



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

[^{F1}Security of public electronic communications networks and services: designated vendor directions

Textual Amendments

- F1** Ss. 105Z1-105Z7 and cross-heading inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021](#) (c. 31), [ss. 15\(2\)](#), 28(1)(c)

105Z1 Designated vendor directions

- (1) The Secretary of State may give a direction under this section (“a designated vendor direction”) to a public communications provider.
- (2) The Secretary of State may give a designated vendor direction only if the Secretary of State considers that—
 - (a) the direction is necessary in the interests of national security; and
 - (b) the requirements imposed by the direction are proportionate to what is sought to be achieved by the direction.
- (3) A designated vendor direction may impose requirements on a public communications provider with respect to the use, in connection with a purpose mentioned in subsection (4), of goods, services or facilities supplied, provided or made available by a designated vendor specified in the direction.

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- (4) The purposes referred to in subsection (3) are—
- (a) in the case of a provider of a public electronic communications network, the provision of that network;
 - (b) in the case of a provider of a public electronic communications service, the provision of that service;
 - (c) in the case of a person who makes available facilities that are associated facilities by reference to a public electronic communications network or public electronic communications service, the making available of those facilities; or
 - (d) in the case of a provider of a public electronic communications network or public electronic communications service, enabling persons to make use of that network or service.
- (5) A designated vendor direction must specify—
- (a) the public communications provider or providers to which the direction is given;
 - (b) the reasons for the direction;
 - (c) the time at which the direction comes into force.
- (6) The requirement in subsection (5)(b) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the direction would be contrary to the interests of national security.
- (7) A public communications provider to which a designated vendor direction is given must comply with the direction.
- (8) A reference in this section to a facility includes a reference to a facility, element or service that is an associated facility.

105Z2 Further provision about requirements

- (1) This section makes further provision about the requirements that may be imposed by a designated vendor direction on a public communications provider.
- (2) The requirements may include, among other things—
- (a) requirements prohibiting or restricting the use of goods, services or facilities supplied, provided or made available by a designated vendor specified in the direction;
 - (b) requirements prohibiting the installation of such goods or the taking up of such services or facilities;
 - (c) requirements about removing, disabling or modifying such goods or facilities;
 - (d) requirements about modifying such services;
 - (e) requirements about the manner in which such goods, services or facilities may be used.
- (3) A requirement in a designated vendor direction may, among other things—
- (a) relate to the use of goods, services or facilities in connection with a specified function of—
 - (i) the public electronic communications network provided by the provider;

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- (ii) the public electronic communications service provided by the provider; or
 - (iii) an associated facility made available by the provider that is an associated facility by reference to such a network or service (as the case may be);
 - (b) relate to the use of goods, services or facilities in a specified part of—
 - (i) the public electronic communications network provided by the provider;
 - (ii) the public electronic communications service provided by the provider; or
 - (iii) an associated facility made available by the provider that is an associated facility by reference to such a network or service (as the case may be).
- (4) A requirement in a designated vendor direction may make provision by reference to, among other matters—
 - (a) the source of goods, services or facilities that are supplied, provided or made available by a designated vendor specified in the direction;
 - (b) the time at which goods, services or facilities were developed or produced (which may be a time before the passing of the Telecommunications (Security) Act 2021);
 - (c) the time at which goods, services or facilities were procured by, or supplied, provided or made available to, the public communications provider (which may be a time before the passing of that Act).
- (5) A designated vendor direction may impose requirements that apply in specified circumstances (for example where the public communications provider is using goods, services or facilities supplied, provided or made available by one or more other specified persons).
- (6) A designated vendor direction may provide for exceptions to a requirement.
- (7) A requirement to do a thing must specify the period within which the thing is to be done.
- (8) A period specified under subsection (7) must be such period as appears to the Secretary of State to be reasonable.
- (9) In this section—
 - (a) a reference to a facility includes a reference to a facility, element or service that is an associated facility;
 - (b) “specified” means specified in a designated vendor direction.

105Z3 Consultation about designated vendor directions

- (1) Before giving a designated vendor direction, the Secretary of State must consult—
 - (a) the public communications provider or providers which would be subject to the proposed direction, and
 - (b) the person or persons who would be specified as a designated vendor or vendors in the proposed direction in accordance with section [105Z1\(3\)](#), so far as it is reasonably practicable to do so.

