



Identity Cards Act 2006

2006 CHAPTER 15

Civil penalties

31 Imposition of civil penalties

- (1) This section applies where the Secretary of State is satisfied that a person (“the defaulter”) is a person who is liable under this Act to a civil penalty not exceeding a specified amount.
- (2) The Secretary of State may, by a notice given to the defaulter in the prescribed manner, impose on him a penalty of such amount, not exceeding the specified amount, as the Secretary of State thinks fit.
- (3) A notice imposing such a penalty must—
 - (a) set out the Secretary of State’s reasons for deciding that the defaulter is liable to a penalty;
 - (b) state the amount of the penalty that is being imposed;
 - (c) specify a date before which the penalty must be paid to the Secretary of State;
 - (d) describe how payment may be made;
 - (e) explain the steps that the defaulter may take if he objects to the penalty; and
 - (f) set out and explain the powers of the Secretary of State to enforce the penalty.
- (4) The date for the payment of a penalty must be not less than 14 days after the giving of the notice imposing it.
- (5) A penalty imposed in accordance with this section—
 - (a) must be paid to the Secretary of State in a manner described in the notice imposing it; and
 - (b) if not so paid by the specified date, is to be recoverable by him accordingly.
- (6) In proceedings for recovery of a penalty so imposed no question may be raised as to—
 - (a) whether the defaulter was liable to the penalty;
 - (b) whether the imposition of the penalty was unreasonable; or
 - (c) the amount of the penalty.

- (7) Sums received by the Secretary of State in respect of penalties imposed in accordance with this section must be paid into the Consolidated Fund.

32 Objection to penalty

- (1) A person to whom a notice under section 31 has been given may give notice to the Secretary of State that he objects to the penalty on one or more of the following grounds—
- (a) that he is not liable to it;
 - (b) that the circumstances of the contravention in respect of which he is liable make the imposition of a penalty unreasonable;
 - (c) that the amount of the penalty is too high.
- (2) The notice of objection—
- (a) must set out the grounds of the objection and the objector's reasons for objecting on those grounds; and
 - (b) must be given to the Secretary of State in the prescribed manner and within the prescribed period after the giving of the notice imposing the penalty.
- (3) The Secretary of State must consider a notice of objection given in accordance with this section and may then—
- (a) cancel the penalty;
 - (b) reduce it;
 - (c) increase it; or
 - (d) confirm it.
- (4) The Secretary of State must not enforce a penalty in respect of which he has received a notice of objection before he has notified the objector of the outcome of his consideration of the objection.
- (5) That notification of the outcome of his consideration must be given, in the prescribed manner—
- (a) before the end of the prescribed period; or
 - (b) within such longer period as he may agree with the objector.
- (6) Where, on consideration of an objection, the Secretary of State increases the penalty, he must give the objector a new penalty notice under section 31; and, where he reduces it, he must notify the objector of the reduced amount.

33 Appeals against penalties

- (1) A person on whom a penalty has been imposed under section 31 may appeal to the court on one or more of the following grounds—
- (a) that he is not liable to it;
 - (b) that the circumstances of the contravention in respect of which he is liable make the imposition of a penalty unreasonable;
 - (c) that the amount of the penalty is too high.
- (2) An appeal under this section must be brought within such period after the giving of the notice imposing the penalty to which it relates as may be specified by rules of court.
- (3) On an appeal under this section, the court may—

- (a) allow the appeal and cancel the penalty;
 - (b) allow the appeal and reduce the penalty; or
 - (c) dismiss the appeal.
- (4) An appeal under this section shall be by way of a rehearing of the Secretary of State's decision to impose the penalty.
- (5) The matters to which the court may have regard when determining an appeal under this section include all matters that the court considers relevant, including—
- (a) matters of which the Secretary of State was unaware when he made his decision; and
 - (b) matters which (apart from this subsection) the court would be prevented from having regard to by virtue of rules of court.
- (6) An appeal under this section may be brought in relation to a penalty irrespective of whether a notice of objection under section 32 has been given in respect of that penalty and of whether there has been an increase or reduction under that section.
- (7) In this section “the court” means—
- (a) in England and Wales or Northern Ireland, a county court; and
 - (b) in Scotland, the sheriff.

34 Code of practice on penalties

- (1) The Secretary of State must issue a code of practice setting out the matters that must be considered when determining—
- (a) whether a civil penalty should be imposed under this Act; and
 - (b) the amount of such a penalty.
- (2) The Secretary of State must have regard to the code when—
- (a) imposing a civil penalty under this Act; or
 - (b) considering a notice of objection under section 32.
- (3) The court must have regard to the code when determining any appeal under section 33.
- (4) Before issuing the code, the Secretary of State must lay a draft of it before Parliament.
- (5) Before a draft code under this section is laid before Parliament, the Secretary of State must take such steps as he thinks fit—
- (a) for securing that members of the public in the United Kingdom are informed about the proposed code; and
 - (b) for consulting them about it.
- (6) The code issued under this section does not come into force until the time specified by order made by the Secretary of State.
- (7) The Secretary of State may from time to time—
- (a) revise the whole or a part of the code; and
 - (b) issue the revised code.
- (8) Subsections (4) to (6) apply to a revised code as they apply to the code first issued under this section.

Status: This is the original version (as it was originally enacted).

- (9) The power of the Secretary of State to make an order containing (with or without other provision) a provision authorised by this section is exercisable, on the first occasion on which an order is made under this section, only if a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) A statutory instrument containing an order which—
- (a) contains provisions that the Secretary of State is authorised to make by this section, and
 - (b) is not an order a draft of which is required to have been laid before Parliament and approved by a resolution of each House,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.