
STATUTORY INSTRUMENTS

2007 No. 1867

The Education (Penalty Notices) (England) Regulations 2007

Withdrawal

Withdrawal of penalty notice

8.—(1) A penalty notice may be withdrawn by the local education authority named in the notice as the authority to which payment is to be made for payment in any case in which—

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

(2) A penalty notice may be withdrawn in accordance with paragraph (1) whether or not the period for payment referred to in the notice pursuant to regulation 3(h) has expired, and whether or not the penalty has been paid.

(3) Where a penalty notice has been withdrawn in accordance with paragraph (1)—

- (a) notice of the withdrawal must be given to the recipient; and
- (b) any amount paid by way of penalty in pursuance of that notice must be repaid to the person who paid it.

(4) Except as provided in paragraph (5), no proceedings may be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued, or, where the notice related to an offence under subsection (1) of section 444 of the 1996 Act, for an offence under subsection (1A) arising out of the same circumstances.

(5) But where a penalty notice was issued, and was withdrawn pursuant to paragraph (1)(b), proceedings may be continued or instituted—

- (a) for the offence in connection with which that penalty notice was issued; or,
- (b) where the penalty notice related to an offence under subsection (1) of section 444 of the 1996 Act, for an offence under subsection (1A) of that section arising out of the same circumstances as the first mentioned offence,

if both of the following conditions are met—

- (i) a further penalty notice in respect of the offence, or in the case of sub-paragraph (b), the first mentioned offence, was issued at the same time as the first penalty notice was withdrawn; and
- (ii) the penalty has not been paid pursuant to that further penalty notice in accordance with the requirements of these Regulations.

Non payment of the penalty

9. Where—

- (a) the penalty is not paid in full before the expiry of the period for paying it; and

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(b) the local education authority named in the notice pursuant to regulation 3(f) has neither instituted proceedings against the recipient for the offence to which the notice relates, nor is contemplating such proceedings,
the authority must withdraw the notice.