



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Powers to deal with emergencies*

#### **132 Powers to require suspension or restriction of a provider's entitlement**

- (1) If the Secretary of State has reasonable grounds for believing that it is necessary to do so—
  - (a) to protect the public from any threat to public safety or public health, or
  - (b) in the interests of national security,he may, by a direction to OFCOM, require them to give a direction under subsection (3) to a person (“the relevant provider”) who provides an electronic communications network or electronic communications service or who makes associated facilities available.
- (2) OFCOM must comply with a requirement of the Secretary of State under subsection (1) by giving to the relevant provider such direction under subsection (3) as they consider necessary for the purpose of complying with the Secretary of State's direction.
- (3) A direction under this section is—
  - (a) a direction that the entitlement of the relevant provider to provide electronic communications networks or electronic communications services, or to make associated facilities available, is suspended (either generally or in relation to particular networks, services or facilities); or

*Status: Point in time view as at 29/12/2003.*

*Changes to legislation: Communications Act 2003, Cross Heading: Powers to deal with emergencies is up to date with all changes known to be in force on or before 21 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) a direction that that entitlement is restricted in the respects set out in the direction.
- (4) A direction under subsection (3)—
  - (a) must specify the networks, services and facilities to which it relates; and
  - (b) except so far as it otherwise provides, takes effect for an indefinite period beginning with the time at which it is notified to the person to whom it is given.
- (5) A direction under subsection (3)—
  - (a) in providing for the effect of a suspension or restriction to be postponed, may provide for it to take effect only at a time determined by or in accordance with the terms of the direction; and
  - (b) in connection with the suspension or restriction contained in the direction or with the postponement of its effect, may impose such conditions on the relevant provider as appear to OFCOM to be appropriate for the purpose of protecting that provider’s customers.
- (6) Those conditions may include a condition requiring the making of payments—
  - (a) by way of compensation for loss or damage suffered by the relevant provider’s customers as a result of the direction; or
  - (b) in respect of annoyance, inconvenience or anxiety to which they have been put in consequence of the direction.
- (7) Where OFCOM give a direction under subsection (3), they shall, as soon as practicable after doing so, provide that person with an opportunity of—
  - (a) making representations about the effect of the direction; and
  - (b) proposing steps for remedying the situation.
- (8) If OFCOM consider it appropriate to do so (whether in consequence of any representations or proposals made to them under subsection (3) or otherwise), they may, without revoking it, at any time modify the terms of a direction under subsection (3) in such manner as they consider appropriate.
- (9) If the Secretary of State considers it appropriate to do so, he may, by a direction to OFCOM, require them to revoke a direction under subsection (3).
- (10) Where OFCOM modify or revoke a direction they have given under subsection (3), they may do so—
  - (a) with effect from such time as they may direct;
  - (b) subject to compliance with such requirements as they may specify; and
  - (c) to such extent and in relation to such networks, services or facilities, or parts of a network, service or facility, as they may determine.
- (11) It shall be the duty of OFCOM to comply with—
  - (a) a requirement under subsection (9) to revoke a direction; and
  - (b) a requirement contained in that direction as to how they should exercise their powers under subsection (10) in the case of the required revocation.

#### **Commencement Information**

- II** S. 132 in force at 25.7.2003 for specified purposes by [S.I. 2003/1900](#), [arts. 1\(2\), 2\(1\)](#), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), [art. 1\(3\)](#))

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**I2** S. 132 in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), **art. 3(2)** (with **art. 11**)

### **133 Enforcement of directions under s. 132**

- (1) A person is guilty of an offence if he provides an electronic communications network or electronic communications service, or makes available any associated facility—
  - (a) while his entitlement to do so is suspended by a direction under section 132; or
  - (b) in contravention of a restriction contained in such a direction.
- (2) A person guilty of an offence under subsection (1) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (3) The duty of a person to comply with a condition of a direction under section 132 shall be a duty owed to every person who may be affected by a contravention of the condition.
- (4) Where a duty is owed by virtue of subsection (3) to a person—
  - (a) a breach of the duty that causes that person to sustain loss or damage, and
  - (b) an act which—
    - (i) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and
    - (ii) is done wholly or partly for achieving that result,shall be actionable at the suit or instance of that person.
- (5) In proceedings brought against a person by virtue of subsection (4)(a) it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid contravening the condition in question.
- (6) Sections 94 to 99 apply in relation to a contravention of conditions imposed by a direction under section 132 as they apply in relation to a contravention of conditions set under section 45.

#### **Commencement Information**

- I3** S. 133 in force at 25.7.2003 for specified purposes by [S.I. 2003/1900](#), **arts. 1(2), 2(1), Sch. 1** (with **art. 3**) (as amended by [S.I. 2003/3142](#), **art. 1(3)**)
- I4** S. 133 in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), **art. 3(2)** (with **art. 11**)

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