



Telecommunications (Security) Act 2021

2021 CHAPTER 31

Designated vendor directions: further provision

22 Requirement not to disclose

After section 105Z24 of the Communications Act 2003 insert—

“105Z25 Requirement not to disclose

- (1) The Secretary of State may require a public communications provider which has been given a designated vendor direction or a designated vendor who has been sent a copy under section 105Z4 not to disclose to any other person the contents of—
 - (a) the designated vendor direction, or
 - (b) a part of the designated vendor direction specified by the Secretary of State,without the permission of the Secretary of State.
- (2) The Secretary of State may require a designated vendor not to disclose to any other person the contents of—
 - (a) the designation notice, or
 - (b) a part of the designation notice specified by the Secretary of State,without the permission of the Secretary of State.
- (3) The Secretary of State may require a public communications provider which has been given a notification under section 105Z18 (notification of contravention of designated vendor direction etc) not to disclose to any other person the existence or contents of—
 - (a) the notification, or
 - (b) a part of the notification specified by the Secretary of State,without the permission of the Secretary of State.
- (4) The Secretary of State may require a public communications provider which has been given a confirmation decision under section 105Z20 (enforcement

Status: This is the original version (as it was originally enacted).

of notification under section 105Z18) not to disclose to any other person the existence or contents of—

- (a) the confirmation decision, or
- (b) a part of the confirmation decision specified by the Secretary of State, without the permission of the Secretary of State.

(5) The Secretary of State may require a person who has been given an urgent enforcement direction not to disclose to any other person the existence or contents of—

- (a) the urgent enforcement direction, or
- (b) a part of the urgent enforcement direction specified by the Secretary of State,

without the permission of the Secretary of State.

(6) The Secretary of State may require a person who has been given a notice under section 105Z23(4)(a) or (7) (notices relating to confirmation of an urgent enforcement direction) not to disclose to any other person the existence or contents of—

- (a) the notice, or
- (b) a part of the notice specified by the Secretary of State,

without the permission of the Secretary of State.

(7) The Secretary of State may not impose a requirement on a person under subsection (1), (2), (3), (4), (5) or (6) unless the condition in subsection (8) is satisfied.

(8) The condition in this subsection is that the Secretary of State considers that it would be contrary to the interests of national security for—

- (a) the contents of the designated vendor direction or the part specified under subsection (1),
- (b) the contents of the designation notice or the part specified under subsection (2),
- (c) the existence or contents of the notification under section 105Z18 or the part specified under subsection (3),
- (d) the existence or contents of the confirmation decision under section 105Z20 or the part specified under subsection (4),
- (e) the existence or contents of the urgent enforcement direction or the part specified under subsection (5), or
- (f) the existence or contents of the notice under section 105Z23(4)(a) or (7) or the part specified under subsection (6),

(as the case may be) to be disclosed, except as permitted by the Secretary of State.

(9) If the condition in subsection (10) is satisfied, the Secretary of State may require a person consulted under section 105Z3(1), 105Z5(4), 105Z9(1) or 105Z10(4) not to disclose to any other person—

- (a) the existence of the consultation and any information disclosed to the person in the consultation, or
- (b) the existence of a part of the consultation specified by the Secretary of State and any information disclosed to the person in that part of the consultation,

without the permission of the Secretary of State.

- (10) The condition in this subsection is that the Secretary of State considers that it would be contrary to the interests of national security for the matters described in subsection (9)(a) or (as the case may be) subsection (9)(b) to be disclosed, except as permitted by the Secretary of State.
- (11) Where a person is subject to a requirement under this section not to disclose a matter, disclosure of that matter by an employee of the person or a person engaged in the person's business is to be regarded as a disclosure by the person, unless the person can show that the person took all reasonable steps to prevent such a disclosure.

105Z26 Enforcement of requirement not to disclose

- (1) Sections 105Z18, 105Z19(1) to (3), 105Z20 and 105Z21 apply in relation to a contravention by a person of a requirement not to disclose imposed under section 105Z25 as they apply in relation to a contravention by a public communications provider of a requirement imposed by a designated vendor direction, subject to subsections (2) to (6).
- (2) Section 105Z18 (as applied by this section) has effect as if, in subsection (2)(d), for sub-paragraphs (i) and (ii) there were substituted—
 - “(i) bring the contravention to an end;
 - (ii) limit the consequences of the contravention;”.
- (3) Section 105Z19 (as applied by this section) has effect as if—
 - (a) in subsection (2), the maximum penalty specified were £10 million;
 - (b) in subsection (3), the maximum penalty specified were £50,000 per day.
- (4) The Secretary of State may by regulations amend subsection (3) so as to substitute a different amount for the amount for the time being specified in subsection (3)(a) or (b).
- (5) No regulations are to be made containing provision authorised by subsection (4) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (6) Section 105Z20 (as applied by this section) has effect as if—
 - (a) in subsection (6)—
 - (i) in paragraph (a), for sub-paragraphs (i) and (ii) there were substituted—
 - “(i) to bring the contravention to an end,
and
 - (ii) to limit the consequences of the
contravention;”;
 - (ii) in paragraph (b), for “comply with that requirement and
remedy” there were substituted “bring that contravention to an
end and limit”;
 - (iii) in the words following paragraph (b), for “comply with that
requirement or remedy” there were substituted “bring that
contravention to an end or limit”;

Status: This is the original version (as it was originally enacted).

- (b) in subsection (7)(b)(ii), for the words from “comply” to “remedy” there were substituted “bring the contravention to an end or to limit”.