



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Information provisions*

#### **[<sup>F2</sup>135 Information required for purposes of [<sup>F1</sup>certain OFCOM] functions**

- (1) [<sup>F2</sup>OFCOM may require a person falling within subsection (2) to provide them with all such information as they consider necessary for the purpose of carrying out their functions under—
  - (a) section 14(1),
  - (b) section 26, so far as relating to matters in relation to which they have functions under this Chapter, or
  - (c) this Chapter.]
- (2) The persons falling within this subsection are—
  - (a) a communications provider;
  - (b) a person who has been a communications provider;
  - (c) a person who makes, or has made, any associated facilities available to others;
  - (d) a person, other than a communications provider, to whom a universal service condition applies or has applied;
  - (e) a person who supplies electronic communications apparatus;
  - (f) a person not falling within the preceding paragraphs who appears to OFCOM to have information required by them for the purpose of carrying out their functions under this Chapter.

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- [<sup>F3</sup>(g) a person who provides or has provided a number-independent interpersonal communications service and appears to OFCOM to have information relevant to their functions under section 14(1).]
- (3) The information that may be required by OFCOM under subsection (1) includes, in particular, information that they require for any one or more of the following purposes—
- (a) ascertaining whether a contravention of a condition or other requirement set or imposed by or under this Chapter has occurred or is occurring;
  - (b) ascertaining or verifying the charges payable by a person under section 38;
  - (c) ascertaining whether a provision of a condition set under section 45 which is for the time being in force continues to be effective for the purpose for which it was made;
  - (d) ascertaining or verifying amounts payable by virtue of a condition falling within section 51(1)(d);
  - (e) making a designation in accordance with regulations made under section 66;
  - (f) carrying out a review under section 66 [<sup>F4</sup>, 70 or 72A];
  - [<sup>F5</sup>(fa) ascertaining whether a commitment which is made binding by a commitments decision continues to be effective for the purpose for which it was made binding under section 93A(8);]
  - (g) identifying markets and carrying out market analyses in accordance with, or for the purposes of, any provision of this Chapter;
  - <sup>F6</sup>(h) .....
  - (i) considering a matter in exercise of that duty;
  - [<sup>F7</sup>(iza) carrying out an assessment under section 105N;]
  - [<sup>F8</sup>(izb) preparing a report under section 105Z;]
  - [<sup>F9</sup>(izc) assessing the risk of a security compromise occurring in relation to a public electronic communications network or a public electronic communications service;]
  - [<sup>F10</sup>(izd) preparing a report under section 105Z12;]
  - [<sup>F11</sup>(ia) preparing a report under section 124F;
  - (ib) carrying out an assessment, taking steps or providing a report under section 124G;]
  - [<sup>F12</sup>(ic) preparing a report under section 134A;
  - [ preparing a report under section 134AA;]
  - <sup>F13</sup>(ica)
  - (id) preparing a report under section 134C;]
  - [<sup>F14</sup>(ie) <sup>F15</sup> .....
  - <sup>F16</sup>(if) .....
  - (ig) identifying electronic communications apparatus that is suitable for shared use;]
  - (j) statistical purposes connected with the carrying out of any of OFCOM's functions under this Chapter.
- [<sup>F17</sup>(3A) The descriptions of information that a person may be required to provide under subsection (1) include, in particular—
- [ <sup>F18</sup>(za) information concerning future developments of a public electronic communications network or public electronic communications service that could have an impact on the security of the network or service,]

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- (a) information concerning future developments of an electronic communications network or electronic communications service that could have an impact on the wholesale services made available by the person to competitors, and
- (b) if a market power determination made in relation to a wholesale market is in force in the person's case, accounting data relating to any retail market associated with the wholesale market.]

[<sup>F19</sup>(3B) In subsection (2)(g), “number-independent interpersonal communications service” means an interpersonal communications service, as defined by section 32A(2), other than—

- (a) a number-based interpersonal communications service; or
- (b) a service where the interpersonal and interactive communication is merely a minor ancillary feature that is intrinsically linked to another service.]

[<sup>F20</sup>(3C) OFCOM may require a person falling within subsection (2)—

- (a) to produce, generate or obtain security information for the purpose of providing it under subsection (1);
- (b) to collect or retain security information that the person would not otherwise collect or retain for the purpose of providing it under subsection (1);
- (c) to process, collate or analyse any information held by the person (including information the person has been required to collect or retain) for the purpose of producing or generating security information to be provided under subsection (1).

(3D) In subsection (3C) “security information” means information OFCOM consider necessary for the purpose of carrying out their functions under sections 105L to 105Z.]

(4) A person [<sup>F21</sup>must comply with a requirement imposed under this section] in such manner and within such reasonable period as may be specified by OFCOM.

(5) The powers in this section are subject to the limitations in section 137.]

#### Textual Amendments

- F1** Words in s. 135 heading substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 85\(3\), 118\(2\)](#)
- F2** S. 135(1) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 85\(2\), 118\(2\)](#)
- F3** S. 135(2)(g) inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\), reg. 1\(2\), Sch. 1 para. 58\(2\)](#)
- F4** Words in s. 135(3)(f) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 1\(8\), 118\(2\)](#)
- F5** S. 135(3)(fa) inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\), reg. 1\(2\), Sch. 1 para. 58\(3\)](#)
- F6** S. 135(3)(h) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\), reg. 1\(2\), Sch. 1 para. 79\(a\)\(i\)](#) (with Sch. 3 para. 2)
- F7** S. 135(3)(iza) inserted (1.10.2022) by [Telecommunications \(Security\) Act 2021 \(c. 31\), ss. 6\(3\), 28\(2\)\(b\); S.I. 2022/931, reg. 2\(b\)](#)
- F8** S. 135(3)(izb) inserted (1.10.2022) by [Telecommunications \(Security\) Act 2021 \(c. 31\), ss. 11\(4\), 28\(2\)\(b\); S.I. 2022/931, reg. 2\(b\)](#)
- F9** S. 135(3)(izc) inserted (1.10.2022) by [Telecommunications \(Security\) Act 2021 \(c. 31\), ss. 12\(3\)\(a\)\(i\), 28\(2\)\(b\); S.I. 2022/931, reg. 2\(b\)](#)

