



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Information provisions*

#### **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>F1</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;
  - (b) specifies the requirement and contravention in respect of which that determination has been made; <sup>F2</sup>...
  - [<sup>F3</sup>(c) specifies the period during which the person notified has an opportunity to make representations;
  - [<sup>F4</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>F5</sup>(3) .....

<sup>F5</sup>(4) .....

*Changes to legislation: Communications Act 2003, Section 138 is up to date with all changes known to be in force on or before 20 April 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*

<sup>F5</sup>(5) .....

<sup>F5</sup>(6) .....

<sup>F5</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>F6</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>F7</sup>(10) .....

**Textual Amendments**

- F1** Words in s. 138(1) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(3)(a)**, 118(2)
- F2** 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)
- F3** 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)
- F4** S. 138(2)(d) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 86(3)(b)**, 118(2)
- F5** 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)
- F6** 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)
- F7** 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)**

- C1** 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**

- I1** 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))

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**I2** 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](#))

**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\(1\)](#)