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- (2) The requirement in subsection (1) does not apply if or to the extent that the Secretary of State considers that consultation would be contrary to the interests of national security.

105Z4 Notice of designated vendor directions

- (1) Where a designated vendor direction is given to a public communications provider, the Secretary of State must send a copy of the direction to the designated vendor or vendors specified in the direction, if or to the extent that it is reasonably practicable to do so.
- (2) The requirement in subsection (1) does not apply, in the case of a designated vendor, if the Secretary of State considers that sending a copy of the direction to that designated vendor would be contrary to the interests of national security.
- (3) The Secretary of State may exclude from the copy of the direction anything the disclosure of which the Secretary of State considers—
- (a) would, or would be likely to, prejudice to an unreasonable degree the commercial interests of any person; or
 - (b) would be contrary to the interests of national security.

105Z5 Variation and revocation of designated vendor directions

- (1) The Secretary of State must review a designated vendor direction from time to time.
- (2) The Secretary of State may—
- (a) vary a designated vendor direction;
 - (b) revoke a designated vendor direction (whether wholly or in part).
- (3) The Secretary of State may vary a designated vendor direction only if—
- (a) the Secretary of State considers that the direction as varied is necessary in the interests of national security; and
 - (b) the Secretary of State considers that the requirements imposed by the direction as varied are proportionate to what is sought to be achieved by the direction.
- (4) Before varying a designated vendor direction, the Secretary of State must consult—
- (a) the public communications provider or providers which would be subject to the direction as proposed to be varied, and
 - (b) the person or persons who would be affected as a designated vendor or vendors by the direction as proposed to be varied,
- so far as it is reasonably practicable to do so.
- (5) The requirement in subsection (4) does not apply if or to extent that the Secretary of State considers that consultation would be contrary to the interests of national security.

105Z6 Notice of variation and revocation of designated vendor directions

- (1) The Secretary of State must give notice of a variation of a designated vendor direction under section 105Z5 to the public communications provider or providers subject to the direction as varied.
- (2) The notice of variation must specify—
- (a) how the direction is varied;

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- (b) the reasons for the variation;
 - (c) the time at which the variation, or each of them, comes into force.
- (3) The requirement in subsection (2)(b) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the notice would be contrary to the interests of national security.
- (4) The Secretary of State must send a copy of the notice of variation to the designated vendor or vendors specified in the direction as varied, if or to the extent that it is reasonably practicable to do so.
- (5) The requirement in subsection (4) does not apply, in the case of a designated vendor, if the Secretary of State considers that sending a copy of the notice of variation to that designated vendor would be contrary to the interests of national security.
- (6) The Secretary of State may exclude from the copy of the notice of variation anything the disclosure of which the Secretary of State considers—
 - (a) would, or would be likely to, prejudice to an unreasonable degree the commercial interests of the public communications provider or providers subject to the direction as varied; or
 - (b) would be contrary to the interests of national security.
- (7) The Secretary of State must give notice of a revocation of a designated vendor direction under section 105Z5 to the public communications provider or providers subject to the direction as it had effect before the revocation.
- (8) The notice of revocation must specify—
 - (a) the time at which the revocation comes into force;
 - (b) if the direction is partly revoked, what part of the direction is revoked.
- (9) The Secretary of State must send a copy of the notice of revocation to the designated vendor or vendors specified in the direction as it had effect before the revocation, if or to the extent that it is reasonably practicable to do so.
- (10) The requirement in subsection (9) does not apply, in the case of a designated vendor, if the Secretary of State considers that sending a copy of the notice of revocation to that designated vendor would be contrary to the interests of national security.
- (11) Where the direction is partly revoked, the Secretary of State may exclude from the copy of the notice of revocation anything the disclosure of which the Secretary of State considers—
 - (a) would, or would be likely to, prejudice to an unreasonable degree the commercial interests of any person; or
 - (b) would be contrary to the interests of national security.

105Z7 Designated vendor directions: plans for compliance

- (1) This section applies where a designated vendor direction has been given to a public communications provider (and has not been revoked).
- (2) The Secretary of State may from time to time require the public communications provider—
 - (a) to prepare a plan setting out—

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- (i) the steps that the provider intends to take in order to comply with such requirements imposed by the direction as the Secretary of State may specify; and
 - (ii) the timing of those steps; and
 - (b) to provide the plan to the Secretary of State.
- (3) The Secretary of State may also require that the plan be provided to OFCOM.
- (4) The Secretary of State may specify the period within which a plan required under this section is to be provided to the Secretary of State or OFCOM.
- (5) A period specified under subsection (4) must be such period as appears to the Secretary of State to be reasonable.]

