
STATUTORY INSTRUMENTS

2013 No. 1635

**The Legal Aid, Sentencing and Punishment of
Offenders Act 2012 (Referral Fees) Regulations 2013**

PART 8

Notices

Requirement to issue warning notice

25.—(1) Where the FCA proposes to—

- (a) publish a statement under regulation 14 or 15,
- (b) impose a penalty under regulation 16,
- (c) impose a restriction on permission under regulation 17, or
- (d) suspend or restrict an approval under regulation 18,

it must give the person concerned a warning notice.

(2) The warning notice must set out the following—

- (a) in the case of a statement under regulation 14 or 15, the terms of the statement;
- (b) in the case of a penalty under regulation 16, the amount of the penalty;
- (c) in the case of a restriction on permission under regulation 17, the period for which the restriction is to have effect;
- (d) in the case of a suspension or restriction on approval under regulation 18, the period for which the suspension or restriction is to have effect.

Requirement to issue decision notice

26.—(1) If, having considered any representations made in response to the warning notice, the FCA decides to—

- (a) publish a statement under regulation 14 or 15;
- (b) impose a penalty under regulation 16;
- (c) impose a restriction on permission under regulation 17;
- (d) suspend or restrict an approval under regulation 18;

it must without delay give the person concerned a decision notice.

(2) The decision notice must set out the following—

- (a) in the case of a statement under regulation 14 or 15, the terms of the statement;
- (b) in the case of a penalty under regulation 16, the amount of the penalty;
- (c) in the case of a restriction on permission under regulation 17, the period for which the restriction is to have effect;

- (d) in the case of a suspension or restriction on approval under regulation 18, the period for which the suspension or restriction is to have effect.

Warning notices and decision notices: approved persons

27.—(1) Where the FCA proposes to suspend or restrict an approval under regulation 18, a warning notice and decision notice must also be given to each of the other interested parties.

- (2) “Other interested parties” has the meaning given in section 67(9) of the 2000 Act.(1)

Referral to Tribunal

28. If the FCA decides to publish a statement under regulation 14 or 15, impose a penalty under regulation 16, impose a restriction on permission under regulation 17, or impose a suspension or restriction on approval under regulation 18, the person concerned may refer the matter to the Tribunal.

Statements of policy

29.—(1) Sections 69 (statements of policy) and 70 (statements of policy: procedure) of the 2000 Act(2) apply in respect of the imposition of penalties, suspensions or restrictions under regulations 16(2) and 18, and the amount of penalty or duration of suspension or restriction as they apply in respect of the imposition of penalties, suspensions or restrictions under Part 5 (performance of regulated activities) of the 2000 Act and the amount of penalty or duration of suspension or restriction under that Part of that Act.

(2) Sections 210 (statements of policy) and 211 (statements of policy: procedure) of the 2000 Act(3) apply in respect of the imposition of penalties or restrictions under regulations 16(1) and 17 and the amount of penalty or duration of restriction, as they apply in respect of the imposition of penalties, suspensions or restrictions under Part 14 (disciplinary measures) of the 2000 Act and the amount of penalty or duration of suspension or restriction under that Part of that Act.

(3) After a statement under regulation 14 or 15 is published, the FCA must send a copy of it to the person concerned and to any person to whom a copy of the decision notice was given under section 393(4) of the 2000 Act(4) (third party rights) (as applied by regulation 30).

Application of Part 26 of the 2000 Act

30.—(1) Part 26 (notices)(5) of the 2000 Act applies for the purpose of these Regulations with the following modifications.

- (2) In section 387 (warning notices) omit subsections (1A) and (3A).

- (3) In section 388 (decision notices) omit subsections (1A) and (2).

(4) In section 390 (final notices) in subsection (10) omit “or, in Scotland, by an order under section 45 of the Court of Session Act 1988”.

- (5) In section 391 (publication)—

- (a) omit subsections (1), (1ZB), (5), (5A), (6A), (8) and (10);

(1) Section 67(9) was amended by the Financial Services Act 2012, Schedule 5, paragraph 15(1), (4).

(2) Section 69 was amended by the Financial Services Act 2010, Schedule 2, paragraph 10 and Financial Services Act 2012, Schedule 5, paragraph 17. Section 70 was amended by the Financial Services Act 2012, Schedule 5, paragraph 18.

(3) Section 210 was amended by the Financial Services Act 2010, Schedule 2, paragraph 20 and the Financial Services Act 2012, Schedule 9, paragraph 17. Section 211 was amended by the Financial Services Act 2012, Schedule 9, paragraph 18.

(4) Section 393 was amended by the Financial Services Act 2012, Schedule 9, paragraph 32.

(5) Part 26 was amended by section 82 of and Schedule 4 to the Regulation of Investigatory Powers Act 2000 (c. 23), sections 13 and 24 of and Schedule 2 to the Financial Services Act 2010, Schedule 9 to the Financial Services Act 2012, S.I. 2005/381, S.I. 2005/1433, S.I. 2007/126, S.I. 2007/1973, S.I. 2009/534, S.I. 2010/22, S.I. 2010/747 and S.I. 2012/916.

- (b) for subsection (1ZA) substitute—
 - “(1ZA) Neither the FCA nor a person to whom a warning notice is given or copied may publish the notice or any details concerning it.”;
 - (c) in subsection (7A), omit “or (5)” and “or a supervisory notice”.
- (6) For section 392 substitute—

“Application of sections 393 and 394

- 392.** Sections 393 and 394 apply to—
- (a) a warning notice given by virtue of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013;
 - (b) a decision notice given by virtue of those Regulations.”.
- (7) In section 395 (the FCA’s and PRA’s procedures)—
- (a) omit subsections (1)(a), (c) and (d), (3), (4), (9A) and (13);
 - (b) omit subsection (1)(b)(ii), and the “, or” preceding it;
 - (c) in subsection (2)(a) for “any of paragraphs (a) to (c)” substitute “paragraph (b)”;
 - (d) omit subsection (2)(b) and (c);
 - (e) in subsection (9), omit the words “supervisory notice, or a” and “other than a warning notice or decision notice relating to a decision of the PRA that is required by a decision of the FCA of the kind mentioned in subsection (1)(b)(ii)”.