



Policing and Crime Act 2017

2017 CHAPTER 3

PART 8

FINANCIAL SANCTIONS

Civil sanctions

146 Power to impose monetary penalties

- (1) The Treasury may impose a monetary penalty on a person if it is satisfied, on the balance of probabilities, that—
 - (a) the person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under financial sanctions legislation, and
 - (b) the person knew, or had reasonable cause to suspect, that the person was in breach of the prohibition or (as the case may be) had failed to comply with the obligation.
- (2) The amount of the penalty is to be such amount as the Treasury may determine but it may not exceed the permitted maximum.
- (3) In a case where the breach or failure relates to particular funds or economic resources and it is possible to estimate the value of the funds or economic resources, the permitted maximum is the greater of—
 - (a) £1,000,000, and
 - (b) 50% of the estimated value of the funds or resources.
- (4) In any other case, the permitted maximum is £1,000,000.
- (5) In subsection (3), “funds” and “economic resources” have the same meanings as they have in the financial sanctions legislation that contains the prohibition or obligation in respect of which the monetary penalty is imposed.
- (6) The Treasury must keep the amount for the time being specified in subsection (3)(a) or (4) under review.

Status: This is the original version (as it was originally enacted).

- (7) The Treasury may by regulations made by statutory instrument amend subsection (3) (a) or (4) so as to substitute another amount for the amount for the time being specified in it.
- (8) Regulations under subsection (7) may include transitional provision.
- (9) Before making regulations under subsection (7), the Treasury must consult such persons as it considers appropriate.
- (10) A statutory instrument containing regulations under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) Any monetary penalty payable under this section is recoverable by the Treasury as a civil debt.
- (12) Any monetary penalty received by the Treasury by virtue of this section must be paid into the Consolidated Fund.
- (13) This section does not authorise the imposition of a monetary penalty on the Crown.

147 Monetary penalties: procedural rights

- (1) Before imposing a monetary penalty on a person under section 146, the Treasury must inform the person of its intention to do so.
- (2) The Treasury must also—
 - (a) explain the grounds for imposing the penalty,
 - (b) specify the amount of the penalty,
 - (c) explain that the person is entitled to make representations, and
 - (d) specify the period within which any such representations must be made.
- (3) If (having considered any representations), the Treasury decides to impose the penalty, the Treasury must—
 - (a) inform the person of its decision,
 - (b) explain that the person is entitled to seek a review by a Minister of the Crown, and
 - (c) specify the period within which the person must inform the Treasury that the person wishes to seek such a review.
- (4) If the person seeks a review, the Minister may—
 - (a) uphold the decision to impose the penalty and its amount,
 - (b) uphold the decision to impose the penalty but substitute a different amount, or
 - (c) cancel the decision to impose the penalty.
- (5) A review under subsection (4) must be carried out by the Minister personally.
- (6) If on a review under subsection (4) the Minister decides to uphold the Treasury's decision to impose the penalty and its amount, or to uphold the Treasury's decision to impose the penalty but to substitute a different amount, the person may appeal (on any ground) to the Upper Tribunal.
- (7) On an appeal under subsection (6), the Upper Tribunal may quash the Minister's decision and if it does so may—

- (a) quash the Treasury’s decision to impose the penalty;
- (b) uphold that decision but substitute a different amount for the amount determined by the Treasury (or, in a case where the Minister substituted a different amount, by the Minister).

(8) In this section, “Minister of the Crown” means the holder of an office in Her Majesty’s Government in the United Kingdom.

148 Monetary penalties: bodies corporate and unincorporated associations

- (1) If a monetary penalty is payable under section 146 by a body, the Treasury may also impose a monetary penalty on an officer of the body if it is satisfied, on the balance of probabilities, that the breach or failure in respect of which the monetary penalty is payable by the body—
- (a) took place with the consent or connivance of the officer, or
 - (b) was attributable to any neglect on the part of the officer.
- (2) In subsection (1)—
- “body” means a body corporate, a partnership or an unincorporated body other than a partnership;
 - “officer of a body” means—
 - (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity;
 - (b) in relation to a partnership, a partner or a person purporting to act as a partner;
 - (c) in relation to an unincorporated body other than a partnership, a person who is concerned in the management or control of the body or purports to act in the capacity of a person so concerned.
- (3) Sections 146(2) to (5), (11) and (12) and 147 apply in relation to a monetary penalty that may be imposed under subsection (1) as they apply in relation to a monetary penalty that may be imposed under section 146(1).

149 Monetary penalties: supplementary

- (1) The Treasury must issue guidance as to—
- (a) the circumstances in which it may consider it appropriate to impose a monetary penalty under section 146 or 148, and
 - (b) how it will determine the amount of the penalty.
- (2) The Treasury must, at such intervals as it considers appropriate, publish reports about the imposition of monetary penalties under section 146 or 148.