



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER III

INVESTIGATION AND ENFORCEMENT

Enforcement

36 Penalty for infringing Chapter I or Chapter II prohibition

- (1) On making a decision that an agreement has infringed the Chapter I prohibition, the Director may require an undertaking which is a party to the agreement to pay him a penalty in respect of the infringement.
- (2) On making a decision that conduct has infringed the Chapter II prohibition, the Director may require the undertaking concerned to pay him a penalty in respect of the infringement.
- (3) The Director may impose a penalty on an undertaking under subsection (1) or (2) only if he is satisfied that the infringement has been committed intentionally or negligently by the undertaking.
- (4) Subsection (1) is subject to section 39 and does not apply if the Director is satisfied that the undertaking acted on the reasonable assumption that that section gave it immunity in respect of the agreement.
- (5) Subsection (2) is subject to section 40 and does not apply if the Director is satisfied that the undertaking acted on the reasonable assumption that that section gave it immunity in respect of the conduct.
- (6) Notice of a penalty under this section must—

Status: This is the original version (as it was originally enacted).

- (a) be in writing; and
 - (b) specify the date before which the penalty is required to be paid.
- (7) The date specified must not be earlier than the end of the period within which an appeal against the notice may be brought under section 46.
- (8) No penalty fixed by the Director under this section may exceed 10% of the turnover of the undertaking (determined in accordance with such provisions as may be specified in an order made by the Secretary of State).
- (9) Any sums received by the Director under this section are to be paid into the Consolidated Fund.