Schedule of penalties of the Downpass e.V. for the trademark DOWNPASS

In the version of August 21st, 2014, adopted in written procedure on October 21st, 2014, newly amended and adopted on the occasion of the meeting of members on 5th, May 2015 in Mainz, consulted and resolved during the General Meeting of Members of Downpass e. V. in Berlin on June 12th, 2018
consulted and resolved on the occasion of the meeting of members of Downpass e. V. on 01.06.2021
consulted and resolved on the occasion of the meeting of members of Downpass e. V. on the 1st of December 2023

§ 1 Penalties

Penalties are imposed in the event of significant quality breaches (Categories II, III and IV).

1. In the case of discrepancies in down content falling within Category I (see § 2.1), no penalty will be imposed, except in case the upper limits for "other elements" are exceeded (see § 2.2). In the event of such Category I breaches (see § 2.2) an informatory warning will be issued by passing on the test report. Besides, the full purchase price must be refunded.
2. For Category II breaches, flat-rate penalties of € 500 per breach will be imposed, while from the 10th of such breach onwards Category III penalties will be applicable.
3. For each of the first three Category III breaches a penalty of € 1,500 will be imposed, and any further breaches will be subject to a € 3,000 penalty. Where 0 to 100,000 seals (DOWNPASS) have been purchased over the past year, the 6th such breach may lead to a withdrawal of the right to use the seal. If 100,001 to 200,000 seals (DOWNPASS) have been purchased, this applies after the 7th such breach, and if over 200,000 seals (DOWNPASS) have been purchased, after the 8th such breach.
4. All Category IV breaches are subject to a flat-rate penalty of € 3,000. Irrespective of the number of seals purchased (DOWNPASS), the third Category IV breach may lead to a withdrawal of the right to use the seal.
5. The right to use the seal (DOWNPASS) may be withdrawn for nine months from the date of imposing a corresponding order. The board of executives will make a decision on whether to withdraw the right to use the seal and on the duration of the withdrawal after hearing the Marks & Stamps Board (*Kuratorium*).
6. In the event of Category II, III and IV breaches, the testing costs and the purchase price for the relevant ready-made, filled products (bedding, sleeping bags, clothing, headgear and/or shoes of all kinds) must be refunded.
7. In cases where there is a serial defect (very similar serial numbers or identical filling material composition as determined by the testing institute), the notary/lawyer or the Marks & Stamps Board must make a fair and equitable decision on the matter. As a principle, such cases should involve imposing a penalty one category lower than would otherwise be the case for the second and subsequent breaches due to the serial defect. However, a minimum penalty of € 200 should be imposed. In addition, the testing costs and the purchase price for each relevant ready-made, filled product (bedding, sleeping bags, clothing, headgear and/or shoes of all kinds) must be refunded for each serial defect.

The deadline for payment of penalties imposed due to breaches is 12 months from the date on which the notary or lawyer becomes aware of the first such breach. Thus, any breaches fall under statute of limitations in one year from the date of becoming aware of them.

§ 2 Quality discrepancies

1. Down content lower than indicated

a) Indicated down content on the label in the case of labelling in accordance with EN 12934 Class I

Down content %	**Lower test result threshold** %	**Category I** %	**Category II** %	**Category III** %	**Category IV** %
100	95	under 95	under 92	under 89	under 80
90	85	under 85	under 82	under 79	under 70
80	75	under 75	under 72	under 69	under 60
70	65	under 65	under 62	under 59	under 50
60	55	under 55	under 52	under 49	under 40
50	45	under 45	under 42	under 39	under 30
40	35	under 35	under 32	under 29	under 20
30	25	under 25	under 22	under 19	under 15
20	17.5	under 17.5	under 15.5	under 13.5	under 10
15	12.5	under 12.5	under 10.5	under 8.5	under 5
10	7.5	under 7.5	under 5.5	under 3.5	under 2
0	0				

