

SCHEDULES

SCHEDULE 10

Section 285(3)

PENALTY CHARGE NOTICES

Contents of notice

- 1 A penalty charge notice given to a person under section 285 by an officer of an enforcement authority must—
 - (a) state the officer's belief that the person has committed a breach of duty,
 - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty,
 - (c) require the person, within a period specified in the notice—
 - (i) to pay a penalty charge specified in the notice, or
 - (ii) to give notice to the enforcement authority that the person wishes the authority to review the notice,
 - (d) state the effect of paragraph 7,
 - (e) specify the person to whom, and the address at which, the penalty charge may be paid and the method or methods by which payment may be made, and
 - (f) specify the person to whom, and the address at which, a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).
- 2 The penalty charge specified in the notice shall be of such amount (not exceeding £1,000) as may be prescribed for the time being by regulations made by the appropriate national authority.
- 3
 - (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.
 - (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if it considers it appropriate to do so.

Review and withdrawal of notice

- 4
 - (1) Sub-paragraph (2) applies if, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review.
 - (2) The enforcement authority must—
 - (a) consider any representations made by the recipient and all other circumstances of the case,
 - (b) decide whether to confirm or withdraw the notice, and
 - (c) give notice of its decision to the recipient.

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- (3) A notice under sub-paragraph (2)(c) confirming the penalty charge notice must also state the effect of paragraph 6(1) to (4).
- (4) The enforcement authority must withdraw the penalty charge notice if it is not satisfied of one (or more) of the following—
- (a) that the recipient committed the breach of duty specified in the notice,
 - (b) that the notice was given within the time allowed by section 285(2) and complies with the other requirements imposed by virtue of this Schedule, or
 - (c) that, in the circumstances of the case, it was appropriate for a penalty charge notice to be given to the recipient.
- 5 The enforcement authority may give the recipient of a penalty charge notice a notice withdrawing the penalty charge notice if the authority considers that the penalty charge notice ought not to have been given.

Appeals

- 6 (1) The recipient of a penalty charge notice may appeal to the county court against the notice if the notice is confirmed by the enforcement authority after a review.
- (2) The appeal must be made within the period of 28 days beginning with the day after that on which the notice under paragraph 4(2)(c) is given.
- (3) The county court may extend the period for appealing against the notice.
- (4) An appeal must be on one (or more) of the following grounds—
- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice,
 - (b) that the notice was not given within the time allowed by section 285(2) or does not comply with any other requirement imposed by virtue of this Schedule, or
 - (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.
- (5) An appeal is to be by way of a rehearing.
- (6) On an appeal the court is to uphold the notice or quash it.

Recovery of penalty charge

- 7 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the enforcement authority unless—
- (a) the notice has been withdrawn or quashed, or
 - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be started before the end of the period mentioned in paragraph 4(1).
- (3) Sub-paragraph (4) applies if, within that period, the recipient of the penalty charge notice gives notice to the enforcement authority that the recipient wishes the authority to review the penalty charge notice.
- (4) Proceedings for the recovery of the penalty charge may not be started—
- (a) before the end of the period mentioned in paragraph 6(2), and

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- (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.

- 8 In proceedings for the recovery of the penalty charge, a certificate which—
- (a) purports to be signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, and
 - (b) states that payment of the penalty charge was, or was not, received by a date specified in the certificate,
- is evidence of the facts stated.

Repayments

- 9 The enforcement authority must repay any amount previously paid as a penalty charge in pursuance of a penalty charge notice if the notice is withdrawn or quashed.

Supplementary

- 10 (1) A penalty charge notice and any other notice mentioned in this Schedule may be given by post.
- (2) Any such notice may be given—
- (a) in the case of a body corporate (other than a limited liability partnership), to the secretary or clerk of that body,
 - (b) in the case of a limited liability partnership, to any member or to any person having control or management of the partnership business,
 - (c) in the case of any other partnership, to any partner or to any person having control or management of the partnership business, and
 - (d) in the case of an unincorporated association, to any member or to any person having control or management of the affairs of the association.
- 11 (1) The appropriate national authority may by regulations make provision supplementary or incidental to the preceding provisions of this Schedule.
- (2) Such provision may, in particular, include—
- (a) provision prescribing—
 - (i) the form of penalty charge notices or any other notice mentioned in this Schedule,
 - (ii) circumstances in which penalty charge notices may not be given,
 - (iii) the method or methods by which penalty charges may be paid,
 - (b) provision about the service of notices.