[^{F2}105Z8] Designation notices

- (1) The Secretary of State may issue a notice (“a designation notice”) designating a person for the purposes of a designated vendor direction.
- (2) A designation notice may designate more than one person.
- (3) The Secretary of State may issue a designation notice only if the Secretary of State considers that the notice is necessary in the interests of national security.
- (4) In considering whether to designate a person, the matters to which the Secretary of State may have regard include—
 - (a) the nature of the goods, services or facilities that are or might be supplied, provided or made available by the person;
 - (b) the quality, reliability and security of those goods, services or facilities or any component of them (including the quality, reliability and security of their development or production or of the manner in which they are supplied, provided or made available);
 - (c) the reliability of the supply of those goods, services or facilities;
 - (d) the quality and reliability of the provision of maintenance or support for those goods, services or facilities;
 - (e) the extent to which and the manner in which goods, services or facilities supplied, provided or made available by the person are or might be used in the United Kingdom;
 - (f) the extent to which and the manner in which goods, services or facilities supplied, provided or made available by the person are or might be used in other countries or territories;
 - (g) the identity of the persons concerned in—
 - (i) the development or production of goods, services or facilities supplied, provided or made available by the person or any component of them;
 - (ii) supplying or providing such goods or services or making such facilities available; or
 - (iii) providing maintenance or support for such goods, services or facilities;
 - (h) the identity of the persons who own or control, or are associated with—
 - (i) the person being considered for designation; or
 - (ii) any person described in paragraph (g);

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- (i) the country or territory in which the registered office or anything similar, or any place of business, of—
 - (i) the person being considered for designation, or
 - (ii) any of the persons described in paragraph (g) or (h),is situated;
 - (j) the conduct of any of the persons described in paragraph (i) as it affects or might affect the national security of any country or territory;
 - (k) any other connection between a country or territory and any of those persons;
 - (l) the degree to which any of those persons might be susceptible to being influenced or required to act contrary to the interests of national security.
- (5) A designation notice must specify the reasons for the designation.
- (6) The requirement in subsection (5) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the notice would be contrary to the interests of national security.
- (7) A reference in this section to a facility includes a reference to a facility, element or service that is an associated facility.

Textual Amendments

F2 Ss. 105Z8-105Z10 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. **16(2)**, 28(1)(c)

105Z9 Further provision about designation notices

- (1) Before issuing a designation notice, the Secretary of State must consult the person or persons proposed to be designated in the notice, so far as it is reasonably practicable to do so.
- (2) The requirement in subsection (1) does not apply if or to the extent that the Secretary of State considers that consultation would be contrary to the interests of national security.
- (3) Where a designation notice is issued, the Secretary of State must send a copy to the person or persons designated in the notice, if or to the extent that it is reasonably practicable to do so.

Textual Amendments

F2 Ss. 105Z8-105Z10 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. **16(2)**, 28(1)(c)

105Z10 Variation and revocation of designation notices

- (1) The Secretary of State must review a designation notice from time to time.
- (2) The Secretary of State may—
 - (a) vary a designation notice;
 - (b) revoke a designation notice (whether wholly or in part).

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- (3) The Secretary of State may vary a designation notice only if the Secretary of State considers that the designation notice as varied is necessary in the interests of national security.
- (4) Before varying a designation notice, the Secretary of State must consult the person, or each of the persons, proposed to be designated in the notice as varied, so far as it is reasonably practicable to do so.
- (5) The requirement in subsection (4) does not apply if or to the extent that the Secretary of State considers that consultation would be contrary to the interests of national security.
- (6) The Secretary of State must give notice of a variation to—
 - (a) any person designated by the designation notice as it had effect before the variation, and
 - (b) any person designated by the designation notice as varied, if or to the extent that it is reasonably practicable to do so.
- (7) The notice of variation must specify—
 - (a) how the designation notice is varied;
 - (b) the reasons for the variation;
 - (c) the time at which the variation, or each of them, comes into force.
- (8) The requirement in subsection (7)(b) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the notice would be contrary to the interests of national security.
- (9) The Secretary of State must give notice of a revocation to any person designated by the designation notice as it had effect before the revocation, if or to the extent that it is reasonably practicable to do so.
- (10) The notice of revocation must specify—
 - (a) the time at which the revocation comes into force;
 - (b) if the designation notice is partly revoked, what part of the notice is revoked.]

