Energy Act 2010

2010 CHAPTER 27

PART 3

REGULATION OF GAS AND ELECTRICITY MARKETS

Exploitation of electricity trading and transmission arrangements

21 Penalties: appeals

(1) This section applies in relation to any penalty under section 27A of the Electricity Act 1989 which relates to a relevant condition (within the meaning of that section) that has effect by virtue of the exercise of the power in section 18(1).

(2) The licence holder upon whom the penalty is imposed may appeal to the Tribunal against—

- (a) the imposition of the penalty,
- (b) the amount of the penalty, or
- (c) any date by which the penalty, or any part of it, is required to be paid.

(3) On an appeal under this section, the Tribunal may do any of the following—

- (a) uphold the penalty;
- (b) set aside the penalty;
- (c) substitute for the penalty a penalty of an amount decided by the Tribunal;
- (d) vary any date by which the penalty, or any part of it, is required to be paid.

(4) If an appeal is made under this section, the penalty is not required to be paid until the appeal has been determined.

(5) Subsections (2) to (4) do not restrict the power to make Tribunal rules; and those subsections are subject to Tribunal rules.

(6) Except as provided by this section, the validity of the penalty may not be questioned by any legal proceedings whatever.

(7) In the case of an appeal under this section—

(a) a decision of the Tribunal has the same effect as, and may be enforced in the same manner as, a decision of the Authority;

(b) section 27A(10) of the Electricity Act 1989 (payment into the Consolidated Fund) applies to penalties which the Tribunal substitutes under subsection (3)(c) above as it applies to penalties imposed by the Authority.

(8) In this section—

"Tribunal" means the Competition Appeal Tribunal;

"Tribunal rules" means rules under section 15 of the Enterprise Act 2002.