

*Status: Point in time view as at 22/04/2014.*

*Changes to legislation: Political Parties, Elections and Referendums Act 2000, SCHEDULE 19C is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 19C

Section 147

#### CIVIL SANCTIONS

##### Textual Amendments

- F1** Sch. 19C inserted (1.12.2010) by [Political Parties and Elections Act 2009 \(c. 12\)](#), ss. 3(2), 43(1), [Sch. 2](#); [S.I. 2010/2866](#), art. 3(c)(f) (with art. 6)

##### Modifications etc. (not altering text)

- C1** Sch. 19C modified (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), ss. 6(6)(7), 19(1), [Sch. 9](#)

### PART 1

#### FIXED MONETARY PENALTIES

##### *Imposition of fixed monetary penalties*

- 1 (1) The Commission may by notice impose a fixed monetary penalty on a person if satisfied beyond reasonable doubt that the person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (2) The Commission may by notice impose a fixed monetary penalty on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may by notice impose a fixed monetary penalty on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may by notice impose a fixed monetary penalty on a permitted participant if satisfied beyond reasonable doubt that the responsible person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.

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- (5) For the purposes of this Schedule a “fixed monetary penalty” is a requirement to pay to the Commission a penalty of a prescribed amount.
- (6) In the case of a fixed monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—
- (a) triable summarily (whether or not it is also triable on indictment), and
  - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),
- the amount of the penalty may not exceed the maximum amount of that fine.

*Representations and appeals etc*

- 2 (1) Where the Commission propose to impose a fixed monetary penalty on a person, they shall serve on the person a notice of what is proposed.
- (2) A notice under sub-paragraph (1) must offer the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty).

The following provisions of this paragraph apply if the person does not do so.

- (3) The person may make written representations and objections to the Commission in relation to the proposed imposition of the fixed monetary penalty.
- (4) After the end of the period for making such representations and objections (see paragraph 3(2)) the Commission shall decide whether to impose the fixed monetary penalty.

If they decide to do so they shall serve on the person a notice imposing the penalty.

- (5) The Commission may not impose a fixed monetary penalty on a person—
- (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 1(1), (2), (3) or (4) (as applicable);
  - (b) in such other circumstances as may be prescribed.
- (6) A person on whom a fixed monetary penalty is imposed may appeal against the decision to impose the penalty on the ground that—
- (a) it was based on an error of fact,
  - (b) it was wrong in law, or
  - (c) it was unreasonable,
- or on such other grounds as may be prescribed.

- (7) An appeal under sub-paragraph (6) is to [<sup>F2</sup>(in England and Wales) the county court or (in Northern Ireland)] a county court or (in Scotland) the sheriff.

**Textual Amendments**

**F2** Words in Sch. 19C para. 2(7) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 121\(d\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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*Information to be included in notices under paragraph 2*

- 3 (1) A notice under paragraph 2(1) must include information as to—
- (a) the grounds for the proposal to impose the fixed monetary penalty;
  - (b) the effect of payment of the sum referred to in paragraph 2(2);
  - (c) the right to make representations and objections;
  - (d) the circumstances in which the Commission may not impose the fixed monetary penalty.
- (2) Such a notice must also specify—
- (a) the period within which liability for the fixed monetary penalty may be discharged, and
  - (b) the period within which representations and objections may be made.

Neither period may be more than 28 days beginning with the day on which the notice is received.

- (3) A notice under paragraph 2(4) must include information as to—
- (a) the grounds for imposing the fixed monetary penalty;
  - (b) how payment may be made;
  - (c) the period within which payment may be made;
  - (d) any early payment discounts or late payment penalties;
  - (e) rights of appeal;
  - (f) the consequences of non-payment.