Textual Amendments

F2 Ss. 105Z8-105Z10 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. **16(2)**, 28(1)(c)

[^{F3}105Z1] Laying before Parliament

- (1) The Secretary of State must lay before Parliament a copy of—
 - (a) a designated vendor direction;
 - (b) a designation notice;
 - (c) a notice of a variation or revocation of a designated vendor direction; and
 - (d) a notice of a variation or revocation of a designation notice.
- (2) The requirement in subsection (1) does not apply if the Secretary of State considers that laying a copy of the direction or notice (as the case may be) before Parliament would be contrary to the interests of national security.

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- (3) The Secretary of State may exclude from what is laid before Parliament anything the publication of which the Secretary of State considers—
- (a) would, or would be likely to, prejudice to an unreasonable degree the commercial interests of any person; or
 - (b) would be contrary to the interests of national security.]

Textual Amendments

F3 S. 105Z11 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 17, 28(1)(c)

[^{F4}**105Z11** **Monitoring of designated vendor directions**

- (1) The Secretary of State may give OFCOM a direction (“a monitoring direction”) requiring them—
- (a) to obtain information relating to a specified public communications provider’s compliance with a designated vendor direction;
 - (b) to prepare and send a report to the Secretary of State based on that information; and
 - (c) to provide to the Secretary of State on request the information on which a report falling within paragraph (b) is based.
- (2) The information that OFCOM may be required to obtain under subsection (1)(a) is—
- (a) information that would assist the Secretary of State in determining whether the provider has complied, is complying or is preparing to comply with—
 - (i) the designated vendor direction; or
 - (ii) a specified requirement imposed by the designated vendor direction;
 - (b) information about a specified matter which is relevant to compliance with a requirement imposed by the designated vendor direction;
 - (c) if the provider has been required to provide a plan under section 105Z7, information about whether the provider is acting in accordance with the plan.
- (3) A monitoring direction may make provision about—
- (a) the form of a report;
 - (b) the content of a report.
- (4) A monitoring direction may, in particular, require a report to include—
- (a) OFCOM’s analysis of information gathered by them;
 - (b) an explanation of their analysis.
- (5) A monitoring direction may require OFCOM to give the Secretary of State separate reports on different matters.
- (6) A monitoring direction may make provision about the time or times at which OFCOM must report to the Secretary of State, including provision requiring OFCOM to give reports at specified intervals.
- (7) OFCOM must exercise their powers to obtain information in such manner as they consider appropriate for the purposes of preparing a report required by a monitoring direction.

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- (8) The Secretary of State may give OFCOM more than one monitoring direction in relation to a designated vendor direction.
- (9) The Secretary of State may vary or revoke a monitoring direction.
- (10) The Secretary of State must consult OFCOM before giving or varying a monitoring direction.
- (11) In this section “specified” means specified in a monitoring direction.

Textual Amendments

F4 Ss. 105Z12, 105Z13 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 18(2), 28(1)(c)

105Z13 Reports made under monitoring directions

- (1) The Secretary of State may—
 - (a) publish a report made by OFCOM in accordance with a monitoring direction or part of it; or
 - (b) disclose such a report or part of it.
- (2) In publishing or disclosing a report made by OFCOM in accordance with a monitoring direction, the Secretary of State must have regard to the need to exclude from publication or disclosure, so far as is practicable, the matters which are confidential in accordance with subsections (3) and (4).
- (3) A matter is confidential under this subsection if—
 - (a) it relates to the affairs of a particular body; and
 - (b) publication or disclosure of that matter would or might, in the Secretary of State’s opinion, seriously and prejudicially affect the interests of that body.
- (4) A matter is confidential under this subsection if—
 - (a) it relates to the private affairs of an individual; and
 - (b) publication or disclosure of that matter would or might, in the Secretary of State’s opinion, seriously and prejudicially affect the interests of that individual.]

Textual Amendments

F4 Ss. 105Z12, 105Z13 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 18(2), 28(1)(c)

[^{F5}105Z13] Power of OFCOM to give inspection notices

- (1) This section applies where the Secretary of State has given OFCOM a monitoring direction relating to a public communications provider (and the monitoring direction has not been revoked).
- (2) OFCOM may by notice (“an inspection notice”) given to the provider impose on the provider a duty to take any of the actions mentioned in subsection (4).

