

Status: This version of this provision is prospective.

Changes to legislation: Education and Skills Act 2008, Section 34 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Education and Skills Act 2008

2008 CHAPTER 25

PART 1

DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

CHAPTER 3

EMPLOYERS

Employer to enable participation in education or training

PROSPECTIVE

34 Appeal against penalty notice given under section 31

- (1) This section applies where a penalty notice has been given to a person under section 31 in respect of a failure of a kind mentioned in subsection (2) of that section in relation to an enforcement notice and—
 - (a) the period during which a notice of objection may be given in relation to the penalty notice has expired, and
 - (b) if a notice of objection has been given in relation to the penalty notice, a determination notice has been given in relation to the notice of objection.
- (2) The person may appeal to the First-tier Tribunal against the giving of the penalty notice on one or more of the following grounds—
 - (a) that the person did not contravene section 27 or 28 in the way stated in the enforcement notice;
 - (b) that the circumstances of the contravention of section 27 or 28 stated in the enforcement notice make the giving of an enforcement notice under section 30 unreasonable;
 - (c) that the requirements imposed by the enforcement notice were unreasonable;

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- (d) that the person did not fail in the way stated in the penalty notice;
 - (e) that the circumstances of the failure stated in the penalty notice make the giving of the notice unreasonable;
 - (f) that the amount of the penalty stated in the penalty notice is too high.
- (3) On an appeal under this section, the First-tier Tribunal may—
- (a) allow the appeal and cancel the penalty notice,
 - (b) if the amount of the penalty determined in accordance with regulations under section 31(3) is smaller than the amount stated in the penalty notice, allow the appeal and replace the penalty with the smaller amount, or
 - (c) dismiss the appeal.
- (4) Where, under subsection (3)(b), the amount of a penalty stated in a penalty notice is replaced with a smaller amount, the notice is to have effect as if it had originally stated the smaller amount.
- (5) In subsection (1), “notice of objection” and “determination notice” have the same meanings as in section 33.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)