

# Consumer Rights Bill

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## MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS REASON

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[The page and line references are to HL Bill 29, the bill as first printed for the Lords.]

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### MOTION A

#### LORDS AMENDMENT 12

##### After Clause 32

**12** Insert the following new Clause—

*“Secondary ticketing platforms*

**Secondary ticketing platforms: seller profiles and ticket information**

- (1) Secondary ticketing operators must, on the website on which tickets are offered for sale or transfer, provide information concerning the sellers of tickets so that sellers may be easily identified.
- (2) Information provided by virtue of subsection (1) must include, but is not limited to—
  - (a) the name of the seller;
  - (b) if the seller is an undertaking, its registered number, jurisdiction of registration, registered office address, and if registered outside the United Kingdom, a valid address for service; and
  - (c) the VAT registration number of the seller, if applicable.
- (3) Information provided under subsection (1) must be—
  - (a) accurate; and
  - (b) prominently displayed before a buyer is able to complete the purchase of the ticket.
- (4) Secondary ticketing operators must disclose clearly and prominently where the seller of a ticket is—

- (a) the secondary ticketing platform or a subsidiary undertaking or parent undertaking of the secondary ticketing platform;
  - (b) a person or persons employed or engaged by the secondary ticketing platform;
  - (c) other persons connected to employees, directors or shareholders of the secondary ticketing platform, or any of its subsidiary undertakings or parent undertakings;
  - (d) the event organiser or an agent acting on its behalf;
  - (e) any other party connected to the organisation of the event.
- (5) Where a ticket is offered for sale or transfer through a secondary ticketing platform—
  - (a) the seller must provide all relevant information about the ticket;
  - (b) the secondary ticketing operator must publish all relevant information about a ticket in a prominent and clear manner; and
  - (c) the secondary ticket operator must immediately remove the ticket from sale when it is informed by the event organiser that the information provided is inaccurate or incomplete.
- (6) Information to be provided by the seller and published by the secondary ticketing operator for the purposes of subsection (1) must include, without limitation—
  - (a) the face value of the ticket;
  - (b) any age or other restrictions on the user of the ticket;
  - (c) the designated location of the ticket including the stand, the block, the row and the seat number of the ticket, where applicable; and
  - (d) the ticket booking identification or reference number.
- (7) Where tickets are being resold in contravention of the terms and conditions agreed to by the original purchaser, this must be stated prominently by the secondary ticketing platform at every stage of the purchasing process.
- (8) Information provided by virtue of this section must be—
  - (a) accurate; and
  - (b) prominently displayed before a buyer is able to complete the purchase of that ticket.
- (9) For the purposes of this section—
  - “secondary ticketing platform” means an internet-based facility for the resale of tickets to events in the United Kingdom of Great Britain and Northern Ireland, regardless of the jurisdiction in which the owner of the service is registered;
  - “secondary ticketing operator” means, in relation to a secondary ticketing platform, the person (whether incorporated or not) operating that secondary ticketing platform;
  - “ticket” means anything which purports to be a ticket, including any item, tangible or intangible, which grants the holder the right to entry to an event;
  - “event” means any sporting, music or cultural activity taking place at a specified time and place for which tickets are issued and required for entry or attendance;
  - “event organiser” means the person responsible for organising and holding an event and receiving the revenue from the event;

the term “undertaking” has the meanings given in section 1161 of the Companies Act 2006 (meaning of “undertaking” and related expressions);

the terms “subsidiary undertaking” and “parent undertaking” have the meanings given in section 1162 of the Companies Act 2006 (parent and subsidiary undertakings);

the term “person” refers to a natural person or a body corporate.

- (10) This section will come into force no later than six months after this Act is passed.”