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- F10** S. 135(3)(izd) inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), **ss. 18(3), 28(1)(c)**
- F11** S. 135(3)(ia)(ib) inserted (8.6.2010) by Digital Economy Act 2010 (c. 24), **ss. 16(2), 47(1)**
- F12** S. 135(3)(ic)(id) inserted (8.6.2010) by Digital Economy Act 2010 (c. 24), **ss. 1(2), 47(1)**
- F13** S. 135(3)(ica) inserted (27.6.2017) by Digital Economy Act 2017 (c. 30), **ss. 82(4), 118(2)**
- F14** S. 135(3)(ie)-(ig) inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 79(a)(ii)** (with Sch. 3 para. 2)
- F15** S. 135(3)(ie) omitted (1.10.2022) by virtue of Telecommunications (Security) Act 2021 (c. 31), **ss. 12(3)(a)(ii), 28(2)(b); S.I. 2022/931, reg. 2(b)**
- F16** S. 135(3)(if) omitted (1.10.2022) by virtue of Telecommunications (Security) Act 2021 (c. 31), **ss. 12(3)(a)(ii), 28(2)(b); S.I. 2022/931, reg. 2(b)**
- F17** S. 135(3A) inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 79(b)** (with Sch. 3 para. 2)
- F18** S. 135(3A)(za) inserted (1.10.2022) by Telecommunications (Security) Act 2021 (c. 31), **ss. 12(3)(b), 28(2)(b); S.I. 2022/931, reg. 2(b)**
- F19** S. 135(3B) inserted (21.12.2020) by The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020 (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 58(4)**
- F20** S. 135(3C)(3D) inserted (1.10.2022) by Telecommunications (Security) Act 2021 (c. 31), **ss. 12(3)(c), 28(2)(b); S.I. 2022/931, reg. 2(b)**
- F21** Words in s. 135(4) substituted (1.10.2022) by Telecommunications (Security) Act 2021 (c. 31), **ss. 12(3)(d), 28(2)(b); S.I. 2022/931, reg. 2(b)**

#### Modifications etc. (not altering text)

- C1** S. 135 applied (6.4.2023) by The Trade (Mobile Roaming) Regulations 2023 (S.I. 2023/214), regs. 1(b), **8(2)(3)**

#### Commencement Information

- I1** S. 135 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))
- I2** S. 135 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)

## 136 Information required for related purposes

- (1) OFCOM may require—
- (a) a communications provider, or
  - (b) a person who makes associated facilities available to others,
- to provide OFCOM with all such information as they consider necessary for the purpose [ <sup>F22</sup> of carrying out comparative overviews under section 134D ] .

<sup>F23</sup>(2) .....

- (3) OFCOM may also require—
- (a) a communications provider, or
  - (b) a person who makes associated facilities available to others,
- to provide them, for use for such statistical purposes as they think fit, with information relating to any electronic communications network, electronic communications service or associated facilities.
- (4) A person required to provide information under this section must provide it in such manner and within such reasonable period as may be specified by OFCOM.

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(5) The powers in this section are subject to the limitations in section 137.

#### Textual Amendments

**F22** Words in s. 136(1) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 83(3)(a)**, 118(2)

**F23** S. 136(2) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 83(3)(b)**, 118(2)

#### Commencement Information

**I3** S. 136 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. 136 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)

### 137 Restrictions on imposing information requirements

- (1) This section limits the purposes for which, and manner in which, [<sup>F24</sup>requirements may be imposed] under sections 135 and 136.
- (2) OFCOM are not to require the provision of information for the purpose of ascertaining whether a contravention of a general condition has occurred, or is occurring, unless—
  - (a) the requirement is imposed for the purpose of investigating a matter about which OFCOM have received a complaint;
  - (b) the requirement is imposed for the purposes of an investigation that OFCOM have decided to carry out into whether or not the general condition in question has been complied with;
  - (c) the condition in question is one which OFCOM have reason to suspect is one that has been or is being contravened; <sup>F25</sup> ...
  - (d) the condition in question is one falling within section 51(1)(d) [<sup>F26</sup>; or
  - (e) the condition in question is one relating to the effective and efficient use of telephone numbers.]

<sup>F27</sup>(2A) .....

- (3) OFCOM are not to require the provision of information under section 135 or 136 except—
  - (a) by a demand for the information that describes the required information and sets out OFCOM's reasons for requiring it; and
  - (b) where the making of a demand for the information is proportionate to the use to which the information is to be put in the carrying out of OFCOM's functions.
- (4) The reasons for requiring information for statistical purposes under section 135 or 136 must set out the statistical purposes for which the information is required.
- (5) Except in the case of a demand made in the manner authorised by subsection (6), a demand for information required under section 135 or 136 must be contained in a notice served on the person from whom the information is required.
- (6) In the case of information required by OFCOM for the purpose of ascertaining who is liable to charges under section 38, the demand may—
  - (a) be made by being published in such manner as OFCOM consider appropriate for bringing it to the attention of the persons who are described in the demand as the persons from whom the information is required; and

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- (b) take the form of a general demand for a person so described to provide information when specified conditions relevant to his liability to such charges are satisfied in his case.

[<sup>F28</sup>(7) OFCOM are not to impose a requirement on a person under section 135(3C) except by a notice served on the person that sets out the requirement and OFCOM's reasons for imposing it.]