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- (3) OFCOM may exercise the power in subsection (2) for the purpose of obtaining—
- (a) information (in any form) that would assist the Secretary of State in determining whether the provider has complied or is complying with—
 - (i) the designated vendor direction; or
 - (ii) a specified requirement imposed by the designated vendor direction;
 - (b) information (in any form) about a specified matter which is relevant to whether the provider has complied or is complying with a requirement imposed by the designated vendor direction.
- (4) The actions are—
- (a) to carry out surveys of a specified description of—
 - (i) the public electronic communications network provided by the provider;
 - (ii) the public electronic communications service provided by the provider; or
 - (iii) the associated facilities made available by the provider that are associated facilities by reference to such a network or service (as the case may be);
 - (b) to make arrangements of a specified description for another person to carry out surveys of a specified description of the network, service or associated facilities;
 - (c) to make available for interview a specified number of persons of a specified description who are involved in the provision of the network or service or the making available of the associated facilities (not exceeding the number who are willing to be interviewed);
 - (d) to permit an authorised person to enter specified premises;
 - (e) to permit an authorised person to observe any operation taking place on the premises that relates to the network, service or associated facilities;
 - (f) to direct an authorised person to equipment or other material on the premises that is of a specified description;
 - (g) to direct an authorised person to documents on the premises that are of a specified description;
 - (h) to assist an authorised person to view information of a specified description that is capable of being viewed using equipment on the premises;
 - (i) to comply with a request from an authorised person for a copy of the documents to which the person is directed and the information the person is assisted to view;
 - (j) to permit an authorised person to inspect or examine the documents, information, equipment or material to which the person is directed or which the person is assisted to view;
 - (k) to provide an authorised person with an explanation of such documents, information, equipment or material.
- (5) An inspection notice may not impose on the provider a duty to permit an authorised person to enter domestic premises.
- (6) An inspection notice may not impose on the provider a duty to do anything that would result in—

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- (a) the disclosure of documents or information in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings; or
 - (b) a disclosure of documents or information that is prohibited by or under an enactment mentioned in section 105A(4).
- (7) An inspection notice must, in relation to each duty imposed by the notice, specify the time or times at which, or period or periods within which, the duty must be complied with.
- (8) A time or period specified under subsection (7) must not be a time that falls or a period that begins before the end of the period of 28 days beginning with the day on which the inspection notice is given.
- (9) In this section—
- “authorised person” means an employee of, or person authorised by, OFCOM;
 - “domestic premises” means premises, or a part of premises, used as a dwelling;
 - “specified” means specified in an inspection notice.

Textual Amendments

F5 Ss. 105Z14-105Z17 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. [19\(2\)](#), [28\(1\)\(c\)](#)

105Z15 Inspection notices: further provision

- (1) An inspection notice must provide information about the consequences of failing to comply with a duty imposed by the notice.
- (2) An inspection notice may by further notice—
 - (a) be revoked by OFCOM;
 - (b) be varied by OFCOM so as to make it less onerous.
- (3) Where an inspection notice is given to a public communications provider, the provider may not act in such a way as to defeat the purpose of the inspection notice.
- (4) Where an inspection notice is given to a public communications provider, the provider must pay the costs reasonably incurred by OFCOM in connection with obtaining information by means of the inspection notice.

Textual Amendments

F5 Ss. 105Z14-105Z17 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. [19\(2\)](#), [28\(1\)\(c\)](#)

105Z16 Inspection notices: information about entering premises

Every report under paragraph 12 of the Schedule to the Office of Communications Act 2002 (OFCOM’s annual report) must include a statement of the number of occasions

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during the financial year to which the report relates on which premises have been entered in pursuance of a duty imposed under section 105Z14(4)(d).