#### COMMONS DISAGREEMENT AND REASON

*The Commons disagree to Lords Amendment 12 for the following reason –*

- 12A** *Because it would be inappropriate to require the provision of information relating to all categories of sellers when a ticket is resold, and because the amendment raises issues of compatibility with existing European Union law.*

**A** **Baroness Neville-Rolfe to move, That this House do not insist on its Amendment 12, to which the Commons have disagreed for their Reason 12A, but do propose Amendments 12B to 12H in lieu –**

#### After Clause 86

- 12B** Insert the following new Clause –

#### “CHAPTER 3B

#### SECONDARY TICKETING

#### **Duty to report criminal activity**

- (1) This section applies where –
  - (a) an operator of a secondary ticketing facility knows that a person has used or is using the facility in such a way that an offence has been or is being committed, and
  - (b) the offence relates to the re-sale of a ticket for a recreational, sporting or cultural event in the United Kingdom.
- (2) The operator must, as soon as the operator becomes aware that a person has used or is using the facility as mentioned in subsection (1), disclose the matters specified in subsection (3) to –
  - (a) an appropriate person, and
  - (b) an organiser of the event (subject to subsection (5)).
- (3) Those matters are –
  - (a) the identity of the person mentioned in subsection (1), if this is known to the operator, and
  - (b) the fact that the operator knows that an offence has been or is being committed as mentioned in that subsection.
- (4) The following are appropriate persons for the purposes of this section –

- (a) a constable of a police force in England and Wales,
  - (b) a constable of the police service of Scotland, and
  - (c) a police officer within the meaning of the Police (Northern Ireland) Act 2000.
- (5) This section does not require an operator to make a disclosure to an organiser of an event if the operator has reasonable grounds for believing that to do so will prejudice the investigation of any offence.
- (6) References in this section to an offence are to an offence under the law of any part of the United Kingdom.
- (7) This section applies only in relation to an offence of which an operator becomes aware after the coming into force of this section.”

**12C** Insert the following new Clause—

**“Enforcement of section (Duty to report criminal activity)**

- (1) A local weights and measures authority in Great Britain may enforce the provisions of section (*Duty to report criminal activity*) in its area.
- (2) The Department of Enterprise, Trade and Investment may enforce the provisions of section (*Duty to report criminal activity*) in Northern Ireland.
- (3) Each of the bodies referred to in subsections (1) and (2) is an “enforcement authority” for the purposes of this Chapter.
- (4) Where an enforcement authority is satisfied on the balance of probabilities that a person has breached the duty in section (*Duty to report criminal activity*), the authority may impose a financial penalty on the person in respect of that breach.
- (5) A local weights and measures authority in England and Wales may impose a penalty under this section in respect of a breach which occurs in England and Wales but outside that authority’s area (as well as in respect of a breach which occurs within that area).
- (6) A local weights and measures authority in Scotland may impose a penalty under this section in respect of a breach which occurs in Scotland but outside that authority’s area (as well as in respect of a breach which occurs within that area).
- (7) Only one penalty under this section may be imposed on the same person in respect of the same breach.
- (8) The amount of a financial penalty imposed under this section—
  - (a) may be such as the enforcement authority imposing it determines, but
  - (b) must not exceed £5,000.
- (9) Schedule (*Secondary ticketing: financial penalties*) (procedure for and appeals against financial penalties) has effect.”

**12D** Insert the following new Clause –

**“Duty to review measures relating to secondary ticketing**

- (1) The Secretary of State must –
  - (a) review, or arrange for a review of, consumer protection measures applying to the re-sale of tickets for recreational, sporting or cultural events in the United Kingdom through secondary ticketing facilities,
  - (b) prepare a report on the outcome of the review or arrange for such a report to be prepared, and
  - (c) publish that report.
- (2) The report must be published before the end of the period of 12 months beginning with the day on which this section comes into force.
- (3) The Secretary of State must lay the report before Parliament.
- (4) In this section “consumer protection measures” includes such legislation, rules of law, codes of practice and guidance as the Secretary of State considers relate to the rights of consumers or the protection of their interests.”