#### Textual Amendments

- F24** Words in s. 137(1) substituted (1.10.2022) by Telecommunications (Security) Act 2021 (c. 31), ss. **12(4)(a)**, 28(2)(b); S.I. 2022/931, reg. 2(b)
- F25** Word in s. 137(2)(c) omitted (26.5.2011) by virtue of The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 80(a)(i)** (with Sch. 3 para. 2)
- F26** S. 137(2)(e) and word inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 1 para. 80(a)(ii)** (with Sch. 3 para. 2)
- F27** S. 137(2A) omitted (1.10.2022) by virtue of Telecommunications (Security) Act 2021 (c. 31), ss. **12(4)(b)**, 28(2)(b); S.I. 2022/931, reg. 2(b)
- F28** S. 137(7) inserted (1.10.2022) by Telecommunications (Security) Act 2021 (c. 31), ss. **12(4)(c)**, 28(2)(b); S.I. 2022/931, reg. 2(b)

#### Commencement Information

- I5** S. 137 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))
- I6** S. 137 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)

#### [<sup>F29</sup>137A Information required from communications providers

- (1) OFCOM may require a communications provider—
  - (a) to publish any information held by the provider, or
  - (b) to provide any such information to OFCOM for publication by OFCOM.
- (2) The information that OFCOM may require the communications provider to publish or provide under subsection (1) includes information that OFCOM require the provider to produce, generate or obtain for that purpose.
- (3) For that purpose OFCOM may, in particular, require the communications provider—
  - (a) to collect or retain any information that the provider would not otherwise collect or retain,
  - (b) to process, collate or analyse any information held by the provider, or
  - (c) to answer any questions.
- (4) The power conferred by this section may be exercised only—
  - (a) in connection with OFCOM's functions—
    - (i) under Part 1, so far as relating to electronic communications, or
    - (ii) under this Chapter, and
  - (b) in such a way as is proportionate to the use to which the information is to be put in connection with those functions.
- (5) The power conferred by this section is to be exercised by a demand, contained in a notice served on the communications provider, that—
  - (a) describes the information required to be published or provided, and

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- (b) sets out OFCOM's reasons for requiring it to be published or provided.
- (6) Before serving the notice on the communications provider, OFCOM must—
- (a) serve a draft of the notice on the provider and inform the provider of the period for making representations, and
  - (b) consider any representations made by the provider within that period which—
    - (i) identify restrictions on the disclosure or publication of information that would or might prevent the provider from complying with the notice, or
    - (ii) otherwise relate to the practicability of complying with it.
- (7) The communications provider must publish or provide the information required by the notice in such manner and form, in accordance with such other requirements, and within such reasonable period, as may be specified by OFCOM.
- (8) Where OFCOM publish anything provided to them pursuant to subsection (1)(b) they must do so in such manner and form as they consider appropriate.

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**Textual Amendments**

**F29** Ss. 137A, 137B inserted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. **86(2)**, 118(2)

**137B Section 137A: confidential matters**

- (1) In exercising functions under section 137A, OFCOM must have regard to the need to exclude from publication, so far as that is practicable, the matters which are confidential in accordance with subsections (2) and (3).
- (2) A matter is confidential under this subsection if—
- (a) it relates specifically to the affairs of a particular body, and
  - (b) publication of that matter would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that body.
- (3) A matter is confidential under this subsection if—
- (a) it relates to the private affairs of an individual, and
  - (b) publication of that matter would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that individual.]

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**Textual Amendments**

**F29** Ss. 137A, 137B inserted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. **86(2)**, 118(2)

**138 Notification of contravention of information requirements**

- (1) Where OFCOM determine that there are reasonable grounds for believing that a person is contravening, or has contravened, a requirement imposed under section <sup>F30</sup>135, 136 or 137A], they may give that person a notification under this section.
- (2) A notification under this section is one which—
- (a) sets out the determination made by OFCOM;



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- (b) specifies the requirement and contravention in respect of which that determination has been made; <sup>F31</sup>...
  - [<sup>F32</sup>(c) specifies the period during which the person notified has an opportunity to make representations;
  - [<sup>F33</sup>(d) specifies what the person must do in order to comply with the requirement;]
  - (e) specifies any penalty which OFCOM are minded to impose in accordance with section 139; and
  - (f) where the contravention is serious, specifies any direction which OFCOM are minded to give under section 140.]
- <sup>F34</sup>(3) .....
- <sup>F34</sup>(4) .....
- <sup>F34</sup>(5) .....
- <sup>F34</sup>(6) .....
- <sup>F34</sup>(7) .....
- (8) A notification under this section—
- (a) may be given in respect of more than one contravention; and
  - (b) if it is given in respect of a continuing contravention, may be given in respect of any period during which the contravention has continued.
- (9) Where a notification under this section has been given to a person in respect of a contravention of a requirement, OFCOM may give a further notification in respect of the same contravention of that requirement if, and only if—
- (a) the contravention is one occurring after the time of the giving of the earlier notification;
  - (b) the contravention is a continuing contravention and the subsequent notification is in respect of so much of a period as falls after a period to which the earlier notification relates; or
  - (c) the earlier notification has been withdrawn without a penalty having been imposed in respect of the notified contravention.
- [<sup>F35</sup>(9A) OFCOM may not give a person a notification under this section in respect of a contravention of a requirement imposed under section 135(3)(ig) if the information required was previously provided by the person to OFCOM within the period of 6 months ending with the day on which the requirement was imposed.]
- <sup>F36</sup>(10) .....

#### Textual Amendments

- F30** Words in s. 138(1) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(3)(a)**, 118(2)
- F31** Word in s. 138(2)(b) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 81(a)** (with Sch. 3 paras. 2, 18)
- F32** S. 138(2)(c)-(f) substituted for s. 138(2)(c) (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 81(a)** (with Sch. 3 paras. 2, 18)
- F33** S. 138(2)(d) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(3)(b)**, 118(2)
- F34** S. 138(3)-(7) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 81(b)** (with Sch. 3 paras. 2, 18)



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- F35** S. 138(9A) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 81(c)** (with Sch. 3 paras. 2, 18)
- F36** S. 138(10) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 81(b)** (with Sch. 3 paras. 2, 18)

**Modifications etc. (not altering text)**

- C2** Ss. 138-139A applied (with modifications) (31.7.2016) by [The Communications \(Access to Infrastructure\) Regulations 2016 \(S.I. 2016/700\)](#), regs. 1, **17(6)**, (7)

**Commencement Information**

- I7** S. 138 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))
- I8** S. 138 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)

**139 Penalties for contravention of information requirements**

[<sup>F37</sup>(1) This section applies where a person is given a notification under section 138 which specifies a proposed penalty.]

