
STATUTORY INSTRUMENTS

2023 No. 696

The Register of Overseas Entities (Penalties and Northern Ireland Dispositions) Regulations 2023

PART 2

Financial Penalties

The registrar's powers

3.—(1) Subject to paragraph (2), regulation 7 and following the process in regulations 4 and 5, the registrar⁽¹⁾ may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person has engaged in conduct amounting to an offence under Part 1 of the ECTEA.

(2) No financial penalty may be imposed under these Regulations on a person in respect of conduct amounting to an offence if the person has been convicted of that offence in respect of that conduct.

(3) No proceedings may be brought or continued against a person in respect of conduct amounting to an offence if the person has been given a financial penalty under these Regulations in respect of that conduct.

Warning and penalty notices

4.—(1) If the registrar suspects that a person has engaged in conduct amounting to an offence under Part 1 of the ECTEA, the registrar may issue a warning notice in writing to that person.

(2) The warning notice referred to in paragraph (1) above must contain—

- (a) the grounds for suspecting that an offence has been committed;
- (b) the period within which the person may make written representations to the registrar about their conduct (which must be at least 28 days beginning on the day after the date of the warning notice) and how such representations may be delivered; and
- (c) a warning that at the end of the period referred to in sub-paragraph (b) above, the registrar may impose a financial penalty.

5.—(1) After the end of the period stated in the warning notice, the registrar, if satisfied beyond reasonable doubt that the person has engaged in the conduct referred to in the warning notice and that that conduct amounts to an offence under Part 1 of the ECTEA, may issue a penalty notice in writing to the person who was issued the warning notice.

(2) The penalty notice referred to in paragraph (1) above must contain—

- (a) the grounds for issuing the financial penalty;
- (b) whether the financial penalty is a fixed penalty, a daily rate penalty or a combination of both and how it is calculated;

(1) For the meaning of “the registrar” see section 3(1) of the Economic Crime (Transparency and Enforcement) Act 2022

- (c) in the case of a fixed penalty, the amount of the penalty;
- (d) in the case of a daily rate penalty, the amount of the daily rate, the day on which the amount first starts to accumulate and the day on which, or the circumstances in which, it ceases to accumulate;
- (e) how payment may be made;
- (f) the period within which payment is to be made (which period must not end sooner than 28 days beginning on the date of the penalty notice);
- (g) rights of appeal; and
- (h) the consequences of non-payment.

Review, variation and revocation of financial penalties

6.—(1) Subject to regulations 7(1) and (2), the registrar may vary or revoke the penalty notice as the registrar considers appropriate.

(2) If a financial penalty is revoked under these Regulations, the registrar must, as soon as practicable, give a notice in writing to the person upon whom the financial penalty was imposed.

(3) If a financial penalty, or the period within which a financial penalty is to be paid, is varied under this regulation, the registrar must, as soon as practicable, issue a new penalty notice which, in addition to the information referred to in regulation 5(2), must state the variation and the reasons for the variation.

Penalties

7.—(1) A financial penalty must not exceed the maximum fine that could be imposed by a court for the same offence under criminal proceedings in the jurisdiction in which the offence was committed.

(2) The registrar may not impose a daily rate penalty unless the person's conduct constitutes an offence in respect of which a daily default fine may be imposed in the jurisdiction in which the offence was committed.

(3) In relation to conduct for which the fine for the relevant offence in the jurisdiction in which the offence was committed does not include a daily default fine, the registrar may impose more than one fixed penalty in relation to that conduct where there is a continuing contravention.

(4) For the purposes of a daily rate penalty—

- (a) the first day on which the amount may start to accumulate is the day after the date of the penalty notice;
- (b) unless the registrar determines an earlier date, the daily rate ceases to accumulate at the beginning of the earliest of—
 - (i) the day on which the requirement to comply to which the offence relates is satisfied,
 - (ii) the day on which that requirement no longer applies.

(5) Interest accrues on a financial penalty which has not been paid within the period stated in the penalty notice at such rate as the registrar may direct or, if no such direction is given, the rate for the time being specified in section 17 of the Judgments Act 1838(2).