**12E** Insert the following new Clause –

**“Interpretation of this Chapter**

- (1) In this Chapter –
  - “enforcement authority” has the meaning given by section (*Enforcement of section (Duty to report criminal activity)*)(3);
  - “operator”, in relation to a secondary ticketing facility, means a person who –
    - (a) exercises control over the operation of the facility, and
    - (b) receives revenue from the facility,but this is subject to regulations under subsection (2);
  - “organiser”, in relation to an event, means a person who –
    - (a) is responsible for organising or managing the event, or
    - (b) receives some or all of the revenue from the event;
  - “secondary ticketing facility” means an internet-based facility for the re-sale of tickets for recreational, sporting or cultural events.
- (2) The Secretary of State may by regulations provide that a person of a description specified in the regulations is or is not to be treated for the purposes of section (*Duty to report criminal activity*) as an operator in relation to a secondary ticketing facility.
- (3) Regulations under subsection (2) –
  - (a) are to be made by statutory instrument;
  - (b) may make different provision for different purposes;
  - (c) may include incidental, supplementary, consequential, transitional, transitory or saving provision.

- (4) A statutory instrument containing regulations under subsection (2) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

#### Clause 91

**12F** Page 48, line 18, at end insert –

“(1C) Chapter 3B of this Part comes into force at the end of the period of two months beginning with the day on which this Act is passed.”

#### Schedule 5

**12G** Page 72, line 8, at end insert –

“section (*Enforcement of section (Duty to report criminal activity)*)(1) or (2) of this Act.”

#### After Schedule 8

**12H** Insert the following new Schedule –

#### “SECONDARY TICKETING: FINANCIAL PENALTIES

##### *Notice of intent*

- 1 (1) Before imposing a financial penalty on a person for a breach of the duty imposed by section (*Duty to report criminal activity*), an enforcement authority must serve a notice on the person of its proposal to do so (a “notice of intent”).
- (2) The notice of intent must be served before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the person’s breach, subject to sub-paragraph (3).
- (3) If the person is in breach of the duty on that day, and the breach continues beyond the end of that day, the notice of intent may be served –
  - (a) at any time when the breach is continuing, or
  - (b) within the period of 6 months beginning with the last day on which the breach occurs.
- (4) The notice of intent must set out –
  - (a) the amount of the proposed financial penalty,
  - (b) the reasons for proposing to impose the penalty, and
  - (c) information about the right to make representations under paragraph 2.

##### *Right to make representations*

- 2 A person on whom a notice of intent is served may, within the period of 28 days beginning with the day after that on which the notice was sent, make written representations to the enforcement authority about the proposal to impose a financial penalty on the person.

*Final notice*

- 3 (1) After the end of the period mentioned in paragraph 2 the enforcement authority must—
- (a) decide whether to impose a financial penalty on the person, and
  - (b) if it decides to do so, decide the amount of the penalty.
- (2) If the authority decides to impose a financial penalty on the person, it must serve a notice on the person (a “final notice”) imposing that penalty.
- (3) The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was sent.
- (4) The final notice must set out—
- (a) the amount of the financial penalty,
  - (b) the reasons for imposing the penalty,
  - (c) information about how to pay the penalty,
  - (d) the period for payment of the penalty,
  - (e) information about rights of appeal, and
  - (f) the consequences of failure to comply with the notice.

*Withdrawal or amendment of notice*

- 4 (1) The enforcement authority may at any time—
- (a) withdraw a notice of intent or final notice, or
  - (b) reduce the amount specified in a notice of intent or final notice.
- (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person on whom the notice was served.

*Appeals*

- 5 (1) A person on whom a final notice is served may appeal against that notice—
- (a) in England and Wales and Scotland, to the First-tier Tribunal;
  - (b) in Northern Ireland, to a county court.
- (2) The grounds for an appeal under this paragraph are that—
- (a) the decision to impose a financial penalty was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the amount of the financial penalty is unreasonable, or
  - (d) the decision was unreasonable for any other reason.
- (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.
- (4) On an appeal under this paragraph the First-tier Tribunal or the court may quash, confirm or vary the final notice.
- (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than £5,000.

