



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Administrative charges imposed on providers*

#### **42 Suspending service provision for non-payment**

- (1) OFCOM may give a direction under this section to a person who is a communications provider or who makes associated facilities available (“the contravening provider”) if they are satisfied—
- (a) that he is or has been in serious and repeated contravention of requirements to pay administrative charges fixed under section 38 (whether in respect of the whole or a part of the charges);
  - (b) that the contraventions are not contraventions relating only to charges in respect of the application to the contravening provider of SMP apparatus conditions;
  - (c) that the bringing of proceedings for the recovery of the amounts outstanding has failed to secure complete compliance by the contravening provider with the requirements to pay the charges fixed in his case, or has no reasonable prospect of securing such compliance;
  - (d) that an attempt, by the imposition of penalties under section 41, to secure such compliance has failed; and
  - (e) that the giving of the direction is appropriate and proportionate to the seriousness (when repeated as they have been) of the contraventions.
- (2) A direction under this section is—

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*Status: Point in time view as at 25/07/2003. This version of this provision has been superseded.*

*Changes to legislation: Communications Act 2003, Section 42 is up to date with all changes known to be in force on or before 12 July 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)*

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- (a) a direction that the entitlement of the contravening 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
  - (b) a direction that that entitlement is restricted in the respects set out in the direction.
- (3) A direction under this section—
- (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.
- (4) A direction under this section—
- (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 contravening provider as appear to OFCOM to be appropriate for the purpose of protecting that provider's customers.
- (5) Those conditions may include a condition requiring the making of payments—
- (a) by way of compensation for loss or damage suffered by the contravening 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.
- (6) OFCOM are not to give a direction under this section unless they have—
- (a) notified the contravening provider of the proposed direction and of the conditions (if any) which they are proposing to impose by that direction;
  - (b) provided him with an opportunity of making representations about the proposals and of proposing steps for remedying the situation; and
  - (c) considered every representation and proposal made to them during the period allowed by them for the contravening provider to take advantage of that opportunity.
- (7) That period must be one ending not less than one month after the day of the giving of the notification.
- (8) If OFCOM consider it appropriate to do so (whether or not in consequence of any representations or proposals made to them), they may revoke a direction under this section, or modify its conditions—
- (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.
- (9) For the purposes of this section there are repeated contraventions by a person of requirements to pay administrative charges to the extent that—
- (a) in the case of a previous notification given to that person under section 40, OFCOM have determined for the purposes of section 41(2) that such a contravention did occur; and

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- (b) in the period of twelve months following the day of the making of that determination, one or more further notifications have been given to that person in respect of the same or different failures to pay administrative charges.

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**Commencement Information**

- II** S. 42 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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