

Administrative Penalties for Building Violations in The Saudi System

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Abstract

General administrative penalties are a category of sanctions that have recently emerged to address certain offenses that do not merit criminal penalties due to their lesser severity and gravity in the view of society. Instead, these offenses are adequately addressed with a general administrative penalty imposed by administrative authorities without recourse to judicial proceedings. Within the context of construction-related infractions, Saudi law has established fines and demolitions as administrative penalties that are imposed by authorities responsible for overseeing and monitoring construction activities.

Keywords: *Administrative, Building, Violations, Saudi System*

INTRODUCTION

This study examines general administrative penalties aimed at addressing certain offenses that do not warrant criminal penalties but are adequately dealt with through administrative sanctions imposed directly by the administration without recourse to the judiciary.

The Saudi regulator has endowed the administration with the authority to impose regulatory penalties for violations of construction and urban planning rules. These penalties are distinctive administrative decisions characterized by their deterrent and punitive nature against individuals.

Research Questions

The main research question focuses on the administrative penalties imposed by the Saudi regulator for building violations, and branches into the following questions:

What are the financial penalties, and how are they regulated by Saudi law?

Under what circumstances is demolition ordered for non-compliant construction?

What authorities are empowered to impose general administrative penalties for building violations, and how can these decisions be appealed?

Research Objectives

To understand the nature of fines as administrative penalties under Saudi law and to outline their legal framework.

To explore the imposition of demolition as an administrative penalty for non-compliant construction in Saudi law, including the conditions under which demolition is enforced.

To identify the authorities responsible for imposing administrative penalties in the Saudi system.

Research Plan: The research plan includes an introduction, two main sections, and a conclusion.

The first section addresses administrative penalties for building violations, divided into two parts:

The first part defines administrative penalties for building violations and their characteristics.

The second part discusses the types of administrative penalties for building violations.

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The second section focuses on the authorities responsible for imposing administrative penalties for building violations, divided into two parts:

The first part specifies the authorities designated by the regulator to impose administrative penalties on building violations.

The second part covers the grievance procedures against the imposition of administrative penalties in the field of construction.

Section One: Administrative Penalties for Building Violations

This section delves into the topic of administrative penalties by first defining them and describing their characteristics in the first subsection, followed by a discussion on the types of administrative penalties imposed for building violations in the second subsection.

Subsection One: Definition and Characteristics of Administrative Penalties

Administrative law scholars define administrative penalties as individual administrative decisions with a punitive nature, imposed by the administration without recourse to judiciary procedures, as a response to violations of regulations and directives aimed at regulating individual activities for the public interest. (*General Rules of Administrative Penalty*, Abdulaziz Khalifa, p. 12; *General Theory of Administrative Penalties*, Mohamed Saad Fouda, p. 66)

The characteristics of an administrative penalty are outlined as follows:

It is an administrative decision, which requires it to fulfill the elements of administrative decisions concerning form, competence, cause, subject, and purpose, otherwise, it is considered unlawful and subject to cancellation.

The imposition of an administrative penalty falls within the jurisdiction of the public authority responsible for the activity involved in the violation.

The purpose of imposing administrative penalties is to regulate the activities of individuals to achieve the public interest.

Subsection Two: Types of Administrative Penalties in the Field of Building Violations

The Saudi regulator has limited the penalties for building violations to fines and the demolition of non-compliant structures. This will be further discussed in the following two parts:

Part One: Fines: A fine is a monetary amount imposed by the administration on the violator instead of pursuing criminal charges for the act (*Environmental Protection Law in Light of Sharia*, Ragheb Al-Halou, p. 167).

This means that the fine is imposed directly by the administration without judicial intervention. In the context of administrative penalties for building violations, a fine can be defined as "a monetary amount imposed unilaterally by the administration on someone who violates building regulations and ordinances." The Saudi regulator has set fines as administrative penalties for building violations (*Administrative Protection of the Environment*, Aref Saleh Mukhlif, p. 314).

The regulations specify that penalties can range up to SAR 500,000 for standard violations and up to SAR 1,000,000 for severe municipal violations, with potential doubling for repeated offenses. (*Article 2, Municipal Violations Penalties Regulation*, Council of Ministers Resolution No. 92, dated 05/02/1442 AH)

Part Two: Demolition of Non-Compliant Buildings in the Saudi System

Demolition is another administrative penalty imposed on buildings that violate construction permits or the specifications and requirements set by the Saudi Building Code.

Although not explicitly defined by the Saudi system, legal scholars describe demolition as an administrative decision to remove constructions that violate laws and regulations and eradicate their effects entirely at the

expense of the violator, without any right to compensation (*Criminal Responsibility of Builders, Ghanam Mohammed Ghanam, p. 125*).

Demolition is also described as restoring the situation to its state before the violation occurred (*Encyclopedia of Construction and Demolition Laws, Abdullah Qandeel, p. 644*).

The Saudi regulator imposes demolition as an administrative penalty in the following cases:

If the construction exceeds the licensed limits in a way that is not compliant with building regulations, such as by exceeding the allowed building ratio, the number of floors permitted, or the required setbacks, among other breaches. (*Article 9, Municipal Violations Penalties Regulation*)

If a building is constructed without a proper permit in situations where the building conflicts with zoning lines or causes irremediable harm to neighbors. (*Article 10, Municipal Violations Penalties Regulation*)

Violation of any requirements of the code or its regulations or ordinances, where the Building Code Violations Classification Regulation states that any breach of the code's requirements or regulations necessitates removal or correction. (*Article 2, Building Code Violations Classification Regulation*)

The Saudi regulator has articulated its objective for enacting the demolition penalty to deter violators and discourage others from committing similar offenses, as outlined in the penalties and fines regulations and the executive instructions issued in 1422 AH.