*Recovery of financial penalty*

- 6 (1) This paragraph applies if a person does not pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.
- (2) In England and Wales the local weights and measures authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.
- (3) In Scotland the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) In Northern Ireland the Department of Enterprise, Trade and Investment may recover the penalty or part on the order of a county court as if it were payable under an order of that court.
- (5) In proceedings before the court for the recovery of a financial penalty or part of a financial penalty, a certificate which is –
- (a) signed by the chief finance officer of the local weights and measures authority which imposed the penalty or (as the case may be) issued by the Department of Enterprise, Trade and Investment, and
  - (b) states that the amount due has not been received by a date specified in the certificate,
- is conclusive evidence of that fact.
- (6) A certificate to that effect and purporting to be so signed or issued is to be treated as being so signed or issued unless the contrary is proved.
- (7) A local weights and measures authority may use the proceeds of a financial penalty for the purposes of any of its functions (whether or not the function is expressed to be a function of a local weights and measures authority).
- (8) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.”

**A1**

**Lord Moynihan to move, as an amendment to Motion A, leave out “Amendments 12B to 12H” and insert “Amendments 12J to 12S” –**



**After Clause 86**

**12J** Insert the following new Clause –

**“CHAPTER 3B****SECONDARY TICKETING****Duty to provide information about tickets**

- (1) This section applies where a person (“the seller”) re-sells a ticket for a recreational, sporting or cultural event in the United Kingdom through a secondary ticketing facility.
- (2) The seller and each operator of the facility must ensure that the person who buys the ticket (“the buyer”) is given the information specified in subsection (3), where this is applicable to the ticket.
- (3) That information is –
  - (a) where the ticket is for a particular seat or standing area at the venue for the event, the information necessary to enable the buyer to identify that seat or standing area,
  - (b) information about any restriction which limits use of the ticket to persons of a particular description, and
  - (c) the face value of the ticket.
- (4) The reference in subsection (3)(a) to information necessary to enable the buyer to identify a seat or standing area at a venue includes, so far as applicable –
  - (a) the name of the area in the venue in which the seat or standing area is located (for example the name of the stand in which it is located),
  - (b) information necessary to enable the buyer to identify the part of the area in the venue in which the seat or standing area is located (for example the block of seats in which the seat is located),
  - (c) the number, letter or other distinguishing mark of the row in which the seat is located, and
  - (d) the number, letter or other distinguishing mark of the seat.
- (5) The reference in subsection (3)(c) to the face value of the ticket is to the amount stated on the ticket as its price.
- (6) The seller and each operator of the facility must ensure that the buyer is given the information specified in subsection (7), where the seller is –
  - (a) an operator of the secondary ticketing facility,
  - (b) a person who is a parent undertaking or a subsidiary undertaking in relation to an operator of the secondary ticketing facility,
  - (c) a person who is employed or engaged by an operator of the secondary ticketing facility,
  - (d) a person who is acting on behalf of a person within paragraph (c), or
  - (e) an organiser of the event or a person acting on behalf of an organiser of the event.

- (7) That information is a statement that the seller of the ticket is a person within subsection (6) which specifies the ground on which the seller falls within that subsection.
- (8) Information required by this section to be given to the buyer must be given—
  - (a) in a clear and comprehensible manner, and
  - (b) before the buyer is bound by the contract for the sale of the ticket.
- (9) This section applies in relation to the re-sale of a ticket through a secondary ticketing facility only if the ticket is first offered for re-sale through the facility after the coming into force of this section.”

