

Independent Broadcasting Authority (Administrative Penalties) Regulations 2022

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THE INDEPENDENT BROADCASTING AUTHORITY ACT

Regulations made by the Independent Broadcasting Authority, with the approval of the Minister,
under section 38 of the Independent Broadcasting Authority Act

1. These regulations may be cited as the **Independent Broadcasting Authority (Administrative Penalties) Regulations 2022**.

2. In these regulations –

"Act" means the Independent Broadcasting Authority Act;

"breach" means refraining to comply, or negligently failing to comply, with the Act or regulations made under the Act, Codes, any direction of the Authority or any conditions of a licence.

3. (1) For the purpose of section 29 of the Act, where a licensee has committed a breach, the Authority shall, in determining the quantum of the administrative penalty to be imposed on the licensee, consider the following –

- (a) the nature and gravity of the breach;
- (b) whether the licensee was aware of the breach;
- (c) the measures or precautions which the licensee took to prevent the breach or to mitigate the impact thereof;
- (d) the intent or negligence, if any, of the licensee in committing the breach;
- (e) the duration, scheduling and frequency of the breach;
- (f) the conduct of the licensee after it became aware of the breach;
- (g) any element which serves to deter the licensee from committing the breach;
- (h) any damage to the reputation of a person or an institution as a result of the breach;
- (i) the previous disciplinary record and compliance history of the licensee, including –
 - (i) whether the Authority had formerly required the implementation of remedial action by the licensee and the extent to which such action has been complied with; and
 - (ii) the general compliance history of the licensee, including any adverse findings, if any;
- (j) whether the imposition of the administrative penalty may cause significant financial impairment to the licensee.

(2) In ascertaining the conduct of the licensee under paragraph (1)(f), the Authority shall consider the following –

- (a) whether and when the breach was brought to the attention of the Authority;
- (b) whether appropriate remedial action has been taken by the licensee in an efficient manner with respect to the breach;
- (c) the degree of co-operation with the Authority during the investigation or inquiry of the Authority into the breach;
- (d) the likelihood of recurrence of the same type of breach if no suitable action is taken; and
- (e) the nature and extent of any false or inaccurate information provided, whether knowingly or inadvertently, which results in the Authority being misled by the licensee.

(3) Where the imposition of an administrative penalty may cause significant financial impairment to a licensee, the Authority may reduce the quantum of the administrative penalty to mitigate the financial impairment of the licensee.

4. These regulations shall come into operation on 8 August 2022.

Made by the Independent Broadcasting Authority on 10 July 2022 and approved by the Minister on 5 August 2022.
