

Changes to legislation: Health and Social Care Act 2012, Cross Heading: Non-compliance penalties is up to date with all changes known to be in force on or before 28 April 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

SCHEDULES

SCHEDULE 11

FURTHER PROVISION ABOUT [F¹NHS ENGLAND’S] ENFORCEMENT POWERS

Textual Amendments

- F1** Words in Sch. 11 heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 5 para. 100(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

PART 1

DISCRETIONARY REQUIREMENTS

Non-compliance penalties

- 5 (1) If a person fails to comply with a compliance requirement or a restoration requirement [F¹NHS England] may impose a monetary penalty on that person of such amount as [F¹NHS England] may determine (a “non-compliance penalty”).
- (2) Where [F²NHS England] proposes to impose a non-compliance penalty on a person [F²NHS England] must give notice to that person (a “non-compliance notice”).
- (3) A non-compliance notice must—
- specify the amount of the non-compliance penalty,
 - set out the grounds for imposing the penalty,
 - state how payment of the penalty may be made,
 - state the period (“the payment period”) within which payment must be made,
 - state any discount applicable for early payment of the penalty,
 - set out the consequences of a failure to pay within the payment period (including any increase in the amount payable), and
 - explain the right of appeal conferred by paragraph 6.
- (4) The payment period must be not less than 28 days beginning with the day after that on which the non-compliance notice is received.
- (5) If the whole or any part of a non-compliance penalty is not paid by the time it is required to be paid [F³NHS England] may increase the amount payable by no more than 50% of the amount of the penalty.
- (6) [F⁴NHS England] may by notice to a person on whom a non-compliance penalty has been imposed reduce the amount of the penalty or extend the payment period.

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Textual Amendments

- F1** Words in Sch. 11 para. 5(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(e)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in Sch. 11 para. 5(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(e)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in Sch. 11 para. 5(5) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(e)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in Sch. 11 para. 5(6) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(e)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

- I1** Sch. 11 para. 5 in force at 1.4.2013 by S.I. 2013/671, art. 2(3)

- 6 (1) A person may appeal to the First-tier Tribunal against a decision of [^{F5}NHS England] to impose a non-compliance penalty.
- (2) The grounds for such an appeal are—
- (a) that the decision was based on an error of fact,
 - (b) that the decision was wrong in law, or
 - (c) that the decision was, or the amount of the penalty is, unfair or unreasonable.
- (3) The non-compliance penalty is suspended pending determination of the appeal.
- (4) On an appeal, the Tribunal may—
- (a) confirm, vary or withdraw the non-compliance penalty, or
 - (b) remit the decision whether to confirm the penalty, or any matter relating to that decision, to [^{F6}NHS England].

Textual Amendments

- F5** Words in Sch. 11 para. 6(1) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(f)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F6** Words in Sch. 11 para. 6(4)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 100(3)(f)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

- I2** Sch. 11 para. 6 in force at 1.4.2013 by S.I. 2013/671, art. 2(3)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251 substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)