

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: the Electoral Commission

Section 3: Civil sanctions

12. **Section 3** gives the Electoral Commission new powers to apply a range of civil sanctions to offences and contraventions under the 2000 Act.
13. *Subsection (1)* substitutes a new section 147 of the 2000 Act (civil sanctions). This new section gives effect to new Schedule 19C, which is inserted into the 2000 Act by *subsection (2)*, and is contained in Schedule 2 to the Act. It sets out the range of new civil penalties available to the Commission, including monetary penalties, discretionary requirements, stop notices and enforcement undertakings. The new Schedule also explains how and when the Commission are able to apply these sanctions, who they apply to and what appeal processes are available to an individual or organisation subject to a sanction. *Subsection (3)* of section 3 inserts a new entry into Schedule 20 to the 2000 Act which sets out the penalty for commission of the offence, set out in new Schedule 19C, of failing to comply with a stop notice.
14. *Subsection (4)* inserts new subsection (4A) into section 156 of the 2000 Act. This specifies that an order made under paragraph 16 of new Schedule 19C is subject to the affirmative resolution procedure if it is of the nature of any of the following orders:
 - An order prescribing the offences or restrictions and requirements of the 2000 Act in respect of which the Commission can impose a fixed monetary penalty (see paragraphs 1(1) to (4) of Schedule 19C);
 - An order prescribing the level of a fixed monetary penalty (see paragraph 1(5) of Schedule 19C);
 - An order prescribing the offences or restrictions and requirements in respect of which the Commission can impose a discretionary requirement (see paragraphs 5(1) to (4) of Schedule 19C);
 - An order prescribing the offences or restrictions and requirements the occurrence or likely occurrence of which the Commission must hold a reasonable suspicion about in order to consider imposing a stop notice (see paragraphs 10(2)(b) and (3) (b) of Schedule 19C);
 - An order prescribing the offences or restrictions and requirements the occurrence of which the Commission must hold a reasonable suspicion about in order to consider accepting enforcement undertakings (see paragraphs 15 (1)(a) of Schedule 19C); and
 - Any order amending an Act.