(2) OFCOM may [<sup>F38</sup>specify a penalty] if—

<sup>F39</sup>(a) .....

<sup>F39</sup>(b) .....

(c) no proceedings for an offence under section 144 have been brought against the notified person in respect of the contravention.

(3) Where a notification under section 138 relates to more than one contravention, a separate penalty may be [<sup>F40</sup>specified] in respect of each contravention.

(4) Where such a notification relates to a continuing contravention, no more than one penalty may be [<sup>F41</sup>specified] in respect of the period of contravention specified in the notification.

[<sup>F42</sup>(4A) But, in relation to a continuing contravention, a penalty may be specified in respect of each day on which the contravention continues after—

(a) the giving of a confirmation decision under section 139A(4)(c) which requires immediate action; or

(b) the expiry of any period specified in the confirmation decision for complying with a requirement so specified.

(4B) The amount of a penalty under subsection (4A) is to be such amount not exceeding £500 per day as OFCOM determine to be—

(a) appropriate; and

(b) proportionate to the contravention in respect of which it is imposed.]

(5) The amount of [<sup>F43</sup>any other penalty notified] under this section is to be such amount not exceeding [<sup>F44</sup>£2,000,000] as OFCOM determine to be both—

(a) appropriate; and

(b) proportionate to the contravention in respect of which it is imposed.

<sup>F45</sup>(6) .....

<sup>F45</sup>(7) .....

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<sup>F45</sup>(8) .....

- (9) The Secretary of State may by order amend this section so as to substitute a different maximum penalty for the maximum penalty for the time being specified in subsection (5).
- (10) No order is to be made containing provision authorised by subsection (9) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

#### Textual Amendments

- F37** S. 139(1) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(a)** (with Sch. 3 paras. 2, 18)
- F38** Words in s. 139(2) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(b)** (with Sch. 3 paras. 2, 18)
- F39** S. 139(2)(a)(b) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(c)** (with Sch. 3 paras. 2, 18)
- F40** Word in s. 139(3) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(d)** (with Sch. 3 paras. 2, 18)
- F41** Word in s. 139(4) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(d)** (with Sch. 3 paras. 2, 18)
- F42** S. 139(4A)(4B) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(e)** (with Sch. 3 paras. 2, 18)
- F43** Words in s. 139(5) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(f)** (with Sch. 3 paras. 2, 18)
- F44** Word in s. 139(5) substituted (13.7.2011) by [The Communications Act 2003 \(Maximum Penalty for Contravention of Information Requirements\) Order 2011 \(S.I. 2011/1773\)](#), arts. 1, **2(1)** (with art. 2(2))
- F45** S. 139(6)-(8) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 82(g)** (with Sch. 3 paras. 2, 18)

#### Modifications etc. (not altering text)

- C2** Ss. 138-139A applied (with modifications) (31.7.2016) by [The Communications \(Access to Infrastructure\) Regulations 2016 \(S.I. 2016/700\)](#), regs. 1, **17(6)**, (7)

#### Commencement Information

- I9** S. 139 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))
- I10** S. 139 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)

### [<sup>F46</sup>139Z] Higher penalties for certain contraventions

- (1) This section applies where—
- (a) a person is given a notification under section 138 which specifies a proposed penalty; and
  - (b) the condition in subsection (2) or (3) is met.
- (2) The condition in this subsection is that—
- (a) the proposed penalty is in respect of a contravention of a requirement to provide information under section 135; and

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**Changes to legislation:** Communications Act 2003, Cross Heading: Information provisions is up to date with all changes known to be in force on or before 28 June 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) View outstanding changes

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- (b) the demand for the information contains a statement that OFCOM consider the information to be necessary for the purpose of—
  - (i) carrying out any of their functions under sections 105L to 105Z;
  - (ii) preparing a report under section 105Z12.
- (3) The condition in this subsection is that the proposed penalty is in respect of a contravention of a requirement imposed under subsection (3C) of section 135.
- (4) Section 139 applies in relation to the proposed penalty as if—
  - (a) in subsection (4B), the maximum penalty specified were £50,000 per day;
  - (b) in subsection (5), the maximum penalty specified were £10 million.
- (5) The Secretary of State may by regulations amend this section so as to make different provision as to the maximum penalty applying under section 139(4B) or (5).
- (6) No regulations are to be made containing provision authorised by subsection (5) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.]

#### Textual Amendments

**F46** S. 139ZA inserted (17.11.2021 for specified purposes) by [Telecommunications \(Security\) Act 2021](#) (c. 31), ss. 24, 28(1)(d)

#### [<sup>F47</sup>139A Enforcement of notification under section 138

- (1) This section applies where—
  - (a) a person has been given a notification under section 138;
  - (b) OFCOM have allowed the person an opportunity to make representations about the matters notified; and
  - (c) the period allowed for the making of representations has expired.
- (2) OFCOM may—
  - (a) give the person a decision (a “confirmation decision”) confirming the imposition of requirements on the person, or the giving of a direction to the person, or both, in accordance with the notification under section 138; or
  - (b) inform the person that they are satisfied with the person’s representations and that no further action will be taken.
- (3) OFCOM may not give a confirmation decision to a person unless, after considering any representations, they are satisfied that the person has, in one or more of the respects notified, been in contravention of a requirement notified under section 138.
- (4) A confirmation decision—
  - (a) must be given to the person without delay;
  - (b) must include reasons for the decision;
  - (c) may require immediate action by the person to comply with a requirement notified under section 138(2)(d), or may specify a period within which the person must comply with the requirement; and
  - (d) may require the person to pay—
    - (i) the penalty specified in the notification under section 138, or

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- (ii) such lesser penalty as OFCOM consider appropriate in the light of the person's representations or steps taken by the person to comply with the condition or remedy the consequences of the contravention, and may specify the period within which the penalty is to be paid.
- (5) It is the duty of the person to comply with any requirement imposed by a confirmation decision.
- (6) That duty is enforceable in civil proceedings by OFCOM—
- (a) for an injunction;
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
  - (c) for any other appropriate remedy or relief.
- (7) A penalty imposed by a confirmation decision—
- (a) must be paid to OFCOM; and
  - (b) if not paid within the period specified by them, is to be recoverable by them accordingly.

