

*These notes refer to the Digital Economy Act 2010  
(c.24) which received Royal Assent on 8 April 2010*

# **DIGITAL ECONOMY ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Topic 8: Access to electromagnetic spectrum***

#### ***Section 39: Enforcement of licence terms etc***

174. This section inserts a new section 43A into the 2006 Act giving OFCOM power to impose financial penalties for contravention of certain licence provisions, terms or limitations to which section 43A applies by virtue of a licence provision. A provision applying section 43A can only be included in a licence if it appears to OFCOM that a direction given by the Secretary of State under section 5 of the 2006 Act requires OFCOM to include a particular provision, term or limitation in the licence.
175. Under the current legislation, OFCOM's powers in respect of breaches of wireless telegraphy licences are limited to prosecution where such breach amounts to an offence under Chapter 1 of Part 2 of the 2006 Act or to revocation of the licence.
176. OFCOM has power under sections 42 to 44 of the 2006 Act to impose financial penalties for contraventions of the terms, provisions or limitations of a general multiplex licence.
177. This section also amends section 400 of the Communications Act 2003, to ensure that financial penalties imposed by OFCOM under new section 43A are dealt with in a consistent manner to other similar penalties paid to OFCOM. Section 400 of the Communications Act 2003 requires the money received from certain penalties and charges imposed by OFCOM to be paid into the Consolidated Fund.