



Press Summary

27 July 2026

Akbars Restaurant (Middlesbrough) Limited (Appellant) v Secretary of State for the Home Department (Respondent)

[2026] UKSC 26

On appeal from: [2024] EWCA Civ 1386

Justices: Lord Sales (Deputy President), Lord Leggatt, Lord Richards, Lady Rose and Lady Simler

Background to the Appeal

The appellant is a company which operates a restaurant in Middlesbrough.

In January 2023, immigration officers conducted an inspection of the appellant's restaurant. They identified one worker who they believed was an immigrant working in the UK illegally, his leave to remain in the UK having expired.

Section 15 of the Immigration, Asylum and Nationality Act 2006 confers on the Secretary of State a power to issue a notice to impose a financial penalty on a person who employs an immigrant who does not have permission to work in the UK.

Section 15(1) provides that *“it is contrary to this section to employ an adult subject to immigration control if- (a) he has not been granted leave to enter or remain in the United Kingdom, or (b) his leave to enter or remain in the United Kingdom- (i) is invalid, (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or (iii) is subject to a condition preventing him from accepting the employment.”* These three limbs are mutually inconsistent.

Section 15(6) sets out various requirements which a penalty notice issued by the Secretary of State for breach of section 15(1) must satisfy. Section 15(6)(a) provides that the penalty notice must *“state why the Secretary of State thinks the employer is liable to the penalty.”*

On 13 March 2023, the Secretary of State exercised her power under section 15 and issued the appellant with a civil penalty notice for a penalty of £15,000. Under the heading ‘You are liable for a civil penalty’, the penalty notice stated that *“we have encountered a suspected breach of section 15 by your business on 15/01/2023. We have considered the information and evidence in your case, and concluded that you have breached section 15... by employing an adult subject to immigration control who has a) not been granted leave to enter or remain in the UK, or b)*

their leave to enter or remain in the UK is invalid or has ceased to have effect, or c) who is subject to a condition preventing them from accepting the employment in question.”

Thus the penalty notice listed all the limbs of section 15(1), without stating which one the Secretary of State thought applied in relation to the worker.

The appellant filed an appeal in the county court against the penalty notice. The appellant submitted that the penalty notice was invalid because it failed to specify which limb of section 15(1) the Secretary of State thought was applicable, and therefore did not comply with the requirement in section 15(6)(a).

In advance of the hearing of the appeal, the Secretary of State filed and served the evidence on which she proposed to rely at the hearing. This evidence was to the effect that the worker’s leave to remain had expired so that, by the time of the inspection, he was an overstayer who did not have permission to work in the UK. The Secretary of State said that her position was that section 15(1)(b)(ii) applied.

The county court judge dismissed the appellant’s appeal and held that the penalty notice was valid. The appellant appealed to the Court of Appeal, arguing that the judge had been wrong to determine that the penalty notice complied with section 15(6)(a) notwithstanding that it listed all the statutory reasons in section 15(1), which are mutually exclusive. The Court of Appeal dismissed the appeal.

The appellant now appeals to the Supreme Court.

Judgment

The Supreme Court unanimously allows the appeal. Lord Sales delivers the judgment, with which Lord Leggatt, Lady Rose, Lord Richards and Lady Simler agree.

Reasons for the Judgment

To assess whether a penalty notice issued under section 15 complies with the requirements of that provision, it is necessary to look at the substance of the notice read as a whole. The question in this appeal is therefore whether, reading the penalty notice as a whole, it complied with section 15(6)(a) [32]. That depends upon the proper interpretation of section 15(6)(a), read in its context and having regard to its proper purpose [33].

The interpretation of section 15 has to proceed against the constitutional background that the statutory regime is penal in nature [34]. Where the state imposes a penalty of this kind, proper reasons should be given to explain why it is doing that and to show that its action is justified. The person affected is entitled to know why the penal power of the state has been invoked against them. Also, fairness requires that the person affected should be given accurate and sufficient information about the reasons why a penalty has been imposed, so that they can make an informed decision about whether to appeal [35].

The alternative limbs in section 15(1) are mutually exclusive. If a court was responsible for imposing a fine of £15,000 for breach of the law, it would not be acceptable for it to give a judgment saying that the case before it fell within one or other of three mutually exclusive cases, without stipulating which one. Similarly, if a person was charged with an ‘offence’ of breaching a provision like section 15(1), the prosecution would need to state which limb of section 15(1) was being relied on [36]. The issuing of a penalty notice is itself a judgment by the state that a penalty should be imposed and can also be regarded as setting out a charge of commission of an offence, and the same standards apply. The fact that it is the Secretary of State (rather than a court or prosecuting body) who makes the decision to issue the penalty notice does not alter the standard of explanation required [37].

In order to decide that she has power to issue a penalty notice, the Secretary of State has to decide which limb of section 15(1) applies. In that context the ordinary meaning of section 15(6)(a) is that the Secretary of State must state which limb it is that she thinks applies. The constitutional context referred to supports that interpretation, as does the statutory scheme in the context of which section 15 appears [39]-[46]. The purpose of section 15(6)(a) is plainly to inform an employer in receipt of a penalty notice about why it is being imposed, and to enable them to make an informed decision whether to appeal to challenge that reason [51].

The Supreme Court rejects the fallback argument made on behalf of the Secretary of State that, applying the approach to breach of statutory procedural requirements explained in *R v Soneji* [2006] 1 AC 340, even if the penalty notice failed to comply with the requirements of section 15(6)(a) it was nevertheless valid because, in light of the fact that by the time of the county court hearing the Secretary of State had specified which limb of section 15(1) was being relied on, the appellant had not suffered any detriment as a result of the deficiency.

Soneji introduced a new framework for addressing the question of what effect breach of a procedural requirement set out in statute would have on subsequent proceedings. The relevant approach under *Soneji* is to ask whether it was a purpose of the legislation that an act done in breach of the provision should be invalid [52]. The recognition in *Soneji* of this new framework for analysis does not mean that the effect of procedural rules in every statutory context turns on detailed examination of the consequences arising from the breach of the particular rule. Nor does it mean that a test of substantial compliance applies in every case in order to determine the validity of some procedural step [54].

The middle-way approach explained in *Soneji* is not applicable in this case. Section 15(6)(a) sets out a clear requirement that the Secretary of State has to specify which limb of section 15(1) is being relied on as the basis for the imposition of the penalty set out in the notice. Fulfilment of the relevant purpose of section 15(6)(a) would be unacceptably undermined if the penalty notice were given effect notwithstanding the failure to comply with the requirement in that provision [58].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)