#### **Textual Amendments**

**F47** Ss. 139A-139C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 83** (with Sch. 3 paras. 2, 18)

#### **Modifications etc. (not altering text)**

**C2** Ss. 138-139A applied (with modifications) (31.7.2016) by [The Communications \(Access to Infrastructure\) Regulations 2016 \(S.I. 2016/700\)](#), regs. 1, **17(6), (7)**

### **139B. Power to deal with urgent cases**

- (1) This section applies where OFCOM determine—
- (a) that they are entitled to give a notification under section 138 with respect to a contravention by a person (“P”) of a requirement imposed under section 135 or 136;
  - (b) that there are reasonable grounds for suspecting that the case is an urgent case; and
  - (c) that the urgency of the case makes it appropriate for OFCOM to take action under this section.
- (2) A case is an urgent case for the purposes of this section if the contravention has resulted in, or creates an immediate risk of—
- (a) a serious threat to the safety of the public, to public health or to national security;
  - (b) serious economic or operational problems for persons (other than P) who are communications providers or persons who make associated facilities available; or
  - (c) serious economic or operational problems for persons who make use of electronic communications networks, electronic communications services or associated facilities.
- (3) OFCOM may give P a direction—

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- (a) that the entitlement of P 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) that that entitlement is restricted in the respects set out in the direction.
- (4) Subsections (3) to (6) of section 140 apply in relation to a direction under subsection (3) as they apply in relation to a direction under section 140.

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**Textual Amendments**

**F47** Ss. 139A-139C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 83** (with Sch. 3 paras. 2, 18)

**139C. Confirmation of direction under section 139B**

- (1) As soon as reasonably practicable after giving a direction under section 139B(3), OFCOM must give the person to whom it is given—
  - (a) an opportunity to make representations to them about the grounds on which it was given and its effect; and
  - (b) an opportunity to propose steps to remedy the situation.
- (2) As soon as practicable after the period allowed by OFCOM for making those representations has ended (and in any event within 3 months beginning with the day on which the direction was given), they must determine—
  - (a) whether the contravention providing the grounds for the giving of the direction did occur; and
  - (b) whether the circumstances made it an urgent case justifying the giving of the direction.
- (3) The period of 3 months mentioned in subsection (2) may be extended by up to 3 months if OFCOM—
  - (a) require additional time to consider representations received; or
  - (b) decide that it is necessary to obtain additional information from the person in order to make a determination under subsection (2).
- (4) If OFCOM decide that the contravention did occur and that the direction was justified, they may confirm the direction.
- (5) If not, they must exercise their power to revoke it.
- (6) As soon as reasonably practicable after deciding whether to confirm the direction, OFCOM must notify the person to whom it was given of their decision.]

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**Textual Amendments**

**F47** Ss. 139A-139C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 83** (with Sch. 3 paras. 2, 18)

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## **140 Suspending service provision for information contraventions**

- (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 [<sup>F48</sup>serious or repeated] contravention of requirements imposed under sections [<sup>F49</sup>135, 136 and 137A, or any] or either of them;
  - (b) the requirements are not requirements imposed for purposes connected with the carrying out of OFCOM’s functions in relation to SMP apparatus conditions;
  - (c) [<sup>F50</sup>in the case of a repeated contravention,] that an attempt, by the imposition of penalties [<sup>F51</sup>or the giving of notifications under section 138 and confirmation decisions under section 139A, or both,] or the bringing of proceedings for an offence under section 144, to secure compliance with the contravened requirements has failed; and
  - [<sup>F52</sup>(d) that the giving of the direction is appropriate and proportionate to the contravention in respect of which it is given.]
- (2) A direction under this section is—
- (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) 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

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- (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.
- (7) For the purposes of this section there are repeated contraventions by a person of requirements imposed under sections [F53 135, 136 and 137A, or any] of them, to the extent that—
- [F54(a) in the case of a previous notification of a contravention given to that person under section 138, OFCOM have given a confirmation decision to that person under section 139A(2) in respect of the contravention; and
- (b) in the period of 24 months following the giving of that confirmation decision, one or more further confirmation decisions have been given to the person in respect of contraventions of numbering conditions;]
- and for the purposes of this subsection it shall be immaterial whether the notifications related to the same contravention or to different contraventions of the same or different requirements or of requirements under different sections.

#### Textual Amendments

- F48** Words in s. 140(1)(a) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 84(a)(i)** (with Sch. 3 paras. 2, 18, 19)
- F49** Words in s. 140(1)(a) substituted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(4), 118(2)** (with s. 9(13))
- F50** Words in s. 140(1)(c) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 84(a)(ii)** (with Sch. 3 paras. 2, 18, 19)
- F51** Words in s. 140(1)(c) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 84(a)(ii)** (with Sch. 3 paras. 2, 18, 19)
- F52** S. 140(1)(d) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 84(a)(iii)** (with Sch. 3 paras. 2, 18, 19)
- F53** Words in s. 140(7) substituted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(4), 118(2)** (with s. 9(13))
- F54** S. 140(7)(a)(b) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 84(b)** (with Sch. 3 paras. 2, 18, 19)

#### Commencement Information

- I11** S. 140 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))
- I12** S. 140 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)

### 141 Suspending apparatus supply for information contraventions

- (1) OFCOM may give a direction under this section to a person who supplies electronic communications apparatus (“the contravening supplier”) if they are satisfied—
- (a) that he is or has been in serious and repeated contravention of requirements imposed under section 135;
- (b) that an attempt, by the imposition of penalties under section 139 or the bringing of proceedings for an offence under section 144, to secure compliance with the contravened requirements has failed; and



