



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 3

#### ENFORCEMENT OF CONSUMER PROTECTION LAW

### CHAPTER 5

#### MONETARY PENALTIES: GENERAL PROVISIONS

#### **203 Information to accompany orders or notices imposing monetary penalties**

- (1) An order or notice under Chapter 3 or 4 under which a person (“the respondent”) is required to pay a monetary penalty must state the following information (referred to in those Chapters as the “monetary penalty information”)—
- (a) the amount of the penalty (including whether it is a fixed amount, an amount calculated by reference to a daily rate or both a fixed amount and an amount calculated by reference to a daily rate);
  - (b) the grounds on which the penalty is imposed together with any other factors that the court (in the case of an order) or the CMA (in the case of a notice) considers justify the giving of the penalty or its amount;
  - (c) in the case of an amount calculated by reference to a daily rate, the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate;
  - (d) how the penalty is to be paid;
  - (e) the date or dates, no earlier than the end of the applicable period beginning with the date on which the order was served on or the notice was given to the respondent, by which the penalty or (as the case may be) different portions of it are required to be paid;
  - (f) that the penalty or (as the case may be) different portions of it may be paid earlier than the date or dates by which it or they are required to be paid;

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- (g) that the respondent has the right to apply under [subsection \(3\)](#) (in the case of an order) or [subsection \(4\)](#) (in the case of a notice);
  - (h) the rights available to the respondent to appeal in respect of the imposition of the penalty;
  - (i) the main details of the rights mentioned in paragraphs (g) and (h).
- (2) In subsection (1)(e) “the applicable period” means—
- (a) in the case of an order or a final false information enforcement notice, the period of 28 days;
  - (b) in any other case, the period of 60 days.
- (3) The respondent may, within 14 days of the date on which an order imposing a monetary penalty is served on the respondent, apply to the court for the court to specify a different date or dates by which the penalty, or different portions of it, are to be paid.
- (4) The respondent may, within 14 days of the date on which a notice imposing a monetary penalty is given to the respondent, apply to the CMA to specify a different date or dates by which the penalty, or different portions of it, are required to be paid.
- (5) References in subsections (1) and (2) to an order include references to a notice accompanying such an order given under [section 158\(4\)](#).
- (6) In the application of this section to Scotland, the references in subsections (1)(e) and (3) to an order being served include service of an extract order in execution of or diligence on the order.

## **204 Determination of turnover**

- (1) In [this Part](#) references to “turnover” of a person include—
- (a) turnover both in and outside the United Kingdom;
  - (b) where the person controls another person, the turnover of that other person;
  - (c) where the person is controlled by another person, the turnover of that person.
- (2) The Secretary of State may by regulations—
- (a) make provision for determining when a person is to be treated as controlled by another person for the purposes of subsection (1)(b) and (c);
  - (b) make provision for determining the turnover of a person for the purposes of this Part.
- (3) Regulations under this section may, in particular, make provision as to—
- (a) the amounts which are, or which are not, to be treated as comprising a person’s turnover or daily turnover;
  - (b) the date or dates by reference to which a person’s turnover or daily turnover is to be determined.
- (4) Regulations under this section may include provision enabling the court or the CMA to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of [subsection \(3\)](#)).
- (5) Regulations under [this section](#) are subject to the negative procedure.

## **205 Power to amend amounts**

- (1) The Secretary of State may by regulations amend any of the following provisions for the purpose of substituting a different monetary amount for an amount of fixed or daily penalty for the time being specified—
  - (a) [section 158\(5\)](#);
  - (b) [section 168\(3\)\(a\)](#) and (b);
  - (c) [section 182\(6\)](#);
  - (d) [section 190\(3\)\(a\)](#) and (b);
  - (e) [section 193\(3\)\(a\)](#) and (b);
  - (f) [section 198\(4\)](#).
- (2) Before making regulations under [this section](#) the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) Regulations under [this section](#) are subject to the affirmative procedure.

## **206 Recovery of monetary penalties**

- (1) [This section](#) applies where a monetary penalty imposed under [Chapter 4](#), or any part of such a penalty, has not been paid by the date on which it is required to be paid and—
  - (a) an appeal to a court against the imposition of the penalty has not been brought before the end of the period within which it is required to be brought, or
  - (b) any such appeal that was brought has been determined, withdrawn or otherwise disposed of.
- (2) The CMA may recover from the person on whom the penalty was imposed any of the penalty and any interest which has not been paid.
- (3) Any such penalty and interest may be recovered summarily (or, in Scotland, recovered) as a civil debt by the CMA.
- (4) [Subsection \(5\)](#) applies where—
  - (a) a penalty is payable by a person by virtue of a final infringement notice,
  - (b) the notice also includes directions imposing a requirement on the person to take enhanced consumer measures, and
  - (c) the enhanced consumer measures that the person is required to take are or include redress measures (see [section 221\(2\)](#)).
- (5) In deciding whether to recover the penalty from the person under [subsection \(2\)](#), the CMA must have regard to—
  - (a) whether any compensation required to be paid to consumers under the redress measures has been, or is likely to be, paid, and
  - (b) where any such payments have not yet been paid (in full or in part), the effect that recovery of the penalty from the person may have on the person's ability to make those compensatory payments.

## **207 Monetary penalties: further provision**

- (1) If the whole or any portion of a monetary penalty imposed is not paid by the date by which it is required to be paid, the unpaid balance from time to time carries interest at the statutory rate.

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- (2) Where an application has been made under [section 203\(3\)](#) or [\(4\)](#), the penalty is not required to be paid until the application has been determined, withdrawn or otherwise disposed of.
- (3) Where an application has been made to appeal to a court in respect of a monetary penalty, the penalty is not required to be paid until the application has been determined, withdrawn or otherwise disposed of.
- (4) If a portion of a monetary penalty imposed by an order of the court has not been paid by the date required for it, the court may, where it considers it appropriate to do so, by order require so much of the penalty as has not already been paid (and is capable of being paid immediately) to be paid immediately.
- (5) If a portion of a monetary penalty imposed by virtue of a notice given by the CMA has not been paid by the date required for it, the CMA may, where it considers it appropriate to do so, by notice require so much of the penalty as has not already been paid (and is capable of being paid immediately) to be paid immediately.
- (6) Where on an appeal under [section 202](#) the court substitutes a penalty of a different nature or of a lesser amount, the court may require the payment of interest at the statutory rate on the substituted penalty from whatever date it considers appropriate (which may include a date before the determination of the appeal).
- (7) In the case of a monetary penalty imposed on a firm that is not a body corporate, the penalty is to be paid out of the assets or funds of the firm.
- (8) Sums received from a person towards payment of a monetary penalty must be paid—
  - (a) in the case of a penalty imposed by an order of the Court of Session or the Sheriff, into the Scottish Consolidated Fund;
  - (b) in the case of a penalty imposed by an order of a court in Northern Ireland, into the Consolidated Fund of Northern Ireland;
  - (c) in any other case, into the Consolidated Fund of the United Kingdom.
- (9) In [this section](#)—
  - “monetary penalty” means a monetary penalty imposed under [Chapter 3](#) or [4](#);
  - “the statutory rate” means the rate for the time being specified in [section 17](#) of the Judgments Act 1838.