



Telecommunications (Security) Act 2021

2021 CHAPTER 31

Securing compliance with security duties

8 Civil liability for contravention of security duties

After section 105V of the Communications Act 2003 insert—

“105W Civil liability for breach of security duties

- (1) A duty imposed by or under any of sections 105A to 105D and 105J on a provider of a public electronic communications network or a public electronic communications service is a duty owed to every person who may be affected by a contravention of the duty.
- (2) Subsections (3) and (4) apply where a duty is owed by virtue of subsection (1) to a person.
- (3) A breach of the duty that causes that person to sustain loss or damage is actionable at the suit or instance of that person.
- (4) An act which—
 - (a) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and
 - (b) is done wholly or partly for achieving that result,is actionable at the suit or instance of that person.
- (5) In proceedings brought against a provider of a public electronic communications network or a public electronic communications service by virtue of subsection (3), it is a defence for the provider to show that they took all reasonable steps and exercised all due diligence to avoid contravening the duty in question.
- (6) The consent of OFCOM is required for the bringing of proceedings by virtue of this section.

Status: This is the original version (as it was originally enacted).

- (7) If OFCOM give their consent subject to conditions relating to the conduct of the proceedings, the proceedings are not to be carried on except in compliance with those conditions.”