

**FROM:** General Manager, Regulatory Proceedings, Regulatory Division  
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**SUBJECT:** **MISCELLANEOUS DISCIPLINARY PENALTIES (NO. 2) BYELAW (NO. 11 OF 1999)**  
**SUBJECT AREA(S):**  
**ATTACHMENTS:** Yes  
**ACTION POINTS:** For information  
**DEADLINE:** None

At its meeting on 7 July 1999, the Council of Lloyd's made the Miscellaneous Disciplinary Penalties (No. 2) Byelaw (No. 11 of 1999). This byelaw amends the Misconduct and Penalties Byelaw (No. 30 of 1996) and the Disciplinary Committees Byelaw (No 31. of 1996). A full copy of the Byelaw including its explanatory notes, is attached to this bulletin. This byelaw came into effect immediately.

The amendments made by this byelaw have been made to allow all cases of an administrative nature to be dealt with by the quicker and more cost effective fixed penalty process. Defendants will not be disadvantaged by these changes. Should they reject the fixed penalty fine, the defendant may elect to defend the case as a summary disciplinary case.

In addition, the existing publication rules only allowed for withholding publication of any part of a misconduct finding in a fixed penalty case. The amendments will ensure that publication of all breaches of an administrative nature can now be dealt with in a similar manner.

The specific amendments are:

A. Amendment to Misconduct and Penalties Byelaw (No. 30 of 1996).

The Misconduct and Penalties Byelaw is amended to provide the Council with discretion to initiate fixed penalty proceedings in respect of any act of misconduct of an administrative nature.

The amendments also permit the Council to fix the level of any fixed penalty below that which would otherwise apply under the fixed penalty tables within the Misconduct and Penalties Byelaw.

B. Amendment to the Disciplinary Committees Byelaw (No. 31 of 1996).

The Disciplinary Committees Byelaw is amended to provide the Council with discretion to withhold from publication any part of a misconduct finding. This relates only to fixed penalty cases or to cases involving misconduct of an administrative nature dealt with by summary disciplinary proceedings.

Any queries on the new byelaw should be addressed in the first instance to Noel Lawson, General Manager, Regulatory Proceedings.

This bulletin is being sent to all underwriting agents and Lloyd's advisers, Lloyd's brokers, corporate members, market associations, the ALM and recognised accountants.

Noel Lawson  
General Manager, Regulatory Proceedings  
Regulatory Division

## MISCELLANEOUS DISCIPLINARY PENALTIES (No. 2) BYELAW

(No 11 of 1999)

(made on 7 July 1999)

The Council of Lloyd's in exercise of its powers under Section 6(2) of Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

### 1. Amendment to Misconduct and Penalties Byelaw (No 30 of 1996)

The Misconduct and Penalties Byelaw (No.30 of 1996) is amended as follows -

a) in paragraph 1(1) of Schedule 2 (Fixed Penalties) -

- i) by inserting, after the words "if the alleged misconduct ...", and before the words "falls within", a colon and the words "(a)";
- ii) by deleting the full stop after the words "...paragraph 2 below", substituting a semi-colon and adding, after the semi-colon, the word "or"; and
- iii) by adding a new sub-paragraph 1(1)(b) as follows -

"(b) in the opinion of the Council involves misconduct of an administrative nature."

b) by deleting paragraph 1(3) of Schedule 2 and substituting the following -

"(3) The amount a fixed penalty shall be calculated -

- (a) in accordance with paragraph 3 for fixed penalty proceedings relating to alleged misconduct within paragraph 1(1)(a); or
- (b) subject to paragraph 3(4) below, by the Council for fixed penalty proceedings relating to alleged misconduct within paragraph 1(1)(b)."

c) in paragraph 3 of Schedule 2 (Fixed Penalties) -

i) by adding a new paragraph 3(3) as follows:

"3(3) The Council may, after calculating the level of any fixed penalty pursuant to paragraphs 3(1) and (2) above, reduce the penalty so calculated if it considers the amount of the penalty to be excessive having regard to the nature and gravity of the misconduct in question."

ii) by adding a new paragraph 3(4) as follows:

“3(4) A fixed penalty for misconduct referred to in paragraph 1(1)(b) above shall be as determined by the Council in its absolute discretion save that the level of any such fixed penalty shall not be greater than a fine which could have been imposed in summary proceedings.”

## **2) Amendment to Disciplinary Committees Byelaw (No. 31 of 1996)**

The Disciplinary Committees Byelaw (No. 31 of 1996) is amended as follows -

- a) in Rule 14.2 of Schedule 2 (Lloyd’s Disciplinary Rules) by inserting, before the words “...if it considers that it should do so ...”, the words “in respect of any summary proceedings which relate to any misconduct which in the opinion of the Council involves misconduct of an administrative nature.”

## **3) Commencement**

This byelaw shall come into force on 7 July 1999.

**MISCELLANEOUS DISCIPLINARY PENALTIES (No 2) BYELAW  
(No 11 of 1999)**

**EXPLANATORY NOTE**

(This note is not part of the byelaw)

This byelaw amends the Misconduct and Penalties Byelaw (No. 30 of 1996) (as amended) so to provide the Council with discretion to initiate any disciplinary proceedings involving misconduct which in the opinion of the Council involves a minor or inadvertent act of misconduct giving rise to a contravention or failure of an administrative nature as fixed penalty proceedings. The amendments also permit the Council to reduce the level of any fixed penalty which would be calculated pursuant to the fixed penalty tables within the byelaw.

In addition, the byelaw amends the Disciplinary Committees Byelaw (No.31 of 1996) (as amended) so to provide Council with discretion to withhold from publication all or any part of a decision of the Disciplinary Board or a Disciplinary Tribunal in respect of both fixed penalty and summary disciplinary proceedings relating to such misconduct.