

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 3 – Licensing

Enforcement

Schedule 11 - Further provision about enforcement powers

Part 1 - Discretionary requirements

Non-compliance penalties

836. **Paragraph 5** gives Monitor the power to impose a monetary penalty (a “non-compliance penalty”) on a person who fails to comply with a compliance or restoration requirement, and to determine the amount of the monetary penalty. When proposing to impose such a penalty, Monitor must serve a “non-compliance notice” on the person concerned. This must include details of the monetary penalty and how and when it was to be paid, the grounds for imposing the penalty, the consequences of failing to pay the penalty and the right of appeal.
837. The period for payment must not be less than 28 days from the day after the date on which the notice is received. If the person on whom the notice was served complied with the compliance requirement within that period, the payment would cease to be due. If the person does not pay the fine within the specified payment period, Monitor may increase the non-compliance penalty by no more than 50%.
838. The grounds on which a person served with a non-compliance penalty could appeal to the First-tier tribunal are set out in paragraph 6(2). Penalties are suspended whilst an appeal was in progress. The Tribunal may confirm, change or withdraw a non-compliance penalty, or remit the decision to Monitor for reconsideration.