



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

### CHAPTER 3

#### EMPLOYERS

##### *Employer to enable participation in education or training*

### **33 Withdrawal or variation of penalty notice given under section 31 following notice of objection**

- (1) This section applies where a penalty notice has been given to a person (“the employer”) under section 31 by a local education authority in respect of a failure of a kind mentioned in subsection (2) of that section relating to an enforcement notice.
- (2) The employer may, by giving notice (a “notice of objection”) to the authority, object to the giving of the penalty notice on one or more of the following grounds—
  - (a) that the employer did not contravene section 27 or 28 in the way stated in the enforcement notice;
  - (b) that the requirements imposed by the enforcement notice were unreasonable;
  - (c) that the employer did not fail in the way stated in the penalty notice;
  - (d) that the amount of the penalty stated in the penalty notice is too high.
- (3) A notice of objection—
  - (a) may be given to the authority only during the period of 2 weeks beginning with the day on which the penalty notice was given to the employer, and
  - (b) must set out the grounds of the objection and the employer’s reasons for objecting on those grounds.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A local education authority must consider a notice of objection given under subsection (2) and, by giving notice (a “determination notice”) to the employer—
  - (a) withdraw the penalty notice,
  - (b) if the amount of the penalty determined in accordance with regulations under section 31(3) is smaller than the amount stated in the penalty notice, replace the penalty with the smaller amount, or
  - (c) confirm the penalty notice.
- (5) The determination notice must be given within the prescribed period beginning with the day on which the notice of objection was given.
- (6) Where, under subsection (4)(b), the amount of a penalty stated in a penalty notice is replaced with a smaller amount, the notice is to have effect as if it had originally stated the smaller amount.