**12K** Insert the following new Clause—

**“Prohibition on cancellation or blacklisting**

- (1) This section applies where a person (“the seller”) re-sells, or offers for re-sale, a ticket for a recreational, sporting or cultural event in the United Kingdom through a secondary ticketing facility.
- (2) An organiser of the event must not cancel the ticket merely because the seller has re-sold the ticket or offered it for re-sale unless—
  - (a) a term of the original contract for the sale of the ticket—
    - (i) provided for its cancellation if it was re-sold by the buyer under that contract,
    - (ii) provided for its cancellation if it was offered for re-sale by that buyer, or
    - (iii) provided as mentioned in sub-paragraph (i) and (ii), and
  - (b) that term was not unfair for the purposes of Part 2 (unfair terms).
- (3) An organiser of the event must not blacklist the seller merely because the seller has re-sold the ticket or offered it for re-sale unless—
  - (a) a term of the original contract for the sale of the ticket—
    - (i) provided for the blacklisting of the buyer under that contract if it was re-sold by that buyer,
    - (ii) provided for the blacklisting of that buyer if it was offered for re-sale by that buyer, or
    - (iii) provided as mentioned in sub-paragraph (i) and (ii), and
  - (b) that term was not unfair for the purposes of Part 2 (unfair terms).
- (4) In subsections (2) and (3) “the original contract” means the contract for the sale of the ticket by an organiser of the event to a person other than an organiser of the event.
- (5) For the purposes of this section an organiser of an event cancels a ticket if the organiser takes steps which result in the holder for the time being of the ticket no longer being entitled to attend that event.
- (6) For the purposes of this section an organiser of an event blacklists a person if the organiser takes steps—
  - (a) to prevent the person from acquiring a ticket for a recreational, sporting or cultural event in the United Kingdom, or
  - (b) to restrict the person’s opportunity to acquire such a ticket.

- (7) Part 2 (unfair terms) may apply to a term of a contract which, apart from that Part, would permit the cancellation of a ticket for a recreational, sporting or cultural event in the United Kingdom, or the blacklisting of the seller of such a ticket, in circumstances other than those mentioned in subsection (2).
- (8) Before the coming into force of Part 2, references to that Part in this section are to be read as references to the Unfair Terms in Consumer Contracts Regulations 1999 (SI 1999/2083).
- (9) This section applies in relation to a ticket that is re-sold or offered for re-sale before or after the coming into force of this section; but the prohibition in this section applies only to things done after its coming into force.”

**12L** Insert the following new Clause –

**“Duty to report criminal activity**

- (1) This section applies where –
  - (a) an operator of a secondary ticketing facility knows that a person has used or is using the facility in such a way that an offence has been or is being committed, and
  - (b) the offence relates to the re-sale of a ticket for a recreational, sporting or cultural event in the United Kingdom.
- (2) The operator must, as soon as the operator becomes aware that a person has used or is using the facility as mentioned in subsection (1), disclose the matters specified in subsection (3) to –
  - (a) an appropriate person, and
  - (b) an organiser of the event (subject to subsection (5)).
- (3) Those matters are –
  - (a) the identity of the person mentioned in subsection (1), if this is known to the operator, and
  - (b) the fact that the operator knows that an offence has been or is being committed as mentioned in that subsection.
- (4) The following are appropriate persons for the purposes of this section –
  - (a) a constable of a police force in England and Wales,
  - (b) a constable of the police service of Scotland, and
  - (c) a police officer within the meaning of the Police (Northern Ireland) Act 2000.
- (5) This section does not require an operator to make a disclosure to an organiser of an event if the operator has reasonable grounds for believing that to do so will prejudice the investigation of any offence.
- (6) References in this section to an offence are to an offence under the law of any part of the United Kingdom.
- (7) This section applies only in relation to an offence of which an operator becomes aware after the coming into force of this section.”

