
WELSH STATUTORY INSTRUMENTS

2017 No. 1292

The Regulated Services (Penalty Notices) (Wales) Regulations 2017

Title, commencement and application

1.—(1) The title of these Regulations is the Regulated Services (Penalty Notices) (Wales) Regulations 2017.

(2) These Regulations come into force on 2 April 2018.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the Service Providers Regulations” (“*y Rheoliadau Darparwyr Gwasanaethau*”) means the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017(1);

“offence” (“*trosedd*”) means a prescribed offence;

“payment period” (“*cyfnod talu*”) has the meaning given in regulation 5;

“penalty notice” (“*hysbysiad cosb*”) means a penalty notice given pursuant to section 52 of the Act;

“recipient” (“*derbynnnydd*”) means a person to whom a penalty notice is given in accordance with section 52 of the Act;

“service regulator” (“*rheoleiddiwr gwasanaethau*”) means the Welsh Ministers.

Prescribed offences

3. The offences under the provisions listed in the first column of the table in the Schedule are prescribed(2) as prescribed offences(3) for the purposes of section 52(1) of the Act.

Amount of penalty

4. The amount of the penalty to be paid for each offence is specified in the third column of the table in the Schedule.

Period for payment of the penalty

5. The time by which the penalty specified in a penalty notice is to be paid is the end of the period of 28 days beginning with the date of receipt of the notice (“payment period”).

(1) [S.I. 2017/1264 \(W. 295\)](#).

(2) See section 189 of the Act for the definition of “prescribed”.

(3) The second column in the table in the Schedule contains a description of the prescribed offence.

Payment of the penalty

6.—(1) Payment of the penalty specified in a penalty notice must be made to the service regulator by the method specified in the notice.

(2) In any proceedings a certificate purporting to be signed by or on behalf of the service regulator stating that payment of a penalty was or was not received by the date specified in the certificate is evidence of the facts stated.

Period during which proceedings may not be instituted

7.—(1) Where a recipient is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted against the recipient before the expiry of the payment period.

(2) Section 184 of the Act(4) applies to a penalty notice as it applies to a notice required to be given under the Act.

Withdrawal of penalty notice

8.—(1) The service regulator may withdraw a penalty notice by giving written notice of the withdrawal to the recipient if—

- (a) the service regulator determines that—
 - (i) it ought not to have been given, or
 - (ii) it ought not to have been given to the person named as the recipient; or
- (b) it appears to the service regulator that the notice contains material errors.

(2) A penalty notice may be withdrawn in accordance with paragraph (1) whether or not the payment period has expired, and whether or not the penalty has been paid.

(3) Where a penalty notice has been withdrawn in accordance with paragraph (1), the service regulator must repay any amount paid by way of penalty in pursuance of that notice to the person who paid it.

(4) Except as provided in paragraph (5), no proceedings may be instituted or continued against a recipient for the offence to which the penalty notice relates where the notice has been withdrawn in accordance with paragraph (1).

(5) Where a penalty notice has been withdrawn under paragraph (1)(b), proceedings may be instituted or continued for the offence in connection with which that penalty notice was given if a further penalty notice in respect of the offence has been given and the penalty has not been paid before the expiry of the payment period.

Content of penalty notice

9.—(1) A penalty notice must give such details of the circumstances alleged to constitute the offence as seem to the service regulator to be reasonably required to give the recipient information about it.

- (2) A penalty notice must state—
- (a) the name and address of the recipient;
 - (b) the amount of the penalty;
 - (c) the payment period;

(4) Section 184 of the Act (service of documents etc.) specifies that notices may be hand delivered, may be left at a recipient's address, sent by recorded delivery or, if the recipient has agreed to receive it electronically, by being sent electronically to an address provided for that purpose; subsection (8) provides that where a notice is sent by recorded delivery or electronically it is to be taken to have been received 48 hours after it is sent (unless the contrary is shown).

- (d) that payment within that period will discharge any liability for the offence;
- (e) the period within which proceedings in respect of the offence to which the notice relates will not be brought;
- (f) the consequences of the penalty not being paid before the expiry of the period for paying it;
- (g) the person to whom and the address at which the penalty may be paid and to which any correspondence about the penalty notice may be sent;
- (h) the means by which payment of the penalty may be made;
- (i) the grounds on which the penalty notice may be withdrawn.

Records

- 10.** The service regulator must keep a record of any penalty notices given, which must include—
- (a) a copy of each penalty notice given;
 - (b) a record of all payments made and the dates upon which they were received;
 - (c) details of any penalty notice which was withdrawn and the grounds for its withdrawal;
 - (d) details of whether the recipient was prosecuted for the offence for which the penalty notice was given.

14 December 2017

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Minister for Children and Social Care, under
authority of the Cabinet Secretary for Health and
Social Services, one of the Welsh Ministers