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- (c) 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—
- (a) a direction to the contravening supplier to cease to act as a supplier of electronic communications apparatus (either generally or in relation to apparatus of a particular description); or
  - (b) a direction imposing such restrictions as may be set out in the direction on the supply by that supplier of electronic communications apparatus (either generally or in relation to apparatus of a particular description).
- (3) A direction under this section takes effect, except so far as it otherwise provides, 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) may provide for a prohibition or restriction to take effect only at a time determined by or in accordance with the terms of the direction; and
  - (b) in connection with a prohibition or restriction contained in the direction or with the postponement of its effect, may impose such conditions on the contravening supplier as appear to OFCOM to be appropriate for the purpose of protecting that supplier’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 supplier’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) If OFCOM consider it appropriate to do so (whether or not in consequence of 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 apparatus or descriptions of apparatus as they may determine.
- (7) For the purposes of this section contraventions by a person of requirements imposed under section 135 are repeated contraventions if—
- (a) in the case of a previous notification given to that person under section 138, OFCOM have determined for the purposes of section 139(2) that such a contravention did occur; and
  - (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 contraventions of such requirements;

and for the purposes of this subsection it shall be immaterial whether the notifications related to the same contravention or to different contraventions of the same or different requirements.

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#### Commencement Information

- I13** S. 141 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))
- I14** S. 141 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)

### 142 Procedure for directions under ss. 140 and 141

(1) Except in an urgent case, [<sup>F55</sup>or a case where a proposed direction has been notified to a person in accordance with section 138(2)(f)] OFCOM are not to give a direction under section 140 or 141 unless they have—

- (a) notified the contravening provider or contravening supplier 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 or the contravening supplier to take advantage of that opportunity.

[<sup>F56</sup>(2A) That period must be—

- (a) in relation to a direction under section 140, such reasonable period as OFCOM may determine, and
- (b) in relation to a direction under section 141, a period ending not less than one month after the day of the giving of the notification.]

(3) As soon as practicable after giving a direction under section 140 or 141 in an urgent case, OFCOM must provide the contravening provider or contravening supplier with an opportunity of—

- (a) making representations about the effect of the direction and of any of its conditions; and
- (b) proposing steps for remedying the situation.

[<sup>F57</sup>(3A) In relation to a direction under section 140 in an urgent case, as soon as practicable after the period allowed by OFCOM for making those representations has ended (and in any event within 3 months beginning with the day on which the direction was given), they must determine—

- (a) whether the contravention providing the grounds for the giving of the direction did occur; and
- (b) whether the circumstances made it an urgent case justifying the giving of the direction.

(3B) The period of 3 months mentioned in subsection (3A) may be extended by up to 3 months if OFCOM—

- (a) require additional time to consider representations received; or
- (b) decide that it is necessary to obtain additional information from the person in order to make a determination under subsection (3A).]

(4) A case is an urgent case for the purposes of this section if OFCOM—

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- (a) consider that it would be inappropriate, because the contraventions in question fall within subsection (5), to allow time, before giving a direction under section 140 or 141, for the making and consideration of representations; and
  - (b) decide for that reason to act in accordance with subsection (3), instead of subsection (1).
- (5) The contraventions fall within this subsection if they have resulted in, or create an immediate risk of—
- (a) a serious threat to the safety of the public, to public health or to national security;
  - (b) serious economic or operational problems for persons (apart from the contravening provider or contravening supplier) who are communications providers or persons who make associated facilities available; or
  - (c) serious economic or operational problems for persons who make use of electronic communications networks, electronic communications services or associated facilities.
- (6) In this section—
- “contravening provider” has the same meaning as in section 140; and
  - “contravening supplier” has the same meaning as in section 141.

#### Textual Amendments

- F55** Words in s. 142(1) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 85(a)** (with Sch. 3 paras. 2, 18, 19)
- F56** S. 142(2A) substituted for s. 142(2) (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 85(b)** (with Sch. 3 paras. 2, 18, 19)
- F57** S. 142(3A)(3B) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 85(c)** (with Sch. 3 paras. 2, 18, 19)

#### Commencement Information

- I15** S. 142 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))
- I16** S. 142 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)

### 143 Enforcement of directions under ss. 140 and 141

- (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 140; or
  - (b) in contravention of a restriction contained in such a direction.
- (2) A person is guilty of an offence if he supplies electronic communications apparatus—
  - (a) while prohibited from doing so by a direction under section 141; or
  - (b) in contravention of a restriction contained in such a direction.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

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- [<sup>F58</sup>(4) Sections 96A to 99 apply in relation to a contravention of conditions imposed by a direction under section 139B or 140 as they apply in relation to a contravention of conditions set under section 45, other than SMP apparatus conditions.
- (5) Sections 94 to 96 and 97 to 99 apply in relation to a contravention of conditions imposed by a direction under section 141 as they apply in relation to a contravention of SMP apparatus conditions.]

#### Textual Amendments

**F58** S. 143(4)(5) substituted for s. 143(4) (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 86** (with Sch. 3 paras. 2, 18, 19)

#### Commencement Information

**I17** S. 143 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))

**I18** S. 143 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)

## 144 Offences in connection with information requirements

- (1) A person who fails to provide information in accordance with a requirement of OFCOM under section 135 or 136 [<sup>F59</sup>, or who contravenes a requirement imposed under section 137A,] is guilty of an offence and shall be liable—
- on summary conviction, to a fine not exceeding the statutory maximum;
  - on conviction on indictment, to a fine.
- (2) In proceedings against a person for an offence under subsection (1) it shall be a defence for that person to show—
- that it was not reasonably practicable for him to comply with the requirement within the period specified by OFCOM; but
  - that he has taken all reasonable steps to [<sup>F60</sup>comply with the requirement] after the end of that period.
- (3) A person is guilty of an offence if—
- in pursuance of any requirement under section [<sup>F61</sup>135, 136 or 137A], he provides [<sup>F62</sup>or publishes] any information that is false in any material particular; and
  - at the time he provides [<sup>F62</sup>or publishes] it, he either knows it to be false or is reckless as to whether or not it is false.
- (4) A person guilty of an offence under subsection (3) shall be liable—
- on summary conviction, to a fine not exceeding the statutory maximum;
  - on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (5) Proceedings for an offence under subsection (1) may be brought in respect of a contravention by a person of a requirement imposed under section 135 or 136 only if—
- OFCOM have given the person a notification under section 138 in respect of that contravention;

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*Changes to legislation: Communications Act 2003, Cross Heading: Information provisions is up to date with all changes known to be in force on or before 28 June 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) View outstanding changes*

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- [<sup>F63</sup>(b) a confirmation decision has been given under section 139A in respect of that requirement and the period allowed under that decision has expired without the requirement have been complied with; and]
- (c) OFCOM have not imposed a financial penalty under section 139 in respect of that contravention.

