

SCHEDULE

Section 4

MONETARY PENALTIES

Enforcement authority

- 1 In this Schedule, “enforcement authority” means—
- (a) a local weights and measures authority in England, or
 - (b) the Department for the Economy in Northern Ireland.

Imposition of monetary penalties

- 2 (1) Where an enforcement authority is satisfied beyond reasonable doubt that a person has committed an offence under [section 1](#) or [2](#) in the authority’s area, the authority may impose a monetary penalty on the person.
- (2) In this Schedule “monetary penalty” means a requirement to pay the enforcement authority a penalty of an amount determined by the authority.
- (3) In Northern Ireland, the amount of the penalty may not exceed an amount equivalent to level 5 on the standard scale.

Notices and representations

- 3 (1) Where an enforcement authority proposes to impose a monetary penalty on a person the authority must give the person a notice of what is proposed (an “initial penalty notice”).
- (2) An initial penalty notice must offer the person the opportunity to avoid liability in relation to a monetary penalty by payment of a sum specified in the notice (which must be less than or equal to the amount of the proposed penalty).
- (3) The person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the monetary penalty within the period of 28 days beginning with the day on which the initial penalty notice is given.
- (4) After the end of the period mentioned in [sub-paragraph \(3\)](#) the enforcement authority must decide whether to give the person a notice imposing a monetary penalty (a “final penalty notice”).
- (5) The enforcement authority may not give a person a final penalty notice if the authority is no longer satisfied as mentioned in [paragraph 2\(1\)](#).
- (6) The penalty specified in the final penalty notice may be—
- (a) a penalty of the amount proposed in the initial penalty notice, or
 - (b) a penalty of a smaller amount.
- (7) An initial or final penalty notice may be withdrawn at any time by the enforcement authority that issued it.

Information to be included in notices under [paragraph 3](#)

- 4 (1) An initial penalty notice must include information as to—
- (a) the grounds for the proposal to impose the monetary penalty,

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- (b) the effect of payment of the sum mentioned in [paragraph 3\(2\)](#),
 - (c) the period within which payment may be made so as to avoid liability for a monetary penalty (which must be at least 28 days beginning with the day on which the notice is given),
 - (d) the right to make representations and objections within the period of 28 days beginning with the day on which the notice is given, and
 - (e) the effect of [paragraph 3\(5\)](#).
- (2) A final penalty notice must include information as to—
- (a) the grounds for imposing the monetary penalty,
 - (b) how payment may be made,
 - (c) the period within which payment is to be made (which must be at least 28 days beginning with the day on which the notice is given),
 - (d) rights of appeal, and
 - (e) the consequences of non-payment.
- (3) A final penalty notice may provide for interest or other penalties specified in the notice to be payable in the event that payment is not made in the period referred to in [sub-paragraph \(2\)\(c\)](#).

Monetary penalties: criminal proceedings

- 5 (1) Where an initial penalty notice is given to a person (and has not been withdrawn)—
- (a) no criminal proceedings for the relevant offence may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person’s liability may be avoided as mentioned in [paragraph 3\(2\)](#) (see [paragraph 4\(1\)\(c\)](#));
 - (b) if the liability is so avoided the person may not at any time be convicted of the relevant offence in relation to that act or omission.
- (2) Where a final penalty notice is given to a person (and has not been withdrawn), the person may not at any time be convicted of the relevant offence in respect of the act or omission to which the notice relates.
- (3) In this paragraph “relevant offence” means an offence under [section 1](#) or [2](#) in respect of which the monetary penalty is proposed to be imposed or is imposed (as the case may be).

Appeals

- 6 (1) A person to whom a final penalty notice is given under [paragraph 3](#) may appeal against the decision to give the notice on any of the grounds mentioned in [sub-paragraph \(2\)](#).
- (2) The grounds are—
- (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;
 - (d) that the amount of penalty imposed by the notice is unreasonable.
- (3) An appeal under this paragraph is—

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- (a) in relation to a decision of a local weights and measures authority, to the First-tier Tribunal;
 - (b) in relation to a decision of the Department for the Economy in Northern Ireland, to a county court.
- (4) On an appeal under this paragraph the tribunal or court may—
- (a) quash the final penalty notice,
 - (b) confirm the final penalty notice, or
 - (c) vary the final penalty notice by reducing the amount of the penalty.
- (5) Where an appeal under this paragraph is made—
- (a) the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal, and
 - (b) no interest or other penalty is payable by virtue of [paragraph 4\(3\)](#) in respect of the period during which that requirement is suspended.

Use of proceeds

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- (1) Sums received by local weights and measures authorities pursuant to monetary penalties imposed under this Schedule must be paid into the Consolidated Fund.
 - (2) But before paying such sums into the Consolidated Fund a local weights and measures authority may deduct—
 - (a) the costs of investigating offences to which monetary penalties imposed by the authority under this Schedule relate, and
 - (b) the costs of imposing the penalties.
 - (3) The Department for the Economy in Northern Ireland may, before paying sums received by the Department pursuant to monetary penalties imposed under this Schedule into the Consolidated Fund of Northern Ireland, deduct—
 - (a) the costs of investigating offences to which monetary penalties imposed by the Department under this Schedule relate, and
 - (b) the costs of imposing the penalties.

Enforcement

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- If a person does not pay the whole or any part of a penalty which the person is liable to pay under this Schedule (including an amount payable by virtue of [paragraph 4\(3\)](#)), the penalty or part of the penalty is recoverable—
- (a) in the case of a penalty imposed by a local weights and measures authority, as if it were payable under an order of the county court,
 - (b) in the case of a penalty imposed by the Department for the Economy in Northern Ireland, as if it were payable under an order of a county court in Northern Ireland.