



Communications Act 2003

2003 CHAPTER 21

[^{F1}PART 4A

ON-DEMAND PROGRAMME SERVICES

[^{F1}Suspension or restriction of service

Textual Amendments

- F1** Pt. 4A inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), 2

368K Suspension or restriction of service for contraventions [^{F2}or failures]

- (1) The appropriate regulatory authority must serve a notice under subsection (2) on a provider of an on-demand programme service if they are satisfied—
- (a) that the provider is in contravention of section [^{F3}368BA [^{F4}, 368CB] or] 368D[^{F5}, or of regulations under section 368BC][^{F6}, or has failed to take a measure which the authority consider to be appropriate in relation to that service for the purpose mentioned in section 368E(4), or has failed to implement such a measure effectively];
 - [^{F7}(b) that the imposition of one or more financial penalties or enforcement notifications under section 368BB, 368BD, 368I or 368IA has not resulted in the remedying of the contravention or failure in question; and]
 - (c) that the giving of a direction under this section would be appropriate and proportionate to the seriousness of the contravention [^{F8}or failure].
- (2) A notice under this subsection must—
- (a) state that the appropriate regulatory authority are satisfied as mentioned in subsection (1);
 - (b) state the reasons why they are satisfied as mentioned in subsection (1);

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- (c) state that the appropriate regulatory authority will give a direction under this section unless the provider takes, within a period specified in the notice, such steps to remedy the contravention [^{F9}or failure] within subsection (1)(a) as are so specified;
 - (d) specify any conditions that the appropriate regulatory authority propose to impose in the direction under section 368M(5)(b); and
 - (e) inform the provider that the provider has the right to make representations to the appropriate regulatory authority about the matters appearing to the authority to provide grounds for giving the proposed direction within the period specified for the purposes of paragraph (c).
- (3) If, after considering any representations made to them by the provider within that period, the appropriate regulatory authority are satisfied that the provider has failed to take the steps specified in the notice for remedying the contravention [^{F10}or failure] and that it is necessary in the public interest to give a direction under this section, the appropriate regulatory authority must give such of the following as appears to them appropriate and proportionate as mentioned in subsection (1)(c)—
- (a) a direction that the entitlement of the provider to provide an on-demand programme service is suspended (either generally or in relation to a particular service);
 - (b) a direction that that entitlement is restricted in the respects set out in the direction.

Textual Amendments

- F2** Words in s. 368K heading inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(a)** (with Pt. 7)
- F3** Words in s. 368K(1)(a) inserted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **8(2)**
- F4** Words in s. 368K(1)(a) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(b)(i)** (with Pt. 7)
- F5** Words in s. 368K(1)(a) inserted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 93(6)(a)**, 118(6); [S.I. 2017/765](#), reg. 2(y)
- F6** Words in s. 368K(1)(a) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(b)(ii)** (with Pt. 7)
- F7** S. 368K(1)(b) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(c)** (with Pt. 7)
- F8** Words in s. 368K(1)(c) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(d)** (with Pt. 7)
- F9** Words in s. 368K(2)(c) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(d)** (with Pt. 7)
- F10** Words in s. 368K(3) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **39(d)** (with Pt. 7)

368L Suspension or restriction of service for inciting crime or disorder

- (1) The appropriate regulatory authority must serve a notice under subsection (2) on a provider of an on-demand programme service if they are satisfied—
- [^{F11}(a) that—

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- (i) the service has failed to comply with any requirement of section 368E(1) or (2) or sections 368F to 368H and that accordingly the provider has contravened section 368D(1), or
 - (ii) the provider has failed to take a measure which the authority consider to be appropriate in relation to that service for the purpose mentioned in section 368E(4), or has failed to implement such a measure effectively;]
 - (b) that the failure is due to [^{F12}, or has resulted in,] the inclusion in the service of material likely to encourage or to incite the commission of crime, or to lead to disorder; and
 - (c) that the contravention [^{F13} or failure] is such as to justify the giving of a direction under this section.
- (2) A notice under this subsection must—
 - (a) state that the appropriate regulatory authority are satisfied as mentioned in subsection (1);
 - [^{F14}(b) give details about the matters which, in their opinion, constitute the contravention or failure in question;]
 - (c) specify the effect of the notice in accordance with subsection (3);
 - (d) state that the appropriate regulatory authority may give a direction under this section after the end of the period of twenty-one days beginning with the day on which the notice is served on the provider; and
 - (e) inform the provider of the provider's right to make representations to the appropriate regulatory authority within that period about the matters appearing to the appropriate regulatory authority to provide grounds for giving a direction under this section.
- (3) A notice under subsection (2) has the effect specified under subsection (2)(c), which may be either—
 - (a) that the entitlement of the provider to provide an on-demand programme service is suspended (either generally or in relation to a particular service), or
 - (b) that that entitlement is restricted in the respects set out in the notice.
- (4) The suspension or restriction has effect as from the time when the notice is served on the provider until either—
 - (a) a direction given under this section takes effect; or
 - (b) the appropriate regulatory authority decide not to give such a direction.
- (5) If, after considering any representations made to them by the provider within the period mentioned in subsection (2)(d), the appropriate regulatory authority are satisfied that it is necessary in the public interest to give a direction under this section, they must give such of the following as appears to them justified as mentioned in subsection (1)(c)—
 - (a) a direction that the entitlement of the provider to provide an on-demand programme service is suspended (either generally or in relation to a particular service);
 - (b) a direction that that entitlement is restricted in the respects set out in the direction.

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Textual Amendments

- F11** S. 368L(1)(a) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **40(a)** (with Pt. 7)
- F12** Words in s. 368L(1)(b) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **40(b)** (with Pt. 7)
- F13** Words in s. 368L(1)(c) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **40(c)** (with Pt. 7)
- F14** S. 368L(2)(b) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **40(d)** (with Pt. 7)

368M Supplementary provision about directions

- (1) This section applies to a direction given to a provider under section 368K or 368L.
- (2) A direction must specify the service to which it relates or specify that it relates to any on-demand programme service provided or to be provided by the provider.
- (3) A direction, except so far as it otherwise provides, takes effect for an indefinite period beginning with the time at which it is notified to the provider.
- (4) A direction under section 368L must specify a time for it to take effect, and that time must not fall before the end of twenty-eight days beginning with the day on which the direction is notified to the provider.
- (5) A direction—
 - (a) may provide for the effect of a suspension or restriction to be postponed by specifying that it takes 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 provider as appear to the appropriate regulatory authority to be appropriate for the purpose of protecting that provider’s customers.
- (6) If the appropriate regulatory authority consider it appropriate to do so (whether or not in consequence of representations or proposals made to them), they may revoke a direction 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 services as they may determine.

368N Enforcement of directions under section 368K or 368L

- (1) A person (“P”) is guilty of an offence if P provides an on-demand programme service—
 - (a) while P’s entitlement to do so is suspended by a direction under section 368K or 368L, or
 - (b) in contravention of a restriction contained in such a direction.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.]

Changes to legislation:

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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):

- 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. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- 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\(1\)](#)