[<sup>F64</sup>(6) Nothing in this section applies in relation to a contravention of a requirement imposed on a person by virtue of section 135(2)(g).]

#### Textual Amendments

- F59** Words in s. 144(1) inserted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(5)(a)**, 118(2)
- F60** Words in s. 144(2)(b) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(5)(b)**, 118(2)
- F61** Words in s. 144(3) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(5)(c)(i)**, 118(2)
- F62** Words in s. 144(3) inserted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(5)(c)(ii)**, 118(2)
- F63** S. 144(5)(b) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(5)(d)**, 118(2)
- F64** S. 144(6) inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), **Sch. 1 para. 59**

#### Commencement Information

- I19** S. 144 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))
- I20** S. 144 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)

### 145 Statement of policy on information gathering

- (1) It shall be the duty of OFCOM to prepare and publish a statement of their general policy with respect to—
- (a) the exercise of their powers under sections [<sup>F65</sup> 135, 136 and 137A ] ; and
  - (b) the uses to which they are proposing to put information obtained under [<sup>F66</sup> sections 135 and 136 ] .
- (2) OFCOM may from time to time revise that statement as they think fit.
- (3) Where OFCOM make or revise their statement of policy under this section, they must publish that statement or (as the case may be) the revised statement in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it.
- (4) It shall be the duty of OFCOM, in exercising the powers conferred on them by sections 135 to 144 to have regard to the statement for the time being in force under this section.

#### Textual Amendments

- F65** Words in s. 145(1)(a) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(6)(a)**, 118(2)
- F66** Words in s. 145(1)(b) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(6)(b)**, 118(2)

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#### Commencement Information

- I21** S. 145 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))
- I22** S. 145 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)

### 146 Provision of information by OFCOM

- (1) OFCOM must comply with a request made by a person for the purposes of this section—
- to notify the person whether or not a notification is required to be submitted by him under section 33;
  - to notify the person whether a notification submitted by him for the purposes of that section satisfies the requirements of this Chapter;
  - to provide the person with such information about his rights as may be necessary for the purpose of facilitating the negotiation by him of his right to network access; or
  - to provide the person with such information as they consider necessary to enable the applicant to apply for a direction under section 106 to be made in his case.
- (2) A request for the purposes of this section must be made in such manner as OFCOM may require.
- (3) OFCOM are not required to comply with a request under this section if (without having been asked to do so) they have already given that person the notification or information for which he is asking.
- (4) Any notification or information which under subsection (1) must be given or provided by OFCOM must be given or provided before the end of the period of one week beginning with the day on which the request for the notification or information was made to OFCOM.

#### Commencement Information

- I23** S. 146 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))
- I24** S. 146 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)

### [<sup>F67</sup>146A] Rights of third parties to use information without charge

- Any person has a right to use, free of charge, information published by a communications provider if the use is for the purpose specified in subsection (2).
- That purpose is to sell or make available an interactive guide or other technique for evaluating the cost of alternative usage patterns in relation to electronic communications services.]

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#### Textual Amendments

**F67** S. 146A inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 88** (with Sch. 3 para. 2)



**Changes to legislation:**

Communications Act 2003, Cross Heading: Information provisions is up to date with all changes known to be in force on or before 28 June 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.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3B inserted by [2024 c. 15 s. 48\(1\)](#)
- Pt 4A Ch. 1 heading inserted by [2024 c. 15 s. 37\(2\)](#)
- Pt. 4A Ch. 2 and cross-heading inserted by [2024 c. 15 s. 37\(5\)](#)
- Pt. 4A Ch. 3 inserted by [2024 c. 15 Sch. 5](#)
- Pt. 4A Ch. 4 heading inserted by [2024 c. 15 Sch. 6 para. 2](#)
- Pt. 4A Ch. 5 heading inserted by [2024 c. 15 Sch. 6 para. 9](#)
- s. 362AZ12(6) applied by 1990 c. 42, s. 18A(5) (as inserted) by [2024 c. 15 s. 19\(3\)](#)
- s. 362AZ12(6) applied by 1996 c. 55, s. 98(2D) (as substituted) by [2024 c. 15 s. 20\(2\)](#)
- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 198B(1A) inserted by [2024 c. 15 s. 30\(3\)\(b\)](#)
- s. 198B(3A) inserted by [2024 c. 15 s. 30\(3\)\(d\)](#)
- s. 198AA inserted by [2024 c. 15 s. 30\(2\)](#)
- s. 204A-204C substituted for s. 204-206 by [2024 c. 15 s. 32\(2\)](#)
- s. 245(1)(c) inserted by [2024 c. 15 s. 46\(2\)](#)
- s. 245(3A)-(3C) inserted by [2024 c. 15 s. 46\(3\)](#)
- s. 264(3)-(8F) substituted for s. 264(3)-(8) by [2024 c. 15 s. 1\(2\)](#)
- s. 264(10A)(10B) inserted by [2024 c. 15 s. 1\(3\)](#)
- s. 264(11)-(11B) substituted for s. 264(11) by [2024 c. 15 s. 1\(4\)](#)
- s. 264(13)-(16) substituted for s. 264(13) by [2024 c. 15 s. 1\(5\)](#)
- s. 265(6)(7) inserted by [2024 c. 15 s. 3\(4\)](#)
- s. 266(2A) inserted by [2024 c. 15 s. 4\(2\)](#)
- s. 270(3)(ca) inserted by [2024 c. 15 s. 6\(3\)](#)
- s. 270(4A) inserted by [2024 c. 15 s. 6\(4\)](#)
- s. 270(7A) inserted by [2024 c. 15 s. 6\(7\)](#)
- s. 277(12A) inserted by [2024 c. 15 s. 8\(9\)](#)
- s. 277(14) inserted by [2024 c. 15 s. 8\(11\)](#)
- s. 278(1)(1A) substituted for s. 278(1) by [2024 c. 15 s. 9\(2\)](#)
- s. 278(7A) inserted by [2024 c. 15 s. 9\(4\)](#)
- s. 278(12) inserted by [2024 c. 15 s. 9\(5\)](#)
- s. 278A inserted by [2024 c. 15 s. 10](#)
- s. 278B inserted by [2024 c. 15 s. 11](#)
- s. 278C inserted by [2024 c. 15 s. 12](#)
- s. 285(3)(h) inserted by [2024 c. 15 s. 13\(3\)](#)