*Fixed monetary penalties: criminal proceedings and conviction*

- 4 (1) Where a notice under paragraph 2(1) is served on a person—
- (a) no criminal proceedings for an offence under this Act may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person's liability may be discharged as mentioned in paragraph 2(2) (see paragraph 3(2));
  - (b) if the liability is so discharged, the person may not at any time be convicted of an offence under this Act in relation to that act or omission.
- (2) A person on whom a fixed monetary penalty is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the penalty.

## PART 2

### DISCRETIONARY REQUIREMENTS

*Imposition of discretionary requirements*

- 5 (1) The Commission may impose one or more discretionary requirements on a person if satisfied beyond reasonable doubt that the person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.

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- (2) The Commission may impose one or more discretionary requirements on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may impose one or more discretionary requirements on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may impose one or more discretionary requirements on a permitted participant if satisfied beyond reasonable doubt that the responsible person—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (5) For the purposes of this Schedule a “discretionary requirement” is—
  - (a) a requirement to pay a monetary penalty to the Commission of such amount as the Commission may determine,
  - (b) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the offence or contravention does not continue or recur, or
  - (c) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened.
- (6) Discretionary requirements may not be imposed on the same person on more than one occasion in relation to the same act or omission.
- (7) In this Schedule—
 

“variable monetary penalty” means such a requirement as is referred to in sub-paragraph (5)(a);

“non-monetary discretionary requirement” means such a requirement as is referred to in sub-paragraph (5)(b) or (c).
- (8) In the case of a variable monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—
  - (a) triable summarily only, and
  - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),

the amount of the penalty may not exceed the maximum amount of that fine.

*Representations and appeals etc*

- 6 (1) Where the Commission propose to impose a discretionary requirement on a person, they shall serve on the person a notice of what is proposed.

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- (2) A person served with a notice under sub-paragraph (1) may make written representations and objections to the Commission in relation to the proposed imposition of the discretionary requirement.
- (3) After the end of the period for making such representations and objections (see paragraph 7(2)) the Commission shall decide whether—
  - (a) to impose the discretionary requirement, with or without modifications, or
  - (b) to impose any other discretionary requirement that the Commission have power to impose under paragraph 5.
- (4) The Commission may not impose a discretionary requirement on a person—
  - (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 5(1), (2), (3) or (4) (as applicable);
  - (b) in such other circumstances as may be prescribed.
- (5) Where the Commission decide to impose a discretionary requirement on a person, they shall serve on the person a notice specifying what the requirement is.
- (6) A person on whom a discretionary requirement is imposed may appeal against the decision to impose the requirement on the ground—
  - (a) that the decision was based on an error of fact,
  - (b) that the decision was wrong in law,
  - (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable,
  - (d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable, or
  - (e) that the decision is unreasonable for any other reason,or on such other grounds as may be prescribed.
- (7) An appeal under sub-paragraph (6) is to [<sup>F3</sup>(in England and Wales) the county court or (in Northern Ireland)] a county court or (in Scotland) the sheriff.

#### Textual Amendments

- F3** Words in Sch. 19C para. 6(7) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 121\(d\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### *Information to be included in notices under paragraph 6*

- 7 (1) A notice under paragraph 6(1) must include information as to—
  - (a) the grounds for the proposal to impose the discretionary requirement;
  - (b) the right to make representations and objections;
  - (c) the circumstances in which the Commission may not impose the discretionary requirement.
- (2) Such a notice must also specify the period within which representations and objections may be made.

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That period may not be less than 28 days beginning with the day on which the notice is received.

- (3) A notice under paragraph 6(5) must include information as to—
- (a) the grounds for imposing the discretionary requirement;
  - (b) where the discretionary requirement is a variable monetary penalty—
    - (i) how payment may be made,
    - (ii) the period within which payment must be made, and
    - (iii) any early payment discounts or late payment penalties;
  - (c) rights of appeal;
  - (d) the consequences of non-compliance.

