

Changes to legislation: Regulatory Enforcement and Sanctions Act 2008, PART 3 is up to date with all changes known to be in force on or before 10 May 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) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 4A

REFERENCES TO THE SECRETARY OF STATE

Textual Amendments

- F1** [Sch. 4A](#) substituted (4.5.2016 for specified purposes, 1.10.2017 in so far as not already in force) by [Enterprise Act 2016 \(c. 12\), s. 44\(1\)\(c\), Sch. 3; S.I. 2017/473, reg. 3\(b\)](#)

PART 3

GENERAL

Timing

- 5 (1) Any reference under this Schedule must be made as soon as is reasonably practicable, and in any event within the referral period.
- (2) The “referral period” for the purposes of a reference under paragraph 1(1) is the period which—
- (a) begins when the regulated person or the member is notified under section 25B(2)(a) of the proposed enforcement action, and
 - (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct.
- (3) The “referral period” for the purposes of a reference under paragraph 2(1) is the period which—
- (a) begins when the enforcing authority is directed under section 25C(4) not to take the proposed enforcement action, and
 - (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct.
- (4) The “referral period” for the purposes of a reference under paragraph 3(1) is the period which—
- (a) begins when the regulated person or the member is informed under section 25C(6)(a) that the enforcing authority continues to propose to take the enforcement action, and
 - (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct.
- (5) The “referral period” for the purposes of a reference under paragraph 4(1) is the relevant period under section 25C(9).

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- (6) The Secretary of State must determine a reference under this Schedule within the period of 28 days beginning with the day on which the reference is made.
- (7) The primary authority (in the case of a reference under paragraph 1(1)) or the enforcing authority (in the case of a reference under paragraph 2(1), 3(1) or 4(1)) may not take the proposed enforcement action at any time after the making of the reference and before its determination.

Consultation

- 6 (1) Before determining a reference under this Schedule, the Secretary of State—
 - (a) must consult any relevant regulator, where appropriate, and
 - (b) may consult other persons.
- (2) In sub-paragraph (1)(a), “relevant regulator” means a person who has regulatory functions which relate to the matter to which the determination relates.
- (3) But a person is not a “relevant regulator” within the meaning of sub-paragraph (1)
 - (a) if—
 - (a) the person is a qualifying regulator, and
 - (b) the partnership function pursuant to which the proposed enforcement action would be taken is a relevant function of the person.

Information

- 7 (1) For the purposes of determining whether to consent to a reference under this Schedule, or of determining such a reference, the Secretary of State may require any of the following to provide the Secretary of State with information—
 - (a) the primary authority;
 - (b) in the case of a reference under paragraph 2(1), 3(1) or 4(1), the enforcing authority;
 - (c) the regulated person concerned or the member of the regulated group concerned.
- (2) The information must be information which the authority, person or member may lawfully provide to the Secretary of State.

Secretary of State's costs

- 8 The Secretary of State may require the regulated person or a member of the regulated group to pay reasonable costs incurred by the Secretary of State as a result of—
 - (a) a reference by the regulated person or the member under paragraph 1(1) or 3(1), or
 - (b) an application by the regulated person or the member for consent to make such a reference.

Procedure

- 9 The Secretary of State may by regulations make further provision as to the procedure to be followed for the purposes of this Schedule.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 70(6) inserted by [2018 c. 12 Sch. 19 para. 152\(3\)](#)