

SCHEDULES

SCHEDULE 6

Section 84(3)

CIVIL SANCTIONS FOR INFRINGING PASSENGER PERMIT SCHEME

Compliance notices

- 1 (1) The appropriate national authority may issue a compliance notice to a permit holder if satisfied that the permit holder has committed an infringement of the permit scheme.
- (2) A compliance notice is a notice requiring the permit holder to take such actions within [sub-paragraph \(3\)](#) as are specified in the notice.
- (3) The actions that may be specified are those that the appropriate national authority considers appropriate in order to secure, or make it more likely, that the permit holder does not commit any similar infringement of the permit scheme in future.
- (4) The actions may be specified by referring (with or without further particulars) to the actions necessary to achieve a result described in the notice.
- (5) A compliance notice must—
 - (a) explain the appropriate national authority’s reasons for issuing the notice, and
 - (b) specify the time by which, or period during which, the specified actions must be taken.
- (6) The reference in [sub-paragraph \(2\)](#) to taking action includes refraining from taking action; and “actions” in this paragraph is to be read accordingly.

Monetary penalties

- 2 (1) The appropriate national authority may issue a monetary penalty notice to a permit holder if satisfied that the permit holder has—
 - (a) committed an infringement of the permit scheme, or
 - (b) failed to comply with a compliance notice.
- (2) A monetary penalty notice is a notice requiring the permit holder to pay a monetary penalty, of a sum specified in the notice, to the appropriate national authority.
- (3) [Sub-paragraph \(4\)](#) applies in relation to a monetary penalty notice if it appears to the appropriate national authority that the failure to which the notice relates is or may be a continuing one.
- (4) The monetary penalty notice may provide for a sum specified in the notice to be added to the penalty for each day in the period—
 - (a) beginning with the day after the day on which the notice is issued, and
 - (b) ending with—
 - (i) the day on which the failure is brought to an end, or

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- (ii) such earlier day as is specified in the notice.
- (5) A monetary penalty notice must—
 - (a) explain the appropriate national authority’s reasons for issuing the notice, and
 - (b) specify the time by which, and manner in which, the penalty must be paid.
- (6) If a monetary penalty is not paid on time—
 - (a) the penalty (or the unpaid part of it) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838;
 - (b) the appropriate national authority may recover the penalty (or the unpaid part of it), with the interest, as a civil debt.
- (7) The appropriate national authority must, by regulations, provide for the determination of—
 - (a) a maximum sum that may be specified under sub-paragraph (2), and
 - (b) a maximum sum that may be specified under sub-paragraph (4).
- (8) Those regulations may determine the sum by reference to the turnover of the permit holder or any entities or undertakings that are connected with the permit holder in a manner specified in the regulations; and if they do so they may also make provision about—
 - (a) what counts as “turnover”;
 - (b) how turnover is to be calculated or assessed.

Notice of intent

- 3 (1) Before issuing a compliance notice or monetary penalty notice to a permit holder, the appropriate national authority must—
 - (a) issue a notice of intent to the permit holder, and
 - (b) consider any representations made by the permit holder in response to (and in accordance with) that notice.
- (2) A notice of intent is a notice that—
 - (a) states the appropriate national authority’s intention to issue the compliance notice or monetary penalty notice,
 - (b) sets out the terms of that intended notice,
 - (c) explains the appropriate national authority’s reasons for intending to issue that notice, and
 - (d) specifies the time by which, and manner in which, representations may be made.
- (3) A notice of intent may also—
 - (a) state the appropriate national authority’s intention to issue a costs notice in connection with the principal notice, and
 - (b) give a general indication of the nature of the costs that the appropriate national authority is likely to seek to recover by way of the costs notice.

