



# Communications Act 2003

## 2003 CHAPTER 21

### PART 2

#### NETWORKS, SERVICES AND THE RADIO SPECTRUM

### CHAPTER 1

#### ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

##### *Electronic communications code*

### 113 Suspension of application of code

- (1) OFCOM may suspend the application of the electronic communications code in any person's case if they are satisfied—
- (a) that he is or has been in [<sup>F1</sup>serious or repeated] contravention of requirements to pay administrative charges fixed under section 38 (whether in respect of the whole or a part of the charges);
  - [<sup>F2</sup>(aa) that, in the case of a single serious contravention, a notification has been given to the contravening provider under section 40 and the period for making representations under that section has expired;]
  - (b) that [<sup>F3</sup>, in the case of a repeated contravention] the bringing of proceedings for the recovery of the amounts outstanding has failed to secure complete compliance by the contravening provider with the requirements to pay the charges fixed in his case, or has no reasonable prospect of securing such compliance;
  - (c) that [<sup>F4</sup>, in the case of a repeated contravention] an attempt, by the imposition of penalties under section 41, to secure such compliance has failed; and
  - [<sup>F5</sup>(d) that the suspension of the application of the code is appropriate and proportionate to the contravention.]

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**Changes to legislation:** *Communications Act 2003, Section 113 is up to date with all changes known to be in force on or before 11 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*

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- (2) OFCOM may, to the extent specified in subsection (3), suspend the application in that person's case of the electronic communications code if—
- (a) the electronic communications code has been applied by a direction under section 106 in any person's case; and
  - (b) OFCOM give a direction under section 42, 100 [<sup>F6</sup>(including that section as applied by [<sup>F7</sup>section 105S][<sup>F8</sup>or 105Z17])], 132 or 140 for the suspension or restriction of that person's entitlement to provide an electronic communications network, or a part of such a network.
- (3) The extent, in any person's case, of a suspension under subsection (2) must not go beyond the application of the code for the purposes of so much of an electronic communications network as that person is prohibited from providing by virtue of the suspension or restriction of his entitlement to provide such a network, or part of a network.
- (4) OFCOM may, to the extent specified in subsection (5), suspend the application in that person's case of the electronic communications code if—
- (a) the electronic communications code has been applied by a direction under section 106 in any person's case; and
  - (b) that person is a person in whose case there have been [<sup>F9</sup>repeated or serious] contraventions of requirements imposed by virtue of any restrictions or conditions under section 109.
- (5) The extent, in any person's case, of a suspension under subsection (4) must not go beyond the following applications of the code in his case—
- (a) its application for the purposes of electronic communications networks, or parts of such a network, which are not yet in existence at the time of the suspension;
  - (b) its application for the purposes of conduit systems, or parts of such systems, which are not yet in existence or not yet used for the purposes of electronic communications networks; and
  - (c) its application for other purposes in circumstances in which the provision of an electronic communications network, or part of such a network, would not have to cease if its application for those purposes were suspended.
- (6) A suspension under this section of the application of the code in any person's case must be by a further direction given to that person by OFCOM under section 106.
- (7) The statement required by section 107(8) to be included, in the case of a direction for the purposes of this section, in the statement of OFCOM's proposal is a statement of their proposal to suspend the application of the code.
- (8) A suspension of the application of the electronic communications code in any person's case—
- (a) shall cease to have effect if the suspension is under subsection (2) and the network suspension or restriction ceases to have effect; but
  - (b) subject to that shall continue in force until such time (if any) as it is withdrawn by OFCOM.
- (9) In subsection (8) the reference to the network suspension or restriction, in relation to a suspension of the application of the electronic communications code, is a reference to the suspension or restriction of an entitlement to provide an electronic communications

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network, or part of such a network, which is the suspension or restriction by reference to which the application of the code was suspended under subsection (2).

- (10) Subject to subsection (11), where the application of the electronic communications code is suspended in a person's case, he shall not, while it is so suspended, be entitled to exercise any right conferred on him by or by virtue of the code.
- (11) The suspension, in a person's case, of the application of the electronic communications code does not, except so far as otherwise provided by a scheme contained in an order under section 117—
- (a) affect (as between the original parties to it) any agreement entered into for the purposes of the code or any agreement having effect in accordance with it;
  - (b) affect anything done under the code before the suspension of its application; or
  - (c) require the removal of, or prohibit the use of, any apparatus lawfully installed on, in or over any premises before that suspension.
- (12) Subsection (9) of section 42 applies for the purposes of subsection (1) as it applies for the purposes of that section.
- [<sup>F10</sup>(13) For the purposes of subsection (4) there are repeated contraventions by a person of conditions or restrictions under section 109 if—
- (a) in the case of a previous notification given to the person under section 110, OFCOM have given a confirmation decision to the person under section 111(2);
  - (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 a condition or restriction under section 109; and
  - (c) the previous confirmation decision and the subsequent ones all relate to contraventions of the same condition or restriction (whether the same contravention or different contraventions).]

#### Textual Amendments

- F1** Words in s. 113(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. 73(a)(i)** (with Sch. 3 paras. 2, 15)
- F2** S. 113(1)(aa) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 73(a)(ii)** (with Sch. 3 paras. 2, 15)
- F3** Words in s. 113(1)(b) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 73(a)(iii)** (with Sch. 3 paras. 2, 15)
- F4** Words in s. 113(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. 73(a)(iii)** (with Sch. 3 paras. 2, 15)
- F5** S. 113(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. 73(a)(iv)** (with Sch. 3 paras. 2, 15)
- F6** Words in s. 113(2)(b) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 73(b)** (with Sch. 3 paras. 2, 15)
- F7** Words in s. 113(2)(b) substituted (1.10.2022) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 7(3), 28(2)(b)**; [S.I. 2022/931](#), reg. 2(b)
- F8** Words in s. 113(2)(b) inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 19(3), 28(1)(c)**

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- F9** Words in s. 113(4)(b) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 73(c)** (with Sch. 3 paras. 2, 15)
- F10** S. 113(13) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 73(d)** (with Sch. 3 paras. 2, 15)

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

- C1** Ss. 106-119 modified (coming into force in accordance with reg. 1 of the amending S.I.) by [The Electronic Communications Code \(Transitional Provisions\) Regulations 2017 \(S.I. 2017/1008\)](#), **reg. 4**

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**Commencement Information**

- I1** S. 113 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. 113 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)

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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\(1\)](#)