*Discretionary requirements: criminal conviction*

- 8 (1) A person on whom a discretionary requirement is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the requirement.
- (2) Sub-paragraph (1) does not apply where—
- (a) a non-monetary discretionary requirement is imposed on the person,
  - (b) no variable monetary penalty is imposed on the person, and
  - (c) the person fails to comply with the non-monetary discretionary requirement.

*Failure to comply with discretionary requirements*

- 9 (1) The Commission may by notice impose a monetary penalty (a “non-compliance penalty”) on a person for failing to comply with a non-monetary discretionary requirement imposed on the person.
- (2) Subject to any prescribed criteria, or any prescribed maximum or minimum amounts, the amount of a non-compliance penalty is to be such as the Commission may determine.
- (3) A person served with a notice imposing a non-compliance penalty may appeal against the notice on the ground that the decision to serve the notice—
- (a) was based on an error of fact,
  - (b) was wrong in law, or
  - (c) was unfair or unreasonable for any reason (for example because the amount is unreasonable),
- or on such other grounds as may be prescribed.
- (4) An appeal under sub-paragraph (3) is to [<sup>F4</sup>(in England and Wales) the county court or (in Northern Ireland)] a county court or (in Scotland) the sheriff.

**Textual Amendments**

- F4** Words in Sch. 19C para. 9(4) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 121\(d\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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### PART 3

#### STOP NOTICES

##### *Imposition of stop notices*

- 10 (1) Where sub-paragraph (2) or (3) applies, the Commission may serve on a person a notice (a “stop notice”) prohibiting the person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.
- (2) This sub-paragraph applies where—
- (a) the person is carrying on the activity,
  - (b) the Commission reasonably believe that the activity as carried on by the person involves or is likely to involve the person—
    - (i) committing a prescribed offence under this Act, or
    - (ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,
- and
- (c) the Commission reasonably believe that the activity as carried on by the person is seriously damaging public confidence in the effectiveness of the controls in this Act on the income and expenditure of registered parties and others, or presents a significant risk of doing so.
- (3) This sub-paragraph applies where—
- (a) the person is likely to carry on the activity,
  - (b) the Commission reasonably believe that the activity as carried on by the person will involve or will be likely to involve the person—
    - (i) committing a prescribed offence under this Act, or
    - (ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,
- and
- (c) the Commission reasonably believe that the activity as likely to be carried on by the person will seriously damage public confidence in the effectiveness of the controls mentioned in sub-paragraph (2)(c), or will present a significant risk of doing so.
- (4) The steps referred to in sub-paragraph (1) must be steps to secure that the activity is carried on or (as the case may be) will be carried on in a way that does not involve the person acting as mentioned in sub-paragraph (2)(b) or (3)(b).

##### *Information to be included in stop notices*

- 11 A stop notice must include information as to—
- (a) the grounds for serving the notice;
  - (b) rights of appeal;
  - (c) the consequences of not complying with the notice.

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### *Completion certificates*

- 12 (1) Where, after the service of a stop notice on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they shall issue a certificate to that effect (a “completion certificate”).
- (2) A stop notice ceases to have effect on the issue of a completion certificate relating to that notice.
- (3) A person on whom a stop notice is served may at any time apply for a completion certificate.

The Commission shall make a decision whether to issue a completion certificate within 14 days of the day on which they receive such an application.

### *Appeals etc*

- 13 (1) A person served with a stop notice may appeal against the decision to serve it on the ground that—
- (a) the decision was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the decision was unreasonable,
  - (d) any step specified in the notice is unreasonable, or
  - (e) the person has not acted as mentioned in paragraph 10(2)(b) or (3)(b) and would not have done so even if the stop notice had not been served,
- or on such other grounds as may be prescribed.
- (2) A person served with a stop notice may appeal against a decision not to issue a completion certificate on the ground that the decision—
- (a) was based on an error of fact,
  - (b) was wrong in law, or
  - (c) was unfair or unreasonable,
- or on such other grounds as may be prescribed.
- (3) An appeal under sub-paragraph (1) or (2) is to [<sup>F5</sup>(in England and Wales) the county court or (in Northern Ireland)] a county court or (in Scotland) the sheriff.

