
STATUTORY INSTRUMENTS

2018 No. 677

The Health Service Products (Provision and Disclosure of Information) Regulations 2018

PART 8

Enforcement and appeals

Penalties

32.—(1) This regulation applies where a UK producer contravenes regulation 25(4) or 31(5).

(2) Where this regulation applies—

- (a) the producer is liable to pay a penalty to the Secretary of State, and
- (b) the amount of the penalty is to be determined in accordance with paragraphs (3) and (4).

(3) If the producer contravenes regulation 31(5) by failing to comply with a compliance notice relating to regulation 27 or 28, the amount of the penalty is a single penalty of £1,000.

(4) If the producer contravenes regulation 25(4), or contravenes regulation 31(5) by failing to comply with any other compliance notice, the amount of the penalty is a daily penalty and is to be calculated—

- (a) if the producer is a small producer, in accordance with paragraph 2 of Schedule 3;
- (b) in the case of any other producer, in accordance with paragraph 3 of Schedule 3.

But this paragraph is subject to paragraphs (9) and (10).

(5) Whether a UK producer is a small producer is to be determined in accordance with Schedule 2.

(6) Where a producer is liable to pay a penalty under this regulation, the Secretary of State may by demand in writing require the producer to pay that penalty to the Secretary of State.

(7) A written demand under paragraph (6) must—

- (a) specify—
 - (i) if the penalty payable by the producer is a single penalty, that the amount of the penalty is £1,000;
 - (ii) if the penalty payable by the producer is a daily penalty, the information mentioned in paragraph (8);
- (b) give the Secretary of State's reasons for imposing the penalty;
- (c) specify the period within which the penalty is to be paid;
- (d) state that the decision to require the producer to pay the penalty, and the decision as to the amount of the penalty, may be appealed under the 2000 Regulations.

(8) The information is—

- (a) the date on which the contravention occurred,

- (b) the amount of the daily penalty calculated in accordance with this regulation and Schedule 3 from that day up to and including the day on which the demand is made, and
- (c) the daily rate at which the penalty continues to accrue in accordance with Schedule 3 until the producer complies with the relevant information notice or compliance notice (except to the extent that it is no longer possible to meet a deadline because the deadline has passed).

(9) For the purposes of calculating the final amount of the daily penalty that is due, the day on which the producer starts to comply with the relevant notice is to be disregarded.

(10) If the producer makes an appeal to the tribunal against the decision under this regulation to require the producer to pay a daily penalty, or as to the amount of that daily penalty, in accordance with regulation 4 of the 2000 Regulations, any day falling within the appeal period is to be disregarded when determining the final amount of the penalty to be paid by the producer.

(11) For the purposes of paragraph (10), “appeal period” means the period—

- (a) beginning with the day on which the tribunal receives the relevant notice of appeal, and
- (b) ending with—
 - (i) the day on which the appeal is withdrawn, or
 - (ii) if the decision is upheld following the appeal, the day on which the appeal is finally determined.