**12M** Insert the following new Clause –

**“Enforcement of this Chapter**

- (1) A local weights and measures authority in Great Britain may enforce the provisions of this Chapter in its area.
- (2) The Department of Enterprise, Trade and Investment may enforce the provisions of this Chapter in Northern Ireland.
- (3) Each of the bodies referred to in subsections (1) and (2) is an “enforcement authority” for the purposes of this Chapter.
- (4) Where an enforcement authority is satisfied on the balance of probabilities that a person has breached a duty or prohibition imposed by this Chapter, the authority may impose a financial penalty on the person in respect of that breach.
- (5) But in the case of a breach of a duty in section (*Duty to provide information about tickets*) or a prohibition in section (*Prohibition on cancellation or blacklisting*) an enforcement authority may not impose a financial penalty on a person (“P”) if the authority is satisfied on the balance of probabilities that—
  - (a) the breach was due to—
    - (i) a mistake,
    - (ii) reliance on information supplied to P by another person,
    - (iii) the act or default of another person,
    - (iv) an accident, or
    - (v) another cause beyond P’s control, and
  - (b) P took all reasonable precautions and exercised all due diligence to avoid the breach.
- (6) A local weights and measures authority in England and Wales may impose a penalty under this section in respect of a breach which occurs in England and Wales but outside that authority’s area (as well as in respect of a breach which occurs within that area).
- (7) A local weights and measures authority in Scotland may impose a penalty under this section in respect of a breach which occurs in Scotland but outside that authority’s area (as well as in respect of a breach which occurs within that area).
- (8) Only one penalty under this section may be imposed on the same person in respect of the same breach.
- (9) The amount of a financial penalty imposed under this section—
  - (a) may be such as the enforcement authority imposing it determines, but
  - (b) must not exceed £5,000.
- (10) Schedule (*Secondary ticketing: financial penalties*) (procedure for and appeals against financial penalties) has effect.
- (11) References in this section to this Chapter do not include section (*Duty to review measures relating to secondary ticketing*).”

12N Insert the following new Clause –

**“Duty to review measures relating to secondary ticketing**

- (1) The Secretary of State must –
  - (a) review, or arrange for a review of, consumer protection measures applying to the re-sale of tickets for recreational, sporting or cultural events in the United Kingdom through secondary ticketing facilities,
  - (b) prepare a report on the outcome of the review or arrange for such a report to be prepared, and
  - (c) publish that report.
- (2) The report must be published before the end of the period of 12 months beginning with the day on which this section comes into force.
- (3) The Secretary of State must lay the report before Parliament.
- (4) In this section “consumer protection measures” includes such legislation, rules of law, codes of practice and guidance as the Secretary of State considers relate to the rights of consumers or the protection of their interests.”

12P Insert the following new Clause –

**“Interpretation of this Chapter**

- (1) In this Chapter –
  - “enforcement authority” has the meaning given by section *(Enforcement of this Chapter)*(3);
  - “operator”, in relation to a secondary ticketing facility, means a person who –
    - (a) exercises control over the operation of the facility, and
    - (b) receives revenue from the facility,but this is subject to regulations under subsection (2);
  - “organiser”, in relation to an event, means a person who –
    - (a) is responsible for organising or managing the event, or
    - (b) receives some or all of the revenue from the event;
  - “parent undertaking” has the meaning given by section 1162 of the Companies Act 2006;
  - “secondary ticketing facility” means an internet-based facility for the re-sale of tickets for recreational, sporting or cultural events;
  - “subsidiary undertaking” has the meaning given by section 1162 of the Companies Act 2006;
  - “undertaking” has the meaning given by section 1162 of the Companies Act 2006.
- (2) The Secretary of State may by regulations provide that a person of a description specified in the regulations is or is not to be treated for the purposes of this Chapter as an operator in relation to a secondary ticketing facility.
- (3) Regulations under subsection (2) –

- (a) are to be made by statutory instrument;
  - (b) may make different provision for different purposes;
  - (c) may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under subsection (2) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

#### Clause 91

**12Q** Page 48, line 18, at end insert –

“(1C) Chapter 3B of this Part comes into force at the end of the period of two months beginning with the day on which this Act is passed.”

