stop notice ceases to have effect on the issue of a completion certificate.

(3) A person on whom a stop notice is served may at any time apply for a completion certificate.

(4) The Secretary of State must decide whether to issue a completion certificate within 14 days of the application.

(5) A person on whom the stop notice was served may appeal against a decision not to issue a completion certificate on the grounds that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unfair or unreasonable;
- (d) the decision was wrong for any other reason.

### **Compensation**

**16.**—(1) The Secretary of State must compensate a person for loss suffered as the result of the service of a stop notice or the refusal of a completion certificate if a person has suffered loss as a result of the notice or refusal and—

- (a) a stop notice is subsequently withdrawn or amended by the Secretary of State because the decision to serve it was unreasonable or any step specified in the notice was unreasonable;
- (b) a person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable; or
- (c) a person successfully appeals against the refusal of a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

(2) A person may appeal against a decision not to award compensation or the amount of compensation on the grounds that—

- (a) the Secretary of State's decision was unreasonable;
- (b) the amount offered was based on incorrect facts;
- (c) the decision was wrong for any other reason.

**Changes to legislation:**

There are currently no known outstanding effects for the The Nagoya Protocol (Compliance) Regulations 2015, PART 2.