Textual Amendments

F5 Ss. 105Z14-105Z17 inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), ss. 19(2), 28(1)(c)

105Z17 Inspection notices: enforcement of compliance

- (1) Sections 96A to 100, 102 and 103 apply in relation to—
 - (a) a contravention of a duty imposed by an inspection notice, or
 - (b) a contravention of the duty imposed by section 105Z15(3),as they apply in relation to a contravention of a condition set under section 45, other than an SMP apparatus condition.
- (2) Subsection (1) is subject to subsections (3) and (4).
- (3) In its application in relation to a contravention referred to in subsection (1), section 96B(5) has effect as if the maximum penalty specified were £50,000 per day.
- (4) In its application in relation to a contravention referred to in subsection (1), section 97(1) has effect as if the maximum penalty specified were £10 million.
- (5) The Secretary of State may by regulations amend this section so as to substitute a different amount for the amount for the time being specified in subsection (3) or (4).
- (6) No regulations are to be made containing provision authorised by subsection (5) unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.]

Textual Amendments

F5 Ss. 105Z14-105Z17 inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), ss. 19(2), 28(1)(c)

[^{F6}105Z18] Notification of contravention

- (1) Where the Secretary of State determines that there are reasonable grounds for believing that a public communications provider is contravening, or has contravened—
 - (a) a requirement imposed by a designated vendor direction, or
 - (b) a requirement under section 105Z7,the Secretary of State may give the provider a notification under this section.
- (2) A notification under this section is one which—
 - (a) sets out the Secretary of State’s determination;
 - (b) specifies the requirement and contravention in respect of which the determination is made;
 - (c) specifies the period during which the provider has an opportunity to make representations;

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- (d) specifies the steps that the Secretary of State thinks should be taken by the provider in order to—
 - (i) comply with the requirement;
 - (ii) remedy the consequences of the contravention;
 - (e) specifies the penalty which the Secretary of State is minded to impose.
- (3) A notification under this section may be given in respect of more than one contravention.
 - (4) If a notification under this section relates to more than one contravention, a separate penalty may be specified under subsection (2)(e) in respect of each contravention.
 - (5) If a notification under this section is given in respect of a continuing contravention, it may be given in respect of any period during which the contravention has continued.
 - (6) If a notification under this section relates to a continuing contravention, no more than one penalty may be specified under subsection (2)(e) in respect of the period of contravention specified in the notification.
 - (7) Notwithstanding subsection (6), in relation to a continuing contravention, a penalty may be specified in respect of each day on which the contravention continues after—
 - (a) the giving of a confirmation decision under section 105Z20 which requires immediate action in respect of that contravention (see section 105Z20(6)(a)); or
 - (b) the expiry of any period specified in the confirmation decision for complying with the requirement being contravened.
 - (8) Where a notification under this section has been given to a public communications provider in respect of a contravention of a requirement, the Secretary of State 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.

Textual Amendments

F6 Ss. 105Z18-105Z21 inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), ss. 20, 28(1)(c)

105Z19 Amount of penalty

- (1) The amount of a penalty that may be specified in a notification under section 105Z18 is such amount as the Secretary of State determines to be—
 - (a) appropriate; and
 - (b) proportionate to the contravention in respect of which it is imposed.

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- (2) The amount may not exceed 10 per cent of the turnover of the public communications provider's relevant business for the relevant period, subject to subsection (3).
- (3) In the case of a penalty specified under section 105Z18(7), the amount may not exceed £100,000 per day.
- (4) Where the notification relates to a contravention of a requirement under section 105Z7—
 - (a) subsection (2) has effect as if the maximum amount specified were £10 million; and
 - (b) subsection (3) has effect as if the maximum amount specified were £50,000 per day.
- (5) The Secretary of State may by regulations amend this section so as to substitute a different maximum penalty for the maximum penalty for the time being specified in subsection (3) or (4)(a) or (b).
- (6) No regulations are to be made containing provision authorised by subsection (5) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (7) For the purposes of this section—
 - (a) the turnover of a person's relevant business for a period is to be calculated in accordance with such rules as may be set out in an order under section 97(3)(a); and
 - (b) what is to be treated as the network, service, facility or business by reference to which the calculation of that turnover falls to be made is to be determined in accordance with such provision as may be made by an order under section 97(3)(a).
- (8) In this section—

“relevant business”, in relation to a person, means (subject to the provisions of an order under section 97(3)(a)) so much of any business carried on by the person as consists in any one or more of the following—

 - (a) the provision of a public electronic communications network;
 - (b) the provision of a public electronic communications service;
 - (c) the making available of facilities that are associated facilities by reference to such a network or service;

“relevant period”, in relation to a contravention by a person of a requirement imposed by a designated vendor direction, means—

 - (a) except in a case falling within paragraph (b) or (c), the period of one year ending with the 31st March next before the time when notification of the contravention was given under section 105Z18;
 - (b) in the case of a person who at that time has been carrying on that business for a period of less than a year, the period, ending with that time, during which the person has been carrying it on; and
 - (c) in the case of a person who at that time has ceased to carry on that business, the period of one year ending with the time when the person ceased to carry it on.

