



Tax Collection and Management (Wales) Act 2016

2016 anaw 6

PART 5

PENALTIES

CHAPTER 5

PENALTIES RELATING TO INVESTIGATIONS

Penalties for failure to comply or obstruction

146 Penalty for failure to comply with information notice or obstruction

- (1) This section applies to a person who—
 - (a) fails to comply with an information notice,
 - (b) deliberately obstructs WRA in the course of an inspection, or in the exercise of a power, that has been approved by the tribunal under section 108,
 - (c) deliberately obstructs WRA in the exercise of its power under section 113(3),
or
 - (d) fails to comply within a reasonable time with a requirement under section 113(5).
- (2) The person is liable to a penalty of £300.
- (3) The reference to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of (or arranges for the concealment, destruction or disposal of) a document in breach of section 114 or 115.

Status: This is the original version (as it was originally enacted).

147 Daily default penalty for failure to comply with information notice or obstruction

- (1) This section applies if the failure or obstruction mentioned in section 146(1) continues after the day on which a penalty notice is issued under section 153(1)(b) in respect of the failure or obstruction.
- (2) But this section does not apply if—
 - (a) the failure is in respect of a debtor contact notice, or
 - (b) a decision relating to the penalty under section 146 in respect of the failure or obstruction is the subject of—
 - (i) a review for which notice of the conclusions has not yet been issued, or
 - (ii) an appeal which has not yet been finally determined or withdrawn.
- (3) The person is liable to a further penalty or penalties not exceeding £60 for each day on which the failure or obstruction continues.

148 Effect of extension of time limit for compliance

Liability to a penalty under section 146 or 147 does not arise in respect of a failure by a person to do anything required to be done within a limited period of time if the person did it within such further time (if any) as WRA may have allowed.

149 Reasonable excuse for failure to comply or obstruction

- (1) Liability to a penalty under section 146 or 147 does not arise if the person satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for the failure or the obstruction of WRA.
- (2) For the purposes of this section—
 - (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control;
 - (b) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction;
 - (c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

Further penalties for continuing failure to comply or obstruction

150 Increased daily default penalty for failure to comply with information notice

- (1) This section applies if—
 - (a) a penalty under section 147 is assessed under section 153 in respect of a person's failure to comply with an unidentified third party notice,
 - (b) the failure continues for more than 30 days beginning with the day on which notice of the penalty was issued, and

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- (c) the person has been told that an application may be made under this section for an increased daily penalty to be imposed.
- (2) WRA may make an application to the tribunal for an increased daily penalty to be imposed on the person.
- (3) But WRA may not make such an application if a decision relating to a penalty under section 146 or 147 in respect of the failure is the subject of—
 - (a) a review for which notice of the conclusions has not yet been issued, or
 - (b) an appeal which has not yet been finally determined or withdrawn.
- (4) If the tribunal decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—
 - (a) the person is not liable to a penalty under section 147 for the failure, and
 - (b) the person is liable instead to a penalty under this section of an amount determined by the tribunal.
- (5) The tribunal may not determine an amount exceeding £1,000 for each applicable day.
- (6) In determining the amount the tribunal must have regard to—
 - (a) the likely cost to the person of complying with the notice,
 - (b) any benefits to the person of not complying with it, and
 - (c) any benefits to anyone else resulting from the person’s non-compliance.
- (7) If a person becomes liable to a penalty under this section, WRA must issue to the person notice of that fact.
- (8) The notice must state the first day on which the increased penalty is to apply.
- (9) That day and any subsequent day on which the failure continues is an “applicable day” for the purposes of this section and section 153(4).

151 Tax-related penalty for failure to comply with information notice or obstruction

- (1) This section applies where—
 - (a) a person becomes liable to a penalty under section 146,
 - (b) the failure or obstruction continues after the day on which a penalty notice is issued under section 153(1)(b) in respect of the penalty,
 - (c) WRA has reason to believe that, as a result of the failure or obstruction, the amount of devolved tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,
 - (d) before the end of the period of 12 months beginning with the relevant date, WRA makes an application to the Upper Tribunal for an additional penalty to be imposed on the person (see subsection (6)) and gives notice of the application to the person, and
 - (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.
- (2) The person is liable to a penalty of an amount determined by the Upper Tribunal.
- (3) In determining the amount, the Upper Tribunal must have regard to the amount of devolved tax which has not been, or is not likely to be, paid by the person.

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- (4) Any penalty under this section is in addition to the penalty or penalties under section 146 or 147.
- (5) In subsection (1)(d), the “relevant date” means—
- (a) in a case involving an information notice against which a person may appeal, the latest of—
 - (i) the day on which the person became liable to the penalty under section 146,
 - (ii) if no appeal against the information notice is made, the end of the period in which such an appeal could have been made, and
 - (iii) if such an appeal is made, the day on which the appeal is finally determined or withdrawn, and
 - (b) in any other case, the day on which the person became liable to the penalty under section 146.
- (6) WRA may not make an application of the kind mentioned in subsection (1)(d) if a decision relating to a penalty under section 146, 147 or 150 in respect of the failure or obstruction is the subject of—
- (a) a review for which notice of the conclusions has not yet been issued, or
 - (b) an appeal which has not yet been finally determined or withdrawn.

Penalty for inaccurate information or documents

152 Penalty for inaccurate information or documents

- (1) This section applies if—
- (a) a person provides inaccurate information, or produces a document that contains an inaccuracy, in complying with an information notice other than a debtor contact notice, and
 - (b) condition 1, 2 or 3 is met.
- (2) Condition 1 is that the inaccuracy is—
- (a) deliberate, or
 - (b) due to a failure by the person to take reasonable care.
- (3) Condition 2 is that the person knows of the inaccuracy at the time the information is provided or the document is produced but does not inform WRA at that time.
- (4) Condition 3 is that the person—
- (a) discovers the inaccuracy some time later, and
 - (b) fails to take reasonable steps to inform WRA.
- (5) The person is liable to a penalty not exceeding £3,000.
- (6) Where the information or document contains more than one inaccuracy in respect of which condition 1, 2 or 3 is met, a penalty is payable for each such inaccuracy.

Penalties under Chapter 5: general

153 Assessment of penalties under Chapter 5

- (1) Where a person becomes liable for a penalty under this Chapter, WRA must—
 - (a) assess the penalty, and
 - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 146 or 147 must be made within the period of 12 months beginning with the day on which the person became liable to the penalty.
- (3) But in a case involving an information notice against which a person may appeal, an assessment of a penalty under section 146 or 147 must be made within the period of 12 months beginning with the latest of the following—
 - (a) the day on which the person became liable to the penalty,
 - (b) if no appeal against the notice is made, the end of the period in which such an appeal could have been made, and
 - (c) if such an appeal is made, the day on which the appeal is finally determined or withdrawn.
- (4) An assessment of penalties under section 150 must be made—
 - (a) at the end of the period of 7 days beginning with the first applicable day, and
 - (b) at the end of each subsequent period of 7 days that includes an applicable day.
- (5) An assessment of a penalty under section 151 must be made within the period of 12 months beginning with the day on which the Upper Tribunal decided that it was appropriate for the penalty to be imposed.
- (6) An assessment of a penalty under section 152 must be made—
 - (a) within the period of 12 months beginning with the day on which the inaccuracy first came to the attention of WRA, and
 - (b) within the period of 6 years beginning with the day on which the person became liable to the penalty.