

IDENTITY CARDS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Civil penalties

Section 31: Imposition of civil penalties

173. This section sets out the way in which civil penalties under the ID cards scheme will operate. A code of practice will be published as required under section 34 and this will set out that the civil penalty regime is not intended to be punitive or revenue raising. Rather it is intended to ensure compliance with the terms of the Act. The code of practice will make it clear that where there is good reason for a failure to comply or in cases where the requirements of the Act are belatedly complied with, then it will normally be appropriate to waive the penalty.
174. Where the Secretary of State is satisfied that the person is liable to a civil penalty as set out in the legislation, the Secretary of State may issue in the prescribed manner a notice to the defaulter, setting out why the penalty is being imposed, the amount of the penalty, the date by which the penalty must be paid, how payment should be made, setting out the steps the defaulter may take if he objects and finally explaining the powers to enforce the penalty (*subsection (3)*). The amounts of the penalties specified in the Act are maximum penalties. The actual amount imposed will be determined on a case by case basis and in accordance with the code of practice.
175. The date by which the payment is required to be made cannot be less than 14 days after the notice is issued (*subsection (4)*).
176. A penalty imposed by this section must be paid in the manner described by the notice and if it is not paid, the amount is recoverable by the Secretary of State via the civil courts. When recovering the penalty no question may be raised as to whether the defaulter was liable to the penalty, whether the imposition of the penalty was unreasonable or as to the amount of the penalty. Those matters should be raised on an objection to the Secretary of State under section 32 and/or an appeal to the civil courts under section 33.