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Textual Amendments

F6 Ss. 105Z18-105Z21 inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), ss. 20, 28(1)(c)

105Z20 Enforcement of notification

- (1) This section applies where—
 - (a) a public communications provider has been given a notification under section 105Z18;
 - (b) the Secretary of State has allowed the provider an opportunity to make representations about the matters notified; and
 - (c) the period allowed for the making of representations has expired.
- (2) The Secretary of State may—
 - (a) give the provider a decision (“a confirmation decision”) confirming the imposition of requirements on the provider in accordance with the notification under section 105Z18; or
 - (b) inform the provider that no further action will be taken.
- (3) The Secretary of State may not give the provider a confirmation decision unless, after considering any representations, the Secretary of State is satisfied that the provider has, in one or more of the ways specified in the notification under section 105Z18, contravened—
 - (a) a requirement imposed by a designated vendor direction, or
 - (b) a requirement imposed under section 105Z7, specified in the notification under section 105Z18.
- (4) A confirmation decision must be given to the provider without delay.
- (5) A confirmation decision must include reasons for the decision.
- (6) A confirmation decision may—
 - (a) require immediate action by the provider—
 - (i) to comply with the requirement specified in the notification under section 105Z18, and
 - (ii) to remedy the consequences of the contravention, or
 - (b) specify a period within which the provider must comply with that requirement and remedy those consequences,

and may specify the steps to be taken by the provider in order to comply with that requirement or remedy those consequences.
- (7) A confirmation decision may require the provider to pay—
 - (a) the penalty specified in the notification under section 105Z18, or
 - (b) such lesser penalty as the Secretary of State considers appropriate in the light of—
 - (i) any representations made by the provider, and
 - (ii) any steps taken by the provider to comply with the requirement specified in the notification under section 105Z18 or to remedy the consequences of the contravention,

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and may specify the period within which the penalty is to be paid.

- (8) It is the duty of the provider to comply with any requirement imposed by a confirmation decision.
- (9) The Secretary of State may enforce the provider’s duty in civil proceedings—
 - (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
 - (c) for any other appropriate remedy or relief.

Textual Amendments

F6 Ss. 105Z18-105Z21 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\), ss. 20, 28\(1\)\(c\)](#)

105Z21 Enforcement of penalty

- (1) This section applies where a sum is payable to the Secretary of State as a penalty under section [105Z20](#).
- (2) In England and Wales, the penalty is recoverable as if it were payable under an order of the county court.
- (3) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) In Northern Ireland, the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.
- (5) Where action is taken under this section for the recovery of a sum payable as a penalty under section [105Z20](#), the penalty is—
 - (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
 - (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the [Judgments Enforcement \(Northern Ireland\) Order 1981 \(S.I. 1981/226 \(N.I. 6\)\)](#) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.]

Textual Amendments

F6 Ss. 105Z18-105Z21 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\), ss. 20, 28\(1\)\(c\)](#)

[^{F7}105Z20] Urgent enforcement direction

- (1) The Secretary of State may give a direction under this section (“an urgent enforcement direction”) to a person if the Secretary of State determines that—
 - (a) there are reasonable grounds for believing that the person is contravening, or has contravened—

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- (i) a requirement imposed by a designated vendor direction; or
 - (ii) a requirement not to disclose imposed under section [105Z25](#);
 - (b) there are reasonable grounds for suspecting that the case is an urgent case; and
 - (c) the urgency of the case makes it appropriate for the Secretary of State to take action under this section.
- (2) A case is an urgent case for the purposes of this section if the contravention has resulted in, or creates an immediate risk of—
- (a) a serious threat to national security; or
 - (b) significant harm to the security of a public electronic communications network, a public electronic communications service or a facility that is an associated facility by reference to such a network or service.
- (3) An urgent enforcement direction must—
- (a) specify the requirement and contravention in respect of which it is given;
 - (b) require the person to take such steps falling within subsection (4) as are specified in the direction;
 - (c) specify a period within which those steps must be taken; and
 - (d) specify the Secretary of State’s reasons for giving the direction.
- (4) The steps falling within this subsection are the steps that the Secretary of State has determined are appropriate—
- (a) for complying with the requirement; or
 - (b) for remedying the consequences of the contravention.
- (5) The requirement in subsection (3)(d) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the direction would be contrary to the interests of national security.

