

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 78: TV licensing: alternatives to criminal sanctions

365. This section confers a power on the Secretary of State to either: (a) replace the TV licensing offences under section 363(2) and (3) of the Communications Act 2003 with a civil monetary penalty regime or (b) amend the Regulatory Enforcement and Sanctions Act 2008 to allow the Secretary of State to permit the BBC to impose civil monetary penalties as an alternative to prosecution for those offences.
366. It is intended that the exercise of this power will depend on the outcome of the review to be carried out under section 77. *Subsection (1)(a)* enables the Secretary of State to make regulations to replace the TV licensing offences with civil monetary penalties. The regulations may provide for the amount of the penalty to be a fixed amount (specified in, or determined in accordance with, regulations) or a variable amount. The regulations must make provision for the procedures that must be carried out before any penalty is imposed and confer rights of appeal against the imposition of a penalty. The regulations may also make provision for early payment discounts, late payment, enforcement, powers to obtain information and powers of entry, search and seizure. The regulations may also amend or repeal Part 4 of the Communications Act 2003 and may include consequential, transitional, transitory or saving provision which be made by amending or repealing legislation.
367. *Subsection (1)(b)* enables the Secretary of State to make regulations amending Part 3 of the Regulatory Enforcement and Sanctions Act 2008 to enable an order to be made under section 36 of that Act. An order under that Act would then be able to confer the power on the BBC to impose fixed and/or variable monetary penalties in relation to the TV licensing offences. This would create an alternative civil sanctions regime in relation to TV licensing offences. Such an order would also make provision in relation to the procedure that must be carried out before any penalty is imposed, rights of appeal, early payment discounts, late payments and the enforcement of a penalty.
368. Regulations under subsection (1) may not be made so as come into force before 1 April 2017 (see *subsection (11)*).
369. The section forms part of the law of England and Wales, Scotland and Northern Ireland. It may also be extended to the Channel Islands and the Isle of Man by Order in Council (see section 114).
370. The section comes into force on a day to be appointed by the Secretary of State in a commencement order.