Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 ISBN 978-0-11-149816-3*

Draft Order laid before Parliament under section 156(4A) of the Political Parties, Elections and Referendums Act 2000 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

REPRESENTATION OF THE PEOPLE

The Political Parties, Elections and Referendums (Civil Sanctions) Order 2010

Made - - - -	*****
Coming into force - -	*1st July 2010*

The Secretary of State makes the following Order in exercise of the powers conferred by paragraphs 1, 2, 5, 9, 10, 15, 16, 18, 19, and 21 of Schedule 19C to the Political Parties, Elections and Referendums Act 2000(**1**).

The Secretary of State has consulted the Electoral Commission pursuant to paragraphs 17(1) and (3) of Schedule 19C to the Political Parties, Elections and Referendums Act 2000(**2**).

In accordance with section 156(4A) of the Political Parties, Elections and Referendums Act 2000, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 and comes into force on 1st July 2010.

Interpretation

2. In this Order,

"the 2000 Act" means the Political Parties, Elections and Referendums Act 2000;

"a compliance notice" means a notice imposing a requirement under paragraph 5(5)(b) of Schedule 19C;

"a final notice" means a notice under paragraphs 2(4) or 6(5) of Schedule 19C;

"a notice of intent" means a notice under paragraphs 2(1) or 6(1) of Schedule 19C; and

(**1**) 2000 c.41. Schedule 19C is inserted by section 3(2) of and Schedule 2 to the Political Parties and Elections Act 2009.
(**2**) Paragraph 17(1) of Schedule 19C Act requires the Secretary of State to consult with the Commission and such other persons as he considers appropriate. With reference to paragraph 17(3), the Secretary of State consulted with the Electoral Commission both prior to and after Schedule 19C came into effect.

"a restoration notice" means a notice imposing a requirement under paragraph 5(5)(c) of Schedule 19C; and

"Schedule 19C" means Schedule 19C to the 2000 Act.

Provision made by Schedule 1

3.—(1) Part 1 of Schedule 1 makes provision for fixed monetary penalties(**3**).

(2) Part 2 of Schedule 1 makes provision for discretionary requirements(**4**).

(3) Part 3 of Schedule 1 makes provision for stop notices(**5**).

(4) Part 4 of Schedule 1 makes provision for enforcement undertakings(**6**).

Prescribed offences and prescribed restrictions and requirements

4.—(1) The offences prescribed for the purposes of paragraphs 1(1)(a) (fixed monetary penalties), 5(1)(a) (discretionary requirements), 10(2)(b)(i) and 10(3)(b)(i) (stop notices), and 15(1)(a)(i) (enforcement undertakings) of Schedule 19C are specified in Part 1 of Schedule 2.

(2) The requirements or restrictions prescribed for the purposes of paragraphs 1(1)(b), 5(1)(b), 10(2)(b)(ii) and 10(3)(b)(ii), and 15(1)(a)(ii) of Schedule 19C are specified in Part 2 of Schedule 2.

(3) The offences, requirements or restrictions prescribed for the purposes of paragraph 1(2), (3) and (4) (fixed monetary penalties) and 5(2), (3) and (4) (discretionary requirements) of Schedule 19C are specified in Part 3 of Schedule 2.

Recovery of payments

5.—(1) In England and Wales and Northern Ireland, the Commission(**7**) may recover a monetary penalty, any interest or other financial penalty for late payment on the order of a court, as if payable under a court order.

(2) In Scotland, the Commission may recover a monetary penalty, any interest or other financial penalty for late payment as a civil debt.

Non-compliance penalties

6.—(1) The amount of a non-compliance penalty must be determined by the Commission having regard to all the circumstances of the case and must be not less than £500 or more than £20,000.

(2) The notice imposing a non-compliance penalty must include information as to—

(a) the grounds for imposing the non-compliance penalty;

(b) the amount to be paid;

(c) the period in which payment must be made, which must not be less than 28 days beginning with the date on which the notice imposing the penalty was received;

(d) rights of appeal; and

(e) the consequences of failure to make payment in the specified time.