#### **Textual Amendments**

**F5** Words in Sch. 19C para. 13(3) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 121\(d\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

### *Failure to comply with stop notice*

- 14 A person served with a stop notice who does not comply with it is guilty of an offence.



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## PART 4

### ENFORCEMENT UNDERTAKINGS

- 15 (1) This paragraph applies where—
- (a) the Commission have reasonable grounds to suspect that a person—
    - (i) has committed a prescribed offence under this Act, or
    - (ii) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act,
  - (b) the person offers an undertaking (an “enforcement undertaking”) to take such action, within such period, as is specified in the undertaking,
  - (c) the action so specified is—
    - (i) action to secure that the offence or contravention does not continue or recur,
    - (ii) action to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened, or
    - (iii) action of a prescribed description,and
  - (d) the Commission accept the undertaking.
- (2) Unless the person has failed to comply with the undertaking or any part of it—
- (a) the person may not at any time be convicted of an offence under this Act in respect of the act or omission to which the undertaking relates;
  - (b) the Commission may not impose on the person any fixed monetary penalty that they would otherwise have power to impose by virtue of paragraph 1 in respect of that act or omission;
  - (c) the Commission may not impose on the person any discretionary requirement that they would otherwise have power to impose by virtue of paragraph 5 in respect of that act or omission.

## PART 5

### POWER TO MAKE SUPPLEMENTARY PROVISION ETC BY ORDER

#### *Supplementary orders: general*

- 16 (1) The Secretary of State may by order (a “supplementary order”)—
- (a) make provision (including transitional provision) supplementing that made by this Schedule;
  - (b) make provision that is consequential on or incidental to that made by this Schedule.
- (2) The following provisions of this Part are not to be read as limiting the power conferred by sub-paragraph (1).
- (3) A supplementary order may make provision amending, repealing or revoking an enactment (whenever passed or made).

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### *Consultation*

- 17 (1) Before making a supplementary order the Secretary of State shall consult the Commission and such other persons (if any) as the Secretary of State considers appropriate.
- (2) If, as a result of any consultation required by sub-paragraph (1), it appears to the Secretary of State that it is appropriate substantially to change the whole or any part of the proposals, the Secretary of State shall undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (3) If, before the day on which this Schedule comes into effect, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of this paragraph, those requirements may to that extent be taken to have been satisfied.

### *Monetary penalties*

- 18 (1) A supplementary order may make any of the following provision in relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty—
- (a) provision for early payment discounts;
  - (b) provision for the payment of interest or other financial penalties for late payment;
  - (c) provision for enforcement.
- (2) Provision made by virtue of sub-paragraph (1)(b) must secure that the interest or other financial penalties for late payment do not in total exceed the amount of the penalty itself.
- (3) Provision made by virtue of sub-paragraph (1)(c) may include—
- (a) provision for the Commission to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
  - (b) provision for the penalty, and any interest or other financial penalty for late payment, to be recoverable, on the order of a court, as if payable under a court order.
- (4) In relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty for failing to comply with a requirement or undertaking by the end of a particular period, a supplementary order may—
- (a) make provision under which the amount of the penalty is determined by reference to the length of time between the end of that period and the time of compliance;
  - (b) make provision for successive penalties to be payable in a case of continued failure to comply.

### *Enforcement undertakings*

- 19 A supplementary order may make any of the following provision in relation to an enforcement undertaking—
- (a) provision as to the procedure for entering into an undertaking;
  - (b) provision as to the terms of an undertaking;

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- (c) provision as to publication of an undertaking by the Commission;
- (d) provision as to variation of an undertaking;
- (e) provision as to circumstances in which a person may be regarded as having complied with an undertaking;
- (f) provision as to monitoring by the Commission of compliance with an undertaking;
- (g) provision as to certification by the Commission that an undertaking has been complied with;
- (h) provision 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 an undertaking, provision for the 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, provision for that part-compliance to be taken into account in the imposition of any criminal or other sanction on the person.