#### Schedule 5

**12R** Page 72, line 8, at end insert –

“section (*Enforcement of this Chapter*)(1) or (2) of this Act.”

#### After Schedule 8

**12S** Insert the following new Schedule –

#### “SECONDARY TICKETING: FINANCIAL PENALTIES

##### *Notice of intent*

- 1 (1) Before imposing a financial penalty on a person for a breach of a duty or prohibition imposed by Chapter 3B of Part 3, an enforcement authority must serve a notice on the person of its proposal to do so (a “notice of intent”).
- (2) The notice of intent must be served before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the person’s breach, subject to sub-paragraph (3).
- (3) If the person is in breach of the duty or prohibition on that day, and the breach continues beyond the end of that day, the notice of intent may be served –
  - (a) at any time when the breach is continuing, or
  - (b) within the period of 6 months beginning with the last day on which the breach occurs.
- (4) The notice of intent must set out –
  - (a) the amount of the proposed financial penalty,
  - (b) the reasons for proposing to impose the penalty, and
  - (c) information about the right to make representations under paragraph 2.

*Right to make representations*

- 2 A person on whom a notice of intent is served may, within the period of 28 days beginning with the day after that on which the notice was sent, make written representations to the enforcement authority about the proposal to impose a financial penalty on the person.

*Final notice*

- 3 (1) After the end of the period mentioned in paragraph 2 the enforcement authority must—
- (a) decide whether to impose a financial penalty on the person, and
  - (b) if it decides to do so, decide the amount of the penalty.
- (2) If the authority decides to impose a financial penalty on the person, it must serve a notice on the person (a “final notice”) imposing that penalty.
- (3) The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was sent.
- (4) The final notice must set out—
- (a) the amount of the financial penalty,
  - (b) the reasons for imposing the penalty,
  - (c) information about how to pay the penalty,
  - (d) the period for payment of the penalty,
  - (e) information about rights of appeal, and
  - (f) the consequences of failure to comply with the notice.

*Withdrawal or amendment of notice*

- 4 (1) The enforcement authority may at any time—
- (a) withdraw a notice of intent or final notice, or
  - (b) reduce the amount specified in a notice of intent or final notice.
- (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person on whom the notice was served.

*Appeals*

- 5 (1) A person on whom a final notice is served may appeal against that notice—
- (a) in England and Wales and Scotland, to the First-tier Tribunal;
  - (b) in Northern Ireland, to a county court.
- (2) The grounds for an appeal under this paragraph are that—
- (a) the decision to impose a financial penalty was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the amount of the financial penalty is unreasonable, or
  - (d) the decision was unreasonable for any other reason.
- (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

- (4) On an appeal under this paragraph the First-tier Tribunal or the court may quash, confirm or vary the final notice.
- (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than £5,000.

*Recovery of financial penalty*

- 6 (1) This paragraph applies if a person does not pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.
- (2) In England and Wales the local weights and measures authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.
- (3) In Scotland the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) In Northern Ireland the Department of Enterprise, Trade and Investment may recover the penalty or part on the order of a county court as if it were payable under an order of that court.
- (5) In proceedings before the court for the recovery of a financial penalty or part of a financial penalty, a certificate which is –
  - (a) signed by the chief finance officer of the local weights and measures authority which imposed the penalty or (as the case may be) issued by the Department of Enterprise, Trade and Investment, and
  - (b) states that the amount due has not been received by a date specified in the certificate,is conclusive evidence of that fact.
- (6) A certificate to that effect and purporting to be so signed or issued is to be treated as being so signed or issued unless the contrary is proved.
- (7) A local weights and measures authority may use the proceeds of a financial penalty for the purposes of any of its functions (whether or not the function is expressed to be a function of a local weights and measures authority).
- (8) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.”



# Consumer Rights Bill

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MARSHALLED LIST OF MOTIONS TO BE MOVED  
ON CONSIDERATION OF COMMONS REASON

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*23rd February 2015*

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