b) Filling material in accordance with EN 12934 Class II

Down content %	**Lower test result threshold** %	**Category I** %	**Category II** %	**Category III** %	**Category IV** %
90	85	under 85	under 82	under 79	under 70
80	75	under 75	under 72	under 69	under 60
70	65	under 65	under 62	under 59	under 50
60	55	under 55	under 52	under 49	under 40
50	45	under 45	under 42	under 39	under 30
40	35	under 35	under 32	under 29	under 20
30	25	under 25	under 22	under 19	under 15
20	17.5	under 17.5	under 15.5	under 13.5	under 10
15	12.5	under 12.5	under 10.5	under 8.5	under 5
10	7.5	under 7.5	under 5.5	under 3.5	under 2
0	0				

c) Claimed down content on the label in the case of labelling in accordance with regulations other than EN 12934

A shortfall in down content constitutes a Category I breach if the down content of the filling material indicated on the label is equal to or greater than 30% and the lower threshold of the test results falls short by up to 3 % in comparison to the indicated down content. If the down content indicated on the label is equal to or greater than 20%, the lower threshold of the test results may differ up to 2.5 % from the indicated down content.

A shortfall in down content constitutes a Category II breach if the down content of the filling material indicated on the label is equal to or greater than 30% and if the lower threshold of the test results falls short by up to 8 % in comparison to the indicated down content. Where the indicated down content is equal to or lower than 20%, a Category II penalty will be

imposed if the lower threshold of the test results falls short by up to 4.5 % in comparison with the indicated down content.

A shortfall in down content constitutes a Category III breach if the down content of the filling material indicated on the label is equal to or greater than 30% and if the lower threshold of the test results falls short by up to 11 % in comparison to the indicated down content. Where the filling material has an indicated down content of equal to or greater than 20%, a Category III penalty will be imposed if the lower threshold of the test results falls short by up to 6.5 % in comparison with the indicated down content.

A shortfall in down content constitutes a Category IV breach if the down content of the filling material indicated on the label is equal to or greater than 30% and if the lower threshold of the test results falls short by more than 11 % in comparison to the indicated down content. Where the filling material has a stated down content of equal to or greater than 20%, a Category IV penalty will be imposed if the lower threshold of the test results falls short by more than 6.5 % % in comparison with the indicated down content.

2. Exceedance of “Other elements”

a) Filling material according to EN 12934 class I

Category I	Category II	Category III	Category IV
exceeding 5%	exceeding 10%	exceeding 15%	exceeding 20%

b) Filling material according to EN 12934 class II

Category III	Category IV
exceeding 15%	exceeding 20%

c) Exceedance of “Other elements” on the label according to other provisions than EN 12934

An exceedance of “other elements” (broken, flow or residue elements), the percentage of which is up to 5 % is fined according to Category I.

An exceedance of “other elements” (broken, flow or residue elements), the percentage of which is up to 10 % is fined according to Category II.

An exceedance of “other elements” (broken, flow or residue elements), the percentage of which is up to 15 % is fined according to Category III.

An exceedance of “other elements” (broken, flow or residue elements), the percentage of which is higher than 20 % is fined according to Category IV.

3. False Declarations

Declarations in breach of the regulations governing use of the association trademark DOWNPASS will be subject to a Category III penalty. If the indicated down content falls short to such an extent that this leads to a change in the declaration, an informatory warning is issued according to Category I.

If fillings are declared to be 100% feathers, downs are considered as “other elements”. If the down content exceeds 5%, no penalty is imposed and no informatory warning is issued.

4. Incorrect fowl species

False indications of the fowl species (contrary to the provisions of EN 12934, Subsection 7.1, Table 3) will be penalised as breaches of Category II.

5. Traceability records

Breaches of the obligation to keep traceability records, especially all breaches of the “DOWNPASS-Standard“ will be fined with an adequate penalty amounting to at least € 1.000 until max. € 10.000. The Trademark & Stamps Board decides on the specific amount of the penalty in view of the specific circumstances of the breach.

Mainz, 1st of December 2023