

SCHEDULE 1

Article 3

PART 1

Fixed monetary penalties

Prescribed amount

1. For the purposes of paragraph 1(5) of Schedule 19C (fixed monetary penalty) the amount prescribed is £200.

Discharge of liability

2. For the purposes of paragraph 2(2) of Schedule 19C (sum by which penalty may be discharged) the sum prescribed is £200.

Appeals

3.—(1) An appeal under paragraph 2(6) of Schedule 19C against the decision to impose a fixed monetary penalty must be made within 28 days of the day on which the final notice was received.

(2) The penalty is suspended from the day on which the appeal is made.

(3) The suspension has effect until the day on which the appeal is determined or withdrawn.

Late payment

4.—(1) Subject to sub-paragraphs (4) and (5), the fixed monetary penalty must be paid within 28 days of the day on which the final notice was received.

(2) If the penalty is not paid within that period the amount payable is increased by 25%.

(3) If the penalty (as increased by sub-paragraph (2)) is not paid within 56 days of the day on which the final notice was received, the amount payable is the amount of the fixed monetary penalty originally imposed increased by 50%.

(4) In the case of an appeal, any penalty which falls to be paid, whether because the court upheld the penalty or varied it, or because the appeal was withdrawn, is payable within 28 days of the day of determination or withdrawal of the appeal, and if not paid within that period the amount payable is increased by 25%.

(5) If the penalty (as increased by sub-paragraph (4)) is not paid within 56 days of the day of the determination or withdrawal of the appeal, the amount payable is the amount of the fixed monetary penalty originally imposed increased by 50%.

PART 2

Discretionary Requirements

Variable monetary penalties: maximum amount

5. The maximum amount that the Commission may impose as a variable monetary penalty is £20,000.

Completion

6.—(1) Where, after the service of a compliance notice or a restoration notice on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they must issue a certificate to that effect.

(2) A compliance notice or a restoration notice ceases to have effect on the issue of a certificate relating to that notice.

(3) A person on whom a compliance notice or a restoration notice has been served may at any time apply for a certificate and the Commission must make a decision whether to issue a certificate within 28 days of the day on which they receive such an application.

(4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the compliance notice or restoration notice has been complied with.

(5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—

- (a) the grounds for the decision not to issue a certificate; and
- (b) rights of appeal.

(6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information, and if the Commission revoke a certificate, the compliance notice or restoration notice has effect as if the certificate had not been issued.

Appeals

7.—(1) An appeal under paragraph 6(6) of Schedule 19C against the decision to impose a discretionary requirement must be made within 28 days of the day on which the final notice was received.

(2) The requirement is suspended from the day on which the appeal is made.

(3) The suspension has effect until the day on which the appeal is determined or withdrawn.

8.—(1) A person served with a compliance notice or a restoration notice may appeal to a county court or (in Scotland) the sheriff against a decision not to issue a certificate under paragraph 6 on the ground that the decision was—

- (a) based on an error of fact;
- (b) wrong in law; or
- (c) unfair or unreasonable.

(2) An appeal must be made within 28 days of the day on which notification of the decision was received.

Late payment

9.—(1) Subject to sub-paragraphs (4) and (5), the variable monetary penalty must be paid within 28 days of the day on which the final notice was received.

(2) If the penalty is not paid within that period the amount payable is increased by 25%.

(3) If the penalty (as increased by sub-paragraph (2)) is not paid within 56 days of the day on which the final notice was received, the amount payable is the amount of the variable monetary penalty originally imposed increased by 50%.

(4) In the case of an appeal, any penalty which falls to be paid, whether because the court upheld the penalty or varied it, or because the appeal was withdrawn, is payable within 28 days of the day of

determination or withdrawal of the appeal, and if it is not paid within that period the amount payable is increased by 25%.

(5) If the penalty (as increased by sub-paragraph (4)) is not paid within 56 days of the day of determination or withdrawal of the appeal the amount payable is the amount of the variable monetary penalty originally imposed increased by 50%.

PART 3

Stop notices

Completion certificates

10.—(1) An application for a completion certificate⁽¹⁾ must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the stop notice has been complied with.

(2) Where, on an application under paragraph 12(3) of Schedule 19C, the Commission decide not to issue a completion certificate they must notify the applicant and provide the applicant with information as to—

- (a) the grounds for the decision not to issue a completion certificate; and
- (b) rights of appeal.

11. The Commission may revoke a completion certificate if it was granted on the basis of inaccurate, incomplete or misleading information, and if the Commission revoke a completion certificate, the stop notice has effect as if the certificate had not been issued.

Appeals

12.—(1) An appeal under paragraph 13(1) of Schedule 19C against the decision to serve a stop notice must be made within 28 days of the day on which the notice was received.

(2) An appeal under paragraph 13(2) of Schedule 19C against a decision not to issue a completion certificate must be made within 28 days of the day on which notification of the decision was received.

PART 4

Enforcement undertakings

Contents of an enforcement undertaking

13.—(1) An enforcement undertaking must be in writing and include—

- (a) a statement that the undertaking is an enforcement undertaking regulated by the 2000 Act and this Order;
- (b) the terms of the undertaking;
- (c) the period within which the action specified in the undertaking must be completed;
- (d) details of how and when a person is to be considered to have complied with the undertaking; and

(1) “Completion certificate” is defined at paragraph 12(1) of Schedule 19C.

- (e) information as to the consequences of failure to comply in full or in part with the undertaking, including reference to the effect of paragraph 15(2) of Schedule 19C.
- (2) The enforcement undertaking may be varied or extended if both parties agree.

Publication of enforcement undertakings

14. The Commission may publish any enforcement undertaking which they accept in whatever manner they see fit.

Compliance with an enforcement undertaking

15.—(1) Where, after accepting an enforcement undertaking from a person, the Commission are satisfied that the undertaking has been complied with in full they must issue a certificate to that effect.

(2) An enforcement undertaking ceases to have effect on the issue of a certificate relating to that undertaking.

(3) A person who has given an enforcement undertaking may at any time apply for a certificate, and the Commission must make a decision whether to issue a certificate within 28 days of the day on which they receive such an application.

(4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the undertaking has been complied with.

(5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—

- (a) the grounds for the decision not to issue a certificate; and
- (b) rights of appeal.

(6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information, and if the Commission revoke a certificate, the enforcement undertaking has effect as if the certificate had not been issued.

Appeals

16.—(1) A person who has given an enforcement undertaking may appeal to a county court or (in Scotland) the sheriff against a decision not to issue a certificate under paragraph 15 on the ground that the decision was—

- (a) based on an error of fact;
- (b) wrong in law; or
- (c) unfair or unreasonable.

(2) An appeal must be made within 28 days of the day on which notification of the decision was received.