(3) A non-compliance penalty must be paid to the Commission.

(**3**) "Fixed monetary penalty" is defined at paragraph 1(5) of Schedule 19C.
(**4**) "Discretionary requirement" is defined at paragraph 5(5) of Schedule 19C.
(**5**) "Stop notice" is defined at paragraph 10(1) of Schedule 19C.
(**6**) "Enforcement undertaking" is defined at paragraph 15(1)(b) of Schedule 19C.
(**7**) "The Commission" is defined in section 1(1) of the 2000 Act.

(4) If the steps specified in the compliance notice or restoration notice are completed (and a certificate is issued by the Commission under paragraph 7 of Part 2 of Schedule 1) before the time set for payment of the non-compliance penalty the Commission may by notice waive, or reduce the amount of, any penalty imposed under paragraph 9(1) of Schedule 19C.

(5) An appeal under paragraph 9(3) of Schedule 19C against a notice imposing a non-compliance penalty must be made within 28 days of the day on which the notice was received.

Withdrawal or variation of notices

7.—(1) The Commission may by notice at any time withdraw, reduce the monetary amount payable under, or reduce the steps to be taken under, any final notice.

(2) The Commission may by notice at any time withdraw a stop notice (without prejudice to their power to serve another in respect of the activity specified in the withdrawn notice).

Appeals

8.—(1) Where an appeal under paragraph 13(1) or (2) of Schedule 19C is made, the stop notice is not suspended unless suspended or varied on the order of the county court or (in Scotland) the sheriff.

(2) On an appeal under paragraph 2(6), 6(6), 9(3), 13(1) or (2) of Schedule 19C or under paragraph 16 of Part 4 of Schedule 1 to this Order the county court or (in Scotland) the sheriff may—

(a) withdraw the requirement or notice;

(b) confirm the requirement or notice;

(c) vary the requirement or notice;

(d) take such steps as the Commission could take in relation to the act or omission giving rise to the requirement or notice;

(e) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Commission.

Transitional arrangements

9.—(1) A fixed monetary penalty or discretionary requirement may not be imposed on, nor an enforcement undertaking accepted from, a person in relation to any offence, or the contravention of any restriction or requirement, which constitutes an offence or contravention by reason of any act or omission which occurs before 1st July 2010.

(2) A stop notice may not be imposed on a person in relation to any offence, or the contravention of any restriction or requirement, which the Commission reasonably believe has occurred or will occur before 1st July 2010.

Signed by authority of the Secretary of State

Name
Minister of State
Ministry of Justice

Date

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 amount 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 notice is suspended from the date that the appeal is made.

(3) The suspension has effect until the date that 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 date 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)) remains unpaid after 56 days from the date 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, is payable within 28 days of the date of determination 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)) remains unpaid after 56 days from the date of the determination of an unsuccessful 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.

Appeals

6.—(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 notice is suspended from the date that the appeal is made.

(3) The suspension has effect until the date that the appeal is determined or withdrawn.

Completion

7.—(1) Where, after the service of a compliance notice or a restoration notice on a person, the Commission is 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 is 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 paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine that the compliance notice or restoration notice has been complied with.

(5) Where the Commission decides not to issue a certificate they must notify the person and provide that person with information as to–

(a) the grounds for the decision not to issue a certificate; and

(b) rights of appeal.

(6) A person may appeal against a decision not to issue a certificate, and any such appeal must be made within 28 days of the day on which notification of the decision was received.

(7) 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.

Late payment

8.—(1) Subject to sub-paragraphs (4) and (5), in the case of a variable monetary penalty, the penalty must be paid within 28 days of the date 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)) remains unpaid after 56 days from the final notice being 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, is payable within 28 days of the date of determination 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)) remains unpaid after 56 days from the date of determination of an unsuccessful appeal the amount payable is the level of the variable monetary penalty originally imposed increased by 50%.