

SCHEDULE 5

Regulations 32(4), 54(8) and 61(4)

MONETARY PENALTIES

Introduction

1. This Schedule applies in relation to the imposition by the Secretary of State of a monetary penalty under these Regulations.

Procedure

2.—(1) Before imposing a monetary penalty under these Regulations, the Secretary of State must notify the person on whom the penalty is to be imposed of the Secretary of State's intention to do so.

(2) The notice must—

- (a) specify the proposed amount of the penalty (which must not exceed £50,000),
- (b) specify the Secretary of State's reasons for proposing to impose the penalty,
- (c) specify the period during which the person on whom the penalty is to be imposed may make representations about the proposal ("the specified period"), and
- (d) specify the way in which those representatives may be made.

(3) The specified period must not be less than 28 days beginning with the date on which the notice is received.

(4) The Secretary of State must have regard to any representations made by the person during the specified period in deciding whether to impose a monetary penalty on it.

(5) Having decided whether or not to impose a monetary penalty, the Secretary of State must notify the person of the Secretary of State's decision.

(6) Where the decision is to impose a monetary penalty, the notice must specify—

- (a) the amount of the penalty, and
- (b) the period within which the penalty must be paid or the periods within which different portions of the penalty must be paid.

(7) The notice must also contain information as to—

- (a) the grounds for imposing the penalty,
- (b) how payment may be made,
- (c) rights of appeal,
- (d) the period within which an appeal may be made, and
- (e) the consequences of non-payment.

(8) The requirement to pay the penalty is suspended at any time when an appeal could be brought in respect of the penalty or such an appeal is pending.

(9) But sub-paragraph (8) does not prevent the requirement to pay taking effect if the person notifies the Secretary of State that it does not intend to appeal.

Appeals

3.—(1) A person on whom a monetary penalty is imposed, may appeal to the First-tier Tribunal against—

- (a) a decision under these Regulations to impose a monetary penalty on the person;
- (b) a decision as to the amount of the penalty.

Status: This is the original version (as it was originally made).

- (2) An appeal under this paragraph may be made on the grounds—
 - (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) On an appeal under this paragraph the Tribunal may—
 - (a) withdraw the requirement to pay the penalty;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the Secretary of State.

Interest and recovery

4.—(1) This paragraph applies if all or part of a monetary penalty imposed under these Regulations is unpaid by the time when it is required to be paid.

- (2) The unpaid amount of the penalty for the time being—
 - (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838⁽¹⁾, and
 - (b) does not also carry interest as a judgment debt under that section.
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the penalty.
- (4) The Secretary of State may recover from the person on whom it is imposed, as a civil debt, the unpaid amount of the penalty and any unpaid interest.
- (5) Any sums received by the Secretary of State by way of a penalty imposed under these Regulations or interest under this paragraph must be paid into the Consolidated Fund.

(1) 1838 c.110.