
Status: Point in time view as at 26/12/2023.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 3

ENFORCEMENT OF OBLIGATIONS OF LICENCE HOLDERS

Appeals against penalties

- 8 (1) If the licence holder on whom a penalty is imposed is aggrieved by—
- (a) the imposition of the penalty,
 - (b) the amount of the penalty, or
 - (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,
- the licence holder may make an application to the court under this paragraph.
- (2) An application under [sub-paragraph \(1\)](#) must be made—
- (a) within 42 days from the date of service on the licence holder of a notice under [paragraph 4\(6\)](#), or
 - (b) where the application relates to a decision of the economic regulator on an application by the licence holder under [paragraph 4\(7\)](#), within 42 days from the date the licence holder is notified of the decision.
- (3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within [sub-paragraph \(4\)](#), the court—
- (a) may quash the penalty,
 - (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case, or
 - (c) in the case of an application under [sub-paragraph \(1\)\(c\)](#), may substitute for the date or dates imposed by the economic regulator an alternative date or dates.
- (4) The grounds falling within this sub-paragraph are—
- (a) that the imposition of the penalty was not within the power of the economic regulator under [paragraph 4](#),
 - (b) that any of the requirements of [sub-paragraphs \(4\) to \(6\)](#) or [\(8\)](#) of [paragraph 4](#) have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance, or
 - (c) that it was unreasonable of the economic regulator to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.
- (5) If an application is made under this paragraph in relation to a penalty, the penalty is not required to be paid until the application has been determined.

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- (6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies, as a date by which the penalty or a portion of the penalty is to be paid, a date before the determination of the application under this paragraph it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.
- (8) Except as provided by this paragraph, the validity of a penalty is not to be questioned by any legal proceedings whatever.
- (9) In this paragraph “the court” means—
 - (a) in relation to England and Wales or Northern Ireland, the High Court, and
 - (b) in relation to Scotland, the Court of Session.

Commencement Information

II Sch. 3 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

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