



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Information provisions

139 Penalties for contravention of information requirements

- (1) This section applies where—
 - (a) a person (“the notified person”) has been given a notification under section 138;
 - (b) OFCOM have allowed the notified person an opportunity of making representations about the matters notified; and
 - (c) the period allowed for the making of the representations has expired.
- (2) OFCOM may impose a penalty on the notified person if—
 - (a) they are satisfied that he has, in one or more of the respects notified, been in contravention of the requirement notified under section 138;
 - (b) he has not, during the period allowed under that section, complied with the notified requirement; and
 - (c) no proceedings for an offence under section 144 have been brought against the notified person in respect of the contravention.
- (3) Where a notification under section 138 relates to more than one contravention, a separate penalty may be imposed in respect of each contravention.

Status: This is the original version (as it was originally enacted).

- (4) Where such a notification relates to a continuing contravention, no more than one penalty may be imposed in respect of the period of contravention specified in the notification.
- (5) The amount of a penalty imposed under this section is to be such amount not exceeding £50,000 as OFCOM determine to be both—
 - (a) appropriate; and
 - (b) proportionate to the contravention in respect of which it is imposed.
- (6) In making that determination OFCOM must have regard to—
 - (a) any representations made to them by the notified person; and
 - (b) any steps taken by him towards complying with the requirements contraventions of which have been notified to him under section 138.
- (7) Where OFCOM impose a penalty on a person under this section, they shall—
 - (a) within one week of making their decision to impose the penalty, notify that person of that decision and of their reasons for that decision; and
 - (b) in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (8) A penalty imposed under this section—
 - (a) must be paid to OFCOM; and
 - (b) if not paid within the period fixed by them, is to be recoverable by them accordingly.
- (9) The Secretary of State may by order amend this section so as to substitute a different maximum penalty for the maximum penalty for the time being specified in subsection (5).
- (10) No order is to be made containing provision authorised by subsection (9) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.