- s. 285(10) inserted by [2024 c. 15 s. 13\(4\)](#)
- s. 286(1)(a)(aa) substituted for s. 286(1)(a) by [2024 c. 15 s. 14\(2\)\(b\)](#)
- s. 286(3)(a)(aa) substituted for s. 286(3)(a) by [2024 c. 15 s. 14\(3\)\(b\)](#)
- s. 286(8) inserted by [2024 c. 15 s. 14\(6\)](#)
- s. 288(1)(a)(aa) substituted for s. 288(1)(a) by [2024 c. 15 s. 14\(8\)\(b\)](#)
- s. 288(6) inserted by [2024 c. 15 s. 14\(10\)](#)
- s. 290(5) inserted by [2024 c. 15 s. 15\(3\)](#)
- s. 290(6) inserted by [2024 c. 15 s. 15\(4\)](#)
- s. 315(6)(c) omitted by [2024 c. 15 s. 47\(9\)](#)
- s. 315A inserted by [2024 c. 15 s. 44\(9\)](#)
- s. 335B(1A) inserted by [2024 c. 15 Sch. 12 para. 4\(3\)](#)
- s. 338A338B and cross-heading inserted by [2024 c. 15 s. 18](#)
- s. 351(4)(aa) inserted by [2024 c. 15 Sch. 2 para. 58\(2\)\(b\)](#)
- s. 351(5)(aa) substituted for s. 351(5)(a) by [2024 c. 15 Sch. 2 para. 58\(3\)\(a\)](#)
- s. 353(4)(aa) inserted by [2024 c. 15 Sch. 2 para. 59\(2\)\(b\)](#)
- s. 359A and cross-heading inserted by [2024 c. 15 s. 45](#)
- s. 368B(A2) inserted by [2024 c. 15 s. 37\(4\)](#)
- s. 368E(3)(zza) inserted by [2024 c. 15 Sch. 12 para. 9\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 368I(1A) inserted by [2024 c. 15 Sch. 6 para. 3\(4\)](#)
- s. 368I(8A) inserted by [2024 c. 15 Sch. 8 para. 8](#)
- s. 368K(1A) inserted by [2024 c. 15 Sch. 6 para. 5\(3\)](#)
- s. 368M(2A) inserted by [2024 c. 15 Sch. 6 para. 7\(3\)](#)
- s. 368O368OZA substituted for s. 368O by [2024 c. 15 Sch. 6 para. 11\(1\)](#)
- s. 368AA368AB inserted by [2024 c. 15 s. 37\(3\)](#)
- s. 368BB(7) inserted by [2024 c. 15 Sch. 8 para. 3](#)
- s. 368IA(8A) inserted by [2024 c. 15 Sch. 8 para. 9](#)
- s. 368NA(8A)(8B) inserted by [2024 c. 15 Sch. 6 para. 10\(3\)](#)
- s. 368OB and cross-heading inserted by [2024 c. 15 s. 38\(1\)](#)
- s. 368QA inserted by [2024 c. 15 Sch. 8 para. 12\(1\)](#)
- s. 392A and cross-heading inserted by [2024 c. 15 s. 49\(2\)](#)
- s. 392B inserted by [2024 c. 15 s. 49\(4\)](#)
- s. 393(6)(ab) inserted by [2024 c. 15 s. 38\(2\)](#)
- s. 400(1)(ha) words inserted by [2024 c. 15 Sch. 9 para. 4](#)
- s. 402(2A)(zza) inserted by [2024 c. 15 s. 46\(4\)](#)
- s. 402(2A)(zzb) inserted by [2024 c. 15 s. 44\(10\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)
- Sch. 9 para. 1(1)(ab) inserted by [2024 c. 15 Sch. 2 para. 62](#)
- Sch. 12 para. 1(15) inserted by [2024 c. 15 Sch. 1 para. 1\(10\)](#)
- Sch. 12 para. 7(14) inserted by [2024 c. 15 Sch. 1 para. 2\(10\)](#)
- Sch. 12 para. 8(7A) inserted by [2024 c. 15 Sch. 1 para. 3\(5\)](#)
- Sch. 12 para. 8(13) inserted by [2024 c. 15 Sch. 1 para. 3\(8\)](#)
- Sch. 12 para. 10(1)(b) and word inserted by [2024 c. 15 Sch. 1 para. 4\(b\)](#)
- Sch. 12 para. 10(4)(h) inserted by [2024 c. 15 Sch. 1 para. 4\(c\)](#)
- Sch. 12 para. 10(12) inserted by [2024 c. 15 Sch. 1 para. 4\(d\)](#)
- Sch. 12 para. 4(2A) inserted by [2024 c. 15 Sch. 4 para. 52\(4\)](#)
- Sch. 12 para. 3(6)-(7B) substituted for Sch. 12 para. 3(6)(7) by [2024 c. 15 Sch. 4 para. 51\(4\)](#)
- Sch. 12 para. 8(1)-(1C) substituted for Sch. 12 para. 8(1) by [2024 c. 15 Sch. 1 para. 3\(2\)](#)
- Sch. 16A inserted by [2024 c. 15 Sch. 10](#)

– Sch. 16B inserted by [2024 c. 15 Sch. 11](#)