

SCHEDULE 3

Civil sanctions

PART 6

Costs recovery

Recovery of enforcement costs

33.—(1) The regulator may give a costs recovery notice if any of the conditions in sub-paragraph (3) are met.

(2) A cost recovery notice is a notice requiring the person to pay the regulator's costs.

(3) The conditions are that that the regulator has—

- (a) imposed on the person a compliance notice under paragraph 2;
- (b) imposed on the person a restoration notice under paragraph 3;
- (c) imposed on the person a variable monetary penalty under paragraph 5; or
- (d) served on the person a stop notice under paragraph 18.

(4) In sub-paragraph (2), the reference to costs is a reference to any costs relating to preparing and giving the compliance notice, restoration notice, variable monetary penalty, or stop notice, as the case may be, and includes a reference to the costs of any related investigation or expert advice, (including legal advice).

(5) The costs recovery notice must include information as to—

- (a) the amount of the costs which must be paid;
- (b) the period in which payment must be made, which must not be less than 28 days;
- (c) how payment must be made;
- (d) the consequences of failing to make payment within the specified payment period; and
- (e) rights of appeal.

(6) Following expiry of the specified payment period, the regulator may recover the costs referred to in the costs recovery notice as if payable under an order of the court.

(7) The person to whom the costs recovery notice is given may appeal against it.

(8) The grounds of appeal are—

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