

*Status: This version of this provision is prospective.*

*Changes to legislation: Education and Skills Act 2008, Section 23 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

### CHAPTER 3

#### EMPLOYERS

#### *Commencement of employment*

PROSPECTIVE

#### **23 Withdrawal or variation of penalty notice given under section 22 following notice of objection**

- (1) This section applies where a penalty notice has been given to a person (“the employer”) under section 22 by a <sup>[F1]</sup>local authority].
- (2) The employer may, by giving notice (a “notice of objection”) to the authority, object to the giving of the penalty notice on either or both of the following grounds—
  - (a) that the employer did not commit the contravention of section 21 stated in the penalty notice;
  - (b) that the amount of the penalty stated in the penalty notice is too high.
- (3) A notice of objection—
  - (a) may be given to the authority only during the period of 2 weeks beginning with the day on which the penalty notice was given to the employer, and
  - (b) must state the grounds of the objection and the employer's reasons for objecting on those grounds.

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- (4) A <sup>F1</sup>local authority] must consider a notice of objection given under subsection (2) and, by giving notice (a “determination notice”) to the employer—
- (a) withdraw the penalty notice,
  - (b) if the amount of the penalty determined in accordance with regulations under section 22(2) is smaller than the amount stated in the penalty notice, replace the penalty with the smaller amount, or
  - (c) confirm the penalty notice.
- (5) The determination notice must be given within the prescribed period beginning with the day on which the notice of objection was given.
- (6) Where, under subsection (4)(b), the amount of a penalty stated in a penalty notice is replaced with a smaller amount, the notice is to have effect as if it had originally stated the smaller amount.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 15(2)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)