#### *Extension of time for taking criminal proceedings*

- 20 For the purposes of enabling criminal proceedings to be instituted against a person in respect of an offence under this Act—
- (a) in the case referred to in paragraph 8(2), or
  - (b) in a case where there has been a breach of an enforcement undertaking or any part of an enforcement undertaking,
- a supplementary order may make provision extending any period within which such proceedings may be instituted.

#### *Appeals*

- 21 (1) A supplementary order may make any of the following provision in relation to an appeal in respect of the imposition of a requirement, or the service of a notice, under this Schedule—
- (a) provision suspending the requirement or notice pending determination of the appeal;
  - (b) provision as to the powers of the court to which the appeal is made;
  - (c) provision as to how a sum payable in pursuance of a decision of that court is to be recoverable.
- (2) Provision made by virtue of sub-paragraph (1)(b) may in particular include provision conferring on the court to which the appeal is made—
- (a) power to withdraw the requirement or notice;
  - (b) power to confirm the requirement or notice;
  - (c) power to take such steps as the Commission could take in relation to the act or omission giving rise to the requirement or notice;
  - (d) power to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Commission;
  - (e) power to award costs or (in the case of a court in Scotland) expenses.

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## PART 6

### GENERAL AND SUPPLEMENTAL

#### *Combination of sanctions*

- 22 (1) The Commission may not serve on a person a notice under paragraph 2(1) (notice of proposed fixed monetary penalty) in relation to any act or omission in relation to which—
- (a) a discretionary requirement has been imposed on that person, or
  - (b) a stop notice has been served on that person.
- (2) The Commission may not serve on a person a notice under paragraph 6(1) (notice of proposed discretionary requirement), or serve a stop notice on a person, in relation to any act or omission in relation to which—
- (a) a fixed monetary penalty has been imposed on that person, or
  - (b) the person's liability for a fixed monetary penalty has been discharged as mentioned in paragraph 2(2).

#### *Use of statements made compulsorily*

- 23 (1) The Commission must not take into account a statement made by a person in compliance with a requirement imposed under Schedule 19B in deciding whether—
- (a) to impose a fixed monetary penalty on the person;
  - (b) to impose a discretionary requirement on the person;
  - (c) to serve a stop notice on the person.
- (2) Sub-paragraph (1)(a) or (b) does not apply to a penalty or requirement imposed in respect of an offence under paragraph 13(3) of Schedule 19B (providing false information in purported compliance with a requirement under that Schedule).

#### *Unincorporated associations*

- 24 Any amount that is payable under this Schedule by an unincorporated association shall be paid out of the funds of the association.

#### *Guidance as to enforcement*

- 25 (1) The Commission shall prepare and publish guidance as to—
- (a) the sanctions (including criminal sanctions) that may be imposed on a person who—
    - (i) commits an offence under this Act, or
    - (ii) contravenes a restriction or requirement that is prescribed for the purposes of paragraph 1, 5, 10 or 15;
  - (b) the action that the Commission may take in relation to such a person (whether by virtue of this Schedule or otherwise);
  - (c) the circumstances in which the Commission are likely to take any such action.
- (2) The guidance must include guidance about the Commission's use of the power to impose a fixed monetary penalty, with information as to—
- (a) the circumstances in which such a penalty may not be imposed;

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- (b) the amount of such a penalty;
  - (c) how liability for such a penalty may be discharged and the effect of discharge;
  - (d) rights to make representations and objections and rights of appeal in relation to such a penalty.
- (3) The guidance must include guidance about the Commission's use of the power to impose a discretionary requirement, with information as to—
- (a) the circumstances in which such a requirement may not be imposed;
  - (b) rights to make representations and objections and rights of appeal in relation to such a requirement;
  - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the Commission in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance).
- (4) The guidance must include guidance about the Commission's use of the power to serve a stop notice, with information as to—
- (a) the circumstances in which such a notice may not be served;
  - (b) rights of appeal in relation to such a notice.
- (5) The guidance must include guidance about the Commission's use of the power to accept an enforcement undertaking.
- (6) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.
- (7) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph.
- (8) The Commission shall have regard to the guidance or revised guidance published under this paragraph in exercising their functions.

