



# Postal Services Act 2000

## 2000 CHAPTER 26

### PART II

#### LICENCES FOR POSTAL SERVICES

##### *Financial penalties*

### 30 Financial penalties.

- (1) If the Commission is satisfied that a licence holder—
  - (a) has contravened any condition of his licence, or
  - (b) is contravening any such condition,the Commission may impose on the licence holder a penalty of such amount as is reasonable.
- (2) No such penalty shall exceed 10 per cent. of the turnover of the licence holder (determined in accordance with provisions specified in an order made by the Secretary of State).
- (3) The Commission may impose a penalty under this section in respect of a contravention of a licence condition irrespective of whether it has made or may make a final or provisional order in respect of that contravention.

#### **Commencement Information**

- II** S. 30 wholly in force; s. 30 not in force at Royal Assent see s. 130; s. 30(2) in force at 6.11.2000 and s. 30 in force insofar as not already in force at 26.3.2001 by [S.I. 2000/2957](#), art. 2(1)(3), [Sch. 1](#), [Sch. 3](#) (with transitional provisions in [arts. 3-8](#))

### 31 Statement of policy in relation to penalties.

- (1) The Commission shall prepare and publish a statement of policy in relation to the imposition of penalties and the determination of their amount.

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- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, the Commission shall have regard to the statement of policy which was most recently published at the time when the contravention concerned occurred.
- (3) The Commission may revise its statement of policy and, where it does so, it shall publish the revised statement.
- (4) Publication under this section shall be in such manner as the Commission considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Commission shall consult the Council and such other persons as it considers appropriate when preparing or revising its statement of policy.

### **32 Imposition of penalties: main procedural requirements.**

- (1) Before imposing a penalty under section 30, the Commission shall—
  - (a) give notice of the proposed penalty, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) The notice shall state—
  - (a) that the Commission proposes to impose a penalty,
  - (b) the amount of the proposed penalty,
  - (c) the condition which the Commission is satisfied has been contravened or is being contravened,
  - (d) the acts or omissions which the Commission considers constitute the contravention,
  - (e) any other facts which the Commission considers justify the imposition of a penalty and the amount of the proposed penalty,
  - (f) the manner in which, and place at which, it is proposed to require the penalty to be paid, and
  - (g) the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed penalty.
- (3) As soon as practicable after imposing a penalty, the Commission shall give notice of the penalty.
- (4) The notice shall state—
  - (a) that the Commission has imposed a penalty on the licence holder,
  - (b) the amount of the penalty,
  - (c) the condition which the Commission is satisfied has been contravened or is being contravened,
  - (d) the acts or omissions which the Commission considers constitute the contravention,
  - (e) any other facts which the Commission considers justify the imposition of a penalty and the amount of the penalty,
  - (f) the manner in which, and place at which, the penalty is required to be paid, and

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- (g) the date or dates, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty or (as the case may be) different portions of it are required to be paid.
- (5) The licence holder may, within 21 days of the date of service on him of a notice under subsection (3), apply to the Commission for it to specify a different date or (as the case may be) different dates by which the penalty or (as the case may be) different portions of it are to be paid.
- (6) A notice under this section shall be given by—
  - (a) serving a copy of the notice on the licence holder and the Council, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (7) This section has effect subject to section 33.

### **33 Penalties: further procedural requirements.**

- (1) The Commission shall not vary the proposed amount of a penalty as stated in a notice under section 32(1) unless—
  - (a) the licence holder consents to the variation, or
  - (b) the Commission complies with the requirements of subsection (2).
- (2) The requirements are that the Commission shall—
  - (a) give notice of the proposed variation, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (3) The notice shall state—
  - (a) the proposed variation,
  - (b) the reasons for it, and
  - (c) the period (not less than 7 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed variation.
- (4) If, after giving notice under section 32(1) or subsection (2) of this section, the Commission decides not to impose a penalty, it shall give notice of that decision.
- (5) A notice under this section shall be given by—
  - (a) serving a copy of the notice on the licence holder and the Council, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

### **34 Time-limits on the imposition of penalties.**

- (1) No penalty shall be imposed under section 30 in respect of a contravention of a licence condition—
  - (a) where a provisional order has been made but not confirmed in respect of the contravention and no final order has been made in respect of it, unless a copy of the notice under section 32(1) has been served on the licence holder no

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later than six months starting with the date on which the provisional order was made,

- (b) where a provisional order has been confirmed or a final order made in respect of the contravention, unless a copy of the notice under section 32(1) has been served on the licence holder no later than three months starting with the date on which the order was confirmed or (as the case may be) made.
- (2) No penalty shall be imposed under section 30 in respect of a contravention of a licence condition for which no provisional or final order has been made unless a copy of the notice under section 32(1) has been served on the licence holder within twelve months from the time of the contravention.

### 35 Interest and payments by instalment.

- (1) If the whole or any portion of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the <sup>M1</sup>Judgments Act 1838.
- (2) Where an application has been made under section 32(5), the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with.
- (3) If a portion of a penalty has not been paid by the date required for it, the Commission may, where it considers it appropriate to do so, require so much of the penalty as has not already been paid to be paid immediately.

#### Marginal Citations

M1 1838 c. 110.

### 36 Appeals.

- (1) This section applies if a licence holder on whom a penalty is imposed under section 30 is aggrieved by—
  - (a) the imposition of the penalty,
  - (b) the amount of the penalty, or
  - (c) the date by which the penalty is required to be paid or (as the case may be) the different dates by which portions of the penalty are required to be paid.
- (2) The licence holder may apply to the court.
- (3) If a copy of the notice under section 32(3) was served on the licence holder, the application to the court shall, subject to subsection (4), be made within the period of 42 days starting with the day on which the copy was served on the licence holder.
- (4) If the application relates to a decision of the Commission on an application by a licence holder under section 32(5), the application to the court shall be made within the period of 42 days starting with the day on which the licence holder is notified of the decision.
- (5) On an application under this section, the court may—
  - (a) quash the penalty,
  - (b) substitute a penalty of such lesser amount as the court considers appropriate, or

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- (c) in a case falling within subsection (1)(c), substitute for the date or dates imposed by the Commission an alternative date or dates, if it considers it appropriate to do so and is satisfied of one or more of the grounds mentioned in subsection (6).
- (6) The grounds are—
- (a) that the imposition of the penalty was not within the powers of the Commission under section 30,
  - (b) that any of the requirements of section 32 or 33 have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance,
  - (c) that it was unreasonable of the Commission to require the penalty to be paid by the date concerned or (as the case may be) to require portions of it to be paid by the dates concerned.
- (7) Where an application has been made under this section, the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with.
- (8) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers appropriate.
- (9) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers appropriate.
- (10) Except as provided by this section, the validity of a penalty shall not be questioned in any legal proceedings.
- (11) In this section “the court” means—
- (a) in relation to England and Wales or Northern Ireland, the High Court, and
  - (b) in relation to Scotland, the Court of Session.

### **37 Recovery of penalties.**

Where a penalty imposed under section 30, or any portion of such a penalty, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 36 during the period within which such an application may be made, or
- (b) any such application which has been made has been determined, withdrawn or otherwise dealt with,

the Commission may recover from the licence holder any of the penalty and any interest which has not been paid; and in England and Wales and Northern Ireland such penalty and interest may be recovered as a civil debt due to the Commission.

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