



Elections Act 2022

2022 CHAPTER 37

PART 6

INFORMATION TO BE INCLUDED WITH ELECTRONIC MATERIAL

PROSPECTIVE

Enforcement

48 Offence of breaching section 41

- (1) Where any electronic material to which section 41 applies is published in contravention of that section, the following persons are guilty of an offence—
 - (a) the promoter of the material, and
 - (b) any person on behalf of whom the material is being published (and who is not the promoter).
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove—
 - (a) that the contravention arose from circumstances beyond the person's control, and
 - (b) that the person took all reasonable steps, and exercised all due diligence, to ensure that the contravention would not arise.
- (4) It is a defence for a person charged with an offence under subsection (1) to prove that the person acted in accordance with guidance under section 54.
- (5) It is a defence for a person charged with an offence under subsection (1) in relation to the republication of electronic material to prove that—

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- (a) the electronic material had previously been published,
 - (b) the person reasonably believed that when it was previously published—
 - (i) section 41 applied to it, and
 - (ii) it was published in compliance with that section, and
 - (c) it was not materially altered when it was republished.
- (6) In subsection (5)(c) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—
- (a) the information within section 41(3), or
 - (b) the access to such information,
- as a result of which the person reasonably believed its previous publication complied with section 41.
- (7) The court by or before which a person is convicted of an offence under subsection (1) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.
- (8) This section is subject to [Schedule 11](#), which provides for certain persons who would otherwise be guilty of an offence under this section to be guilty of an illegal practice.
- (9) See also section 49, which makes provision about the removal etc of electronic material in the event of a conviction under this section.

Commencement Information

- II** S. 48 not in force at Royal Assent, see [s. 67\(1\)](#)

49 Order to take down electronic material in breach of section 41

- (1) This section applies if, in respect of any electronic material, a person is convicted of—
 - (a) an offence under section 48(1), or
 - (b) an illegal practice by virtue of [Schedule 11](#).
- (2) The court by or before which the person is convicted of the offence or illegal practice may order a person by whom the electronic material is published to take the action specified in the order to remove the material, or to disable access to it, before the end of the period specified in the order.
- (3) Where an order is made under subsection (2), the person to whom it applies has the same right of appeal against it as if—
 - (a) the person had committed the offence under section 48(1) or (as the case may be) the illegal practice, and
 - (b) the order were a sentence passed on the person for the offence or illegal practice.
- (4) A person to whom an order under subsection (2) applies commits an offence if, without reasonable excuse, the person fails to comply with the order.
- (5) A person guilty of an offence under subsection (4) is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

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- (6) The court by or before which a person is convicted of an offence under subsection (4) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.

Commencement Information

I2 S. 49 not in force at Royal Assent, see [s. 67\(1\)](#)

50 Enforcement by the Commission

- (1) Parts 1 to 4 and 6 of Schedule 19C to PPERA (civil sanctions) and the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 ([S.I. 2010/2860](#)) apply (subject to the following provisions of this section) in relation to an offence to which this section applies as they apply in relation to a prescribed offence under that Act.
- (2) This section applies to—
- (a) an offence under section 48(1) which relates to the publication of electronic material which can reasonably be regarded as intended to achieve a purpose within—
 - (i) section 43(2) (registered parties etc),
 - (ii) section 43(7) (categories of elected office-holders), or
 - (iii) section 43(9) (referendums) where the referendum in question is a referendum to which Part 7 of PPERA applies and the electronic material is published during the referendum period (within the meaning of that Part) for that referendum, or
 - (b) an offence under section 48(1) which relates to the publication of electronic material—
 - (i) which falls within section 44(2)(b) (referendums), or
 - (ii) which can reasonably be regarded as intended to achieve a purpose within section 45(2) (registered parties etc).
- (3) In the application of paragraph 23 of Schedule 19C to PPERA (use of statements made compulsorily) by virtue of this section, the reference in sub-paragraph (1) of that paragraph to Schedule 19B to that Act is to be read as including a reference to [Schedule 12](#) to this Act.
- (4) In the application of paragraph 13(1)(a) of Schedule 1 to the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 ([S.I. 2010/2860](#)) by virtue of this section, the reference to PPERA and that Order is to be read as a reference to that Act and that Order as they are applied by this section.

Commencement Information

I3 S. 50 not in force at Royal Assent, see [s. 67\(1\)](#)

51 Notice to take down electronic material in breach of section 41

- (1) This section applies if—

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- (a) the Commission imposes a fixed monetary penalty under paragraph 1 of Schedule 19C to PPERA on a person in relation to an offence under section 48(1) in respect of any electronic material,
 - (b) the Commission imposes a discretionary requirement under paragraph 5 of that Schedule on a person in relation to such an offence,
 - (c) the Commission serves a stop notice under paragraph 10 of that Schedule on a person in relation to such an offence, or
 - (d) the Commission accepts an undertaking under paragraph 15 of that Schedule from a person in relation to such an offence.
- (2) The Commission may give a notice in writing to a person by whom the electronic material is published requiring the person to take the action specified in the notice to remove the material, or to disable access to it, before the end of the period specified in the notice.
- (3) A person to whom a notice under subsection (2) has been given commits an offence if, without reasonable excuse, the person fails to comply with the notice.
- (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (5) The court by or before which a person is convicted of an offence under subsection (3) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.
- (6) This section is subject to section 52 (further provision about notices under this section).

Commencement Information

I4 S. 51 not in force at Royal Assent, see s. 67(1)

52 Further provision about notice under section 51

- (1) Before giving a notice under section 51(2) to a person the Commission must give the person a notice in writing of its intention to do so.
- (2) The person may, within the period specified in the notice under subsection (1), make written representations to the Commission in relation to the proposal to give the person a notice under section 51(2).
- (3) The Commission may give the person a notice under section 51(2) only if—
 - (a) the period for making representations has ended, and
 - (b) having taken any representations made by the person into account, the Commission is still of the view that it should give the person the notice under section 51(2).
- (4) A notice under subsection (1) must include information as to—
 - (a) the grounds for the proposal to give a notice to the person under section 51(2),
 - (b) the proposed effect of such a notice,
 - (c) the right to make representations, and

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- (d) the period within which representations may be made.
- (5) The period specified under subsection (4)(d) must not be less than 14 days beginning with the day on which the notice is given.
- (6) A notice under section 51(2) must include information as to—
 - (a) the grounds for serving the notice,
 - (b) rights of appeal, and
 - (c) the consequences of not complying with the notice.
- (7) The Commission may by notice in writing withdraw or vary a notice under section 51(2) at any time.
- (8) A person to whom a notice under section 51(2) has been given may appeal against the notice on the ground that—
 - (a) the decision to give the notice was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unreasonable, or
 - (d) any action specified in the notice is unreasonable.
- (9) An appeal under subsection (8) is to—
 - (a) in England and Wales, the county court,
 - (b) in Scotland, a sheriff, or
 - (c) in Northern Ireland, a county court.
- (10) On an appeal under subsection (8) the county court or the sheriff may—
 - (a) withdraw, confirm or vary the notice, or
 - (b) remit the decision whether to withdraw, confirm or vary the notice to the Commission.

Commencement Information

I5 S. 52 not in force at Royal Assent, see s. 67(1)

53 Supply of information

- (1) Schedule 12 makes provision about the supply of information for the purposes of this Part.
- (2) Paragraphs 3 to 13 and 15 of Schedule 19B to PPERA (investigatory powers) apply in relation to an offence within section 50(2)(a) or (b) as they apply in relation to an offence under that Act.

Commencement Information

I6 S. 53 not in force at Royal Assent, see s. 67(1)

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