#### *Payment of penalties etc into Consolidated Fund*

- 26 Where, in pursuance of any provision contained in or made under this Schedule, the Commission receive—
- (a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty,
  - (b) any interest or other financial penalty for late payment of such a penalty, or
  - (c) a sum paid as mentioned in paragraph 2(2) (in discharge of liability for a fixed monetary penalty),
- they shall pay it into the Consolidated Fund.

#### *Reports on use of civil sanctions*

- 27 (1) Each report by the Commission under paragraph 20 of Schedule 1 shall contain information about the use made by the Commission of their powers under this Schedule during the year in question.
- (2) The report shall, in particular, specify—

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- (a) the cases in which a fixed monetary penalty or discretionary requirement was imposed or a stop notice served (other than cases in which the penalty, requirement or notice was overturned on appeal);
  - (b) the cases in which liability for a fixed monetary penalty was discharged as mentioned in paragraph 2(2);
  - (c) the cases in which an enforcement undertaking was accepted.
- (3) This paragraph does not require the Commission to include in a report any information that, in their opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
  - (b) might adversely affect any current investigation or proceedings.

#### *Disclosure of information*

- 28 (1) Information held by or on behalf of—
- (a) the Crown Prosecution Service,
  - (b) a member of a police force in England and Wales,
  - (c) a Procurator Fiscal,
  - (d) a constable of [<sup>F6</sup>the Police Service of Scotland] ,
  - (e) the Public Prosecution Service for Northern Ireland, or
  - (f) a member of the Police Service of Northern Ireland,
- may be disclosed to the Commission for the purpose of the exercise by the Commission of any powers conferred on them under or by virtue of this Schedule.
- (2) It is immaterial for the purposes of sub-paragraph (1) whether the information was obtained before or after the coming into effect of this Schedule.
- (3) A disclosure under this paragraph is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (4) Nothing in this paragraph authorises the making of a disclosure in contravention of—
- (a) the Data Protection Act 1998, or
  - (b) Part 1 of the Regulation of Investigatory Powers Act 2000.
- (5) This paragraph does not affect a power to disclose that exists apart from this paragraph.

#### **Textual Amendments**

**F6** Words in Sch. 19C para. 28(1)(d) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 34**

## **PART 7**

### INTERPRETATION

#### *Interpretation of Schedule*

- 29 In this Schedule—

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- “completion certificate” has the meaning given in paragraph 12(1);
- “discretionary requirement” has the meaning given in paragraph 5(5);
- “enforcement undertaking” has the meaning given in paragraph 15(1)(b);
- “fixed monetary penalty” has the meaning given in paragraph 1(5);
- “non-compliance penalty” has the meaning given in paragraph 9(1);
- “non-monetary discretionary requirement” has the meaning given in paragraph 5(7);
- “permitted participant” has the meaning given in section 105(1);
- “prescribed” means prescribed in a supplementary order;
- “recognised third party” has the meaning given in section 85(5);
- “responsible person”—
  - (a) in relation to a recognised third party, has the meaning given in section 85(7);
  - (b) in relation to a permitted participant, has the meaning given in section 105(2);
- “stop notice” has the meaning given in paragraph 10(1);
- “supplementary order” has the meaning given in paragraph 16(1);
- “variable monetary penalty” has the meaning given in paragraph 5(7).]

**Status:**

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