Section Two: Authorities Responsible for Imposing Administrative Penalties for Building Violations

In this section, I will clarify the entities designated by the regulator to impose administrative penalties for building violations in the first subsection. Then, in the second subsection, I will discuss the process for appealing against administrative penalties in the field of building.

Subsection One: Authorities Imposing Administrative Penalties for Building Violations

The Saudi regulator has delegated the imposition of penalties for building violations to three bodies, according to the regulation that stipulates these penalties. These entities are:

Firstly: The Minister of Municipal and Rural Affairs and Housing or his delegates, which include secretaries and mayors, are authorized to impose the following penalties:

A fine for municipal violations up to SAR 15,000, as specified in Article (1) of the Municipal Violation Penalties Regulation, which is defined as non-compliance with the provisions of the regulation, executive decisions issued under it, or the conditions, rules, controls, and instructions under the jurisdiction of the secretariat or municipality.

A fine for severe municipal violations up to SAR 50,000, as specified in Article (1) of the Severe Municipal Violations Penalties Regulation, which includes violations that could cause significant harm to human health or safety, or public health.

The penalty of demolition, according to Clause Four of the Executive Rules for the Municipal Penalties Regulation.

The Minister may delegate the authority to issue penalty decisions to secretaries and mayors, each within their geographical jurisdiction. (*Article 3, Municipal Violations Penalties Regulation*)

Secondly: The Committee for Reviewing Municipal Violations:

This committee only considers imposing a fine penalty when the fine exceeds SAR 25,000 for municipal violations or SAR 50,000 for severe violations. (*Article 5, Municipal Violations Penalties Regulation*)

The regulation stipulates the following conditions for the formation of this committee:

It should be formed by a decision from the Minister of Municipal and Rural Affairs and Housing. The committee must consist of at least three members, one of whom is named as the chairperson. One of the members must be a legal advisor.

The regulation also stipulates that the Minister determines the committee's operating rules and the remuneration for its members. (*Article 5, Municipal Violations Penalties Regulation*)

Subsection Two: Appealing Against General Penalties for Building Violations

In upholding the justice that the Saudi regulatory system provides among community members in all areas, including administrative penalties in the field of building, the system allows any citizen who feels wronged by a decision affecting them and imposing a specific penalty or depriving them of a right, to file an appeal. This can be done through an administrative appeal to the administrative entity or committee that issued the decision, known as administrative grievance, and also through a legal claim before the Board of Grievances, known as judicial grievance. I will explain the concepts of these two types of grievances as follows:

Firstly: Administrative Grievance

Administrative grievance is defined as: "A request or complaint submitted by a stakeholder aggrieved by an administrative decision affecting their legal standing, asking the competent administrative authorities to review and reconsider the decision, whether by withdrawing, cancelling, or amending it". (*Fundamentals of Administrative Judiciary Procedures, Mustafa Kamal Wasfi, p. 170*)

Administrative grievance is also described as a legal means allowing a stakeholder to object to an administrative decision issued against them before the concerned administration, asking for a review of the decision before resorting to judicial bodies. (*Grievances Against Administrative Decisions in the Saudi System, Majid Zaid Al-Fayyadh*).

The regulator grants anyone subjected to an administrative penalty as a result of building activities and deeming it illegitimate, the right to grieve against that penalty. Article 7 of the Municipal Violations Penalties Regulation states, "The violator has the right to appeal the imposition of the penalty according to the regulations".

Secondly: Judicial Grievance

Judicial grievance, referred to in regulatory texts usually with the phrase "may appeal... before the Board of Grievances," is intended to allow concerned parties to file a lawsuit in an administrative court seeking the annulment of an administrative decision they consider unjust.

Referring to Article 7 of the Municipal Violations Penalties Regulation, it does not specify the entity before which the violator can appeal whether it is the same entity that imposed the administrative penalty or the Board of Grievances as the authority responsible for overseeing the legality of administrative decisions. It appears that this provision accommodates both administrative and judicial grievances. While judicial grievance is undoubtedly covered by the text, this is corroborated by the Building Code Violations Classification Regulation, which states, "It is permissible to grieve decisions of the review committees before the administrative courts at the Board of Grievances within sixty days from the date of notification". (*Article 16, Building Code Violations Classification Regulation*)

Through this text, it is clear that the regulator does not allow administrative grievance against decisions imposing penalties by the Building Code Violations Classification Committees; rather, it only allows grievances against committee decisions to be filed before the Board of Grievances.

On the other hand, the support for administrative grievance is demonstrated by the ministry's provision of an "Objection Service" through the Baladi platform, defined as a service enabling beneficiaries to object to municipal fines imposed on them during regulatory visits within the statutory objection period.

CONCLUSION

Saudi law approved administrative penalties represented by fines and removal for building violations as an alternative to criminal penalties, due to their flexibility and effectiveness in deterring violators. It also specified

the persons and bodies responsible for controlling construction violations and imposing legally prescribed penalties on their perpetrators. It also granted violators the right to complain about those penalties in order to achieve the principle of Legitimacy.

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