

ENFORCEMENT (ADMINISTRATIVE FINES) AMENDMENT BYELAW (NO. 1 of 2022)

Purpose

The purpose of this byelaw is to amend certain provisions of the Enforcement Byelaw to allow for an administrative fines regime.

Notes

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This Byelaw was made by the Council on 7 March 2022 in exercise of its powers under sections 6(2) and 6(3) of Lloyd's Act 1982 and paragraph (7), (21), (22), (24) and (25) of Schedule 2 thereof and may be referred to as the Enforcement (Administrative Fines) Amendment Byelaw (No. 1 of 2022).

These notes, the note setting out the purpose of this Byelaw and the headings are for guidance only and do not form part of the Byelaw.

Amendments to the Enforcement Byelaw

1. The Enforcement Byelaw (No. 6 of 2005) is amended by –

(i) in the section headed “Purpose” –

- (a) deleting the word “and” at the end of the item numbered 6;
- (b) deleting the full-stop at the end of the item numbered 7 and inserting “; and”;
and
- (c) inserting at the end of the list of numbered items the following –

“8. provide for the *Council* to impose *administrative fines* on *persons* who are subject to the *enforcement jurisdiction* of the *Society* for failure to comply with any provisions of Lloyd’s Act 1871-1982 or any *requirement of the Council*.”;

(ii) inserting the following at the beginning of paragraph 3(c):

“(save in respect of a contravention or failure prescribed under paragraph 36B(a) (*administrative fines*))”.

(iii) in paragraph 11 –

- (a) deleting the word “the” before the words “Disciplinary Committees” in the first sentence;
- (b) deleting the word “and” in sub-paragraph 11(a);
- (c) deleting “.” and inserting in its place “; and” in sub-paragraph 11(b); and
- (b) inserting the following words as new sub-paragraph (c) after sub-paragraph (b):

“(c) the power of the Council to impose *administrative fines* pursuant to Part IA.”.

(iv) in paragraph 13 –

- (a) deleting the word “all” in sub-paragraph 13(a);
- (b) adding the words “(save the power to impose *administrative fines*)” after the first reference to “*enforcement proceedings*” in sub-paragraph (a).

(v) in paragraph 23 –

- (a) deleting the word “and” in sub-paragraph 23(b); and
- (b) inserting the following words as new sub-paragraph (ba) after sub-paragraph (b):

“(ba) *administrative fines*”; and”

- (vi) inserting the following new sub-heading and paragraph 29A after paragraph 29 –

“Right of appeal relating to administrative fines

29A. Any *person* upon whom an *administrative fine* is imposed shall have a right of appeal against the *administrative fine* or the amount or any term of the *administrative fine*.

- (vii) inserting the following after the words “allow an appeal” in paragraph 31 –

“(save in respect of the right to appeal a decision of the *Administrative Sanctions Panel*)”.

- (viii) inserting the following new paragraph 31A after paragraph 31 –

31A. The grounds on which the *Appeal Tribunal* may allow an appeal against a decision of the *Administrative Sanctions Panel* are where it is satisfied that the *Administrative Sanctions Panel*:

- (a) made an error of law; and/or
- (b) took into account irrelevant matters or failed to take into account relevant matters or otherwise reached a decision so unreasonable that no reasonable body could have so decided.”

- (ix) in paragraph 32 –

- (a) insert “or paragraph 31A” after “set out in paragraph 31”; and
- (b) insert “or paragraph 33A” after “under paragraph 33”.

- (x) insert a new paragraph 33A after paragraph 33 as follows -

“Where the *Appeal Tribunal* allows an appeal against an *administrative fine* on one or more of the grounds set out in paragraph 31A of the Byelaw, it may, if it considers it appropriate and just in all the circumstances, substitute its own decision for that of the *Administrative Sanctions Panel* and shall issue its own decision as to the *administrative fine* to be imposed.”.

- (xi) inserting the following new Part IA after Part I –

“Part IA – Administrative Fines

The Administrative Sanctions Panel

36A. The *Administrative Sanctions Panel* is the *Disciplinary Committee* of the *Society* with the power to impose *administrative fines* on *persons* subject to the *enforcement jurisdiction* of the *Society* pursuant to paragraph 36B and the *Council* shall appoint the members of the *Administrative Sanction Panel* and may from time to time prescribe requirements to govern the procedure for the revocation, suspension or replacement of members of the *Administrative Sanctions Panel*

Power to impose administrative fines

36B. The *Council* may from time to time make requirements for imposing *administrative fines* on *persons* subject to the *enforcement jurisdiction* of the *Society*, which shall prescribe –

- (a) the acts or omissions resulting in a contravention or failure to observe any provisions of the Lloyd’s Acts 1871-1982 or any *requirements of the Council*, in respect of which the *Council* may impose administrative fines;
- (b) the way in which *administrative fines* shall be calculated and any interest thereon; and
- (d) the procedure for imposing *administrative fines*.

36C. The procedure adopted by the *Council* for imposing *administrative fines* shall be a simplified procedure and constitute disciplinary proceedings for the purposes of the Lloyd’s Acts 1871-1982.

36D. The *Council* shall consult with interested parties prior to making any requirements pursuant to paragraph 36B including with any *persons* who would be subject to those requirements (but any failure to consult shall not invalidate any requirements made).”

(xii) Inserting after the words “*Enforcement Committee*” in paragraph 43, the following:

“, the *Administrative Sanctions Panel*”.

(xiii) inserting the following new heading and paragraph 45A after paragraph 45 –

“Administrative Fines

45A The power of the *Council* to impose *administrative fines* in accordance with paragraph 36A-D shall not apply to *Lloyd’s Brokers* or any *person* in respect of their actions or omissions when acting in their capacity as a partner, director, officer or employee of a *Lloyd’s Broker*.

Amendments to the Definitions Byelaw

2. The Definitions Byelaw (No. 7 of 2005) is amended –

(i) by inserting in paragraph 1 after the definition of “administrative and processing functions” –

““administrative fine” means a fine imposed by the *Council* in accordance with paragraph 36B of the Enforcement Byelaw (No. 6 of 2005);”

““Administrative Sanctions Panel” means the *Disciplinary Committee* of the *Society* with the power to impose *administrative fines* on *persons* subject to the *enforcement jurisdiction* of the *Society* pursuant to paragraph 36B of the Enforcement Byelaw (No. 6 of 2005).”

(ii) by amending the definition of “Disciplinary Committees” in paragraph 1 by inserting the words “and the *Administrative Sanctions Panel*” after “*Enforcement Committees*”.

Commencement

3. This byelaw shall come into force on 7 March 2022.