Costs

- 4 (1) If—

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- (a) the appropriate national authority issues a compliance notice or monetary penalty notice (“the principal notice”) to a permit holder, and
 - (b) the notice of intent that preceded the principal notice included the contents set out in paragraph 3(3),
- the appropriate national authority may also issue a costs notice to the permit holder.
- (2) A costs notice is a notice requiring the permit holder to pay a sum specified in the notice to the appropriate national authority.
 - (3) That sum must be no greater than the total of the costs reasonably incurred by the appropriate national authority in connection with the principal notice.
 - (4) The costs that may be taken into account for that purpose include—
 - (a) costs of investigating the matters to which the principal notice relates,
 - (b) administrative costs, and
 - (c) costs of obtaining expert advice (including legal advice).
 - (5) A costs notice must—
 - (a) particularise the costs relied on in arriving at the sum specified in the notice,
 - (b) explain (if it is not otherwise apparent) how those costs have been calculated, and
 - (c) specify the time by which, and manner in which, the sum must be paid.
 - (6) If a sum payable under a costs notice is not paid in time—
 - (a) the sum (or the unpaid part of it) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838;
 - (b) the appropriate national authority may recover the sum (or the unpaid part of it), with the interest, as a civil debt.
 - (7) The cancellation of a compliance notice or monetary penalty notice has the effect of cancelling any costs notice issued in connection with it.

Cancellation and variation

- 5 Where the appropriate national authority has issued a compliance notice, monetary penalty notice or costs notice to a permit holder, the appropriate national authority may by further notice issued to the permit holder—
- (a) cancel the notice, or
 - (b) vary it in any way that does not make it more onerous.

Appeals

- 6 (1) A person to whom a compliance notice, monetary penalty notice or costs notice is issued may appeal to the Tribunal.
- (2) The grounds on which an appeal may be brought are—
- (a) in the case of a compliance notice—
 - (i) that the infringement of the permit scheme on the grounds of which the notice was issued did not occur, or
 - (ii) that the actions specified in the notice, or the time or period specified for taking them, are unreasonable;
 - (b) in the case of a monetary penalty notice—

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- (i) that the infringement of the permit scheme, or failure of compliance, on the grounds of which the notice was issued did not occur, or
 - (ii) that the sum specified in the notice, or the time or manner specified for paying it, is unreasonable;
 - (c) in the case of a costs notice—
 - (i) that costs relied on in arriving at the sum specified in the notice were not reasonably incurred as described in paragraph 4(3), or
 - (ii) that the time or manner specified for payment is unreasonable;
 - (d) that the appropriate national authority failed to comply with paragraph 3, or made some other procedural error, in respect of the notice.
- (3) If satisfied that any of the grounds is made out, the Tribunal must allow the appeal and do whichever of the following it considers appropriate—
 - (a) cancel the notice,
 - (b) remit the matter to the appropriate national authority with a direction that the appropriate national authority consider, in accordance with the findings of the Tribunal and by such time as the Tribunal specifies, whether to cancel or vary the notice under paragraph 5, or
 - (c) if the appeal is allowed on the ground in sub-paragraph (2)(b)(ii) or (c), vary the notice.
- (4) Otherwise, the Tribunal must dismiss the appeal.
- (5) Sub-paragraph (6) applies if a direction is made under sub-paragraph (3)(b) and—
 - (a) the appropriate national authority varies the notice further to the direction, or
 - (b) by the specified time, the appropriate national authority has neither varied nor cancelled the notice.
- (6) The person who appealed against the notice may on application re-open the appeal—
 - (a) on any of the original grounds further to which the direction under sub-paragraph (3)(b) was made, or
 - (b) in the case of a variation, on any further ground within sub-paragraph (2) that arises from the variation;
 and sub-paragraphs (3) and (4) apply again in relation to the grounds on which the appeal is re-opened.
- (7) The Tribunal (or any court on a further appeal) may make an interim order suspending the effect of a notice appealed against under this paragraph.
- (8) If a monetary penalty notice includes provision under paragraph 2(4), either the appropriate national authority or the person to whom the notice is issued may apply to the Tribunal for a determination of whether an additional sum has become payable under that provision in respect of a particular day.
- (9) In this paragraph, “the Tribunal” means the First-tier Tribunal, subject to sub-paragraph (10).
- (10) Tribunal Procedure Rules may provide for an appeal under this paragraph to be made to the Upper Tribunal instead of the First-tier Tribunal; and if that is done references to “the Tribunal” are to be read accordingly.

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Enforcement action in respect of multiple occurrences

- 7 A single notice issued under this Schedule may relate to more than one occurrence by virtue of which the power to issue the notice arises (or is said to arise).