Textual Amendments

F7 Ss. [105Z22-105Z24](#) inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 21(2), 28(1)(c)**

105Z23 Urgent enforcement direction: confirmation

- (1) As soon as reasonably practicable after giving an urgent enforcement direction, the Secretary of State must—
- (a) confirm the direction; or
 - (b) revoke the direction (see section [105Z24](#)).
- (2) The Secretary of State may confirm an urgent enforcement direction with or without modifications.
- (3) The Secretary of State may confirm an urgent enforcement direction only if the Secretary of State has determined that—
- (a) the person is contravening, or has contravened—
 - (i) a requirement imposed by a designated vendor direction; or
 - (ii) a requirement not to disclose imposed under section [105Z25](#);
 - (b) the contravention has resulted in, or creates an immediate risk of, a threat or harm described in section [105Z22\(2\)\(a\)](#) or (b); and

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- (c) it is appropriate to confirm the urgent enforcement direction, with any modifications, to prevent, reduce or remove that threat or harm or immediate risk.
- (4) Before confirming an urgent enforcement direction, the Secretary of State must—
 - (a) give notice to the person to whom the direction was given that the Secretary of State proposes to confirm the direction; and
 - (b) give the person—
 - (i) an opportunity of making representations about the grounds on which it was given and its effect; and
 - (ii) an opportunity of proposing steps to remedy the situation.
- (5) The notice under subsection (4)(a) must—
 - (a) state that the Secretary of State proposes to confirm the direction;
 - (b) specify any proposed modifications of the direction;
 - (c) specify the Secretary of State’s reasons for confirming the direction and for any modifications; and
 - (d) specify a reasonable period for making representations.
- (6) The requirement in subsection (5)(c) does not apply if or to the extent that the Secretary of State considers that specifying reasons in the notice would be contrary to the interests of national security.
- (7) As soon as reasonably practicable after determining whether to confirm the direction, the Secretary of State must by notice inform the person to whom it was given of the determination.

Textual Amendments

F7 Ss. 105Z22-105Z24 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 21(2), 28(1)(c)

105Z24 Urgent enforcement direction: enforcement

- (1) A person who is given an urgent enforcement direction must comply with it, whether or not it has been confirmed (unless it is revoked).
- (2) The duty is enforceable in civil proceedings by the Secretary of State—
 - (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
 - (c) for any other appropriate remedy or relief.]

Textual Amendments

F7 Ss. 105Z22-105Z24 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 21(2), 28(1)(c)

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[^{F8}105Z2] 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 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),

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- (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.

Textual Amendments

F8 Ss. 105Z25, 105Z26 inserted (17.11.2021) by Telecommunications (Security) Act 2021 (c. 31), ss. 22, 28(1)(c)

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.

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- (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”;
- (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”.]

Textual Amendments

F8 Ss. 105Z25, 105Z26 inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. 22, 28(1)(c)

[^{F9}105Z22] Power of Secretary of State to require information etc

- (1) The Secretary of State may require a person falling within subsection (2) to provide the Secretary of State with such information as the Secretary of State may reasonably require for the purpose of exercising the Secretary of State’s functions under sections 105Z1 to 105Z26.
- (2) The persons falling within this subsection are—
- (a) a person who is or has been a public communications provider;
- (b) a person not falling within paragraph (a) who appears to the Secretary of State to have information relevant to the exercise of the Secretary of State’s functions under sections 105Z1 to 105Z26.
- (3) The Secretary of State may require a person falling within subsection (2)—
- (a) to produce, generate or obtain information for the purpose of providing it under subsection (1);
- (b) to collect or retain information that the person would not otherwise collect or retain for the purpose of providing it under subsection (1);
- (c) to process, collate or analyse any information held by the person (including information the person has been required to collect or retain) for the purpose of producing or generating information to be provided under subsection (1).
- (4) The information that may be required under subsection (1) includes, in particular, information about—

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- (a) the use, or proposed use, of goods, services or facilities supplied, provided or made available by a particular person or a particular description of person;
 - (b) goods, services or facilities proposed to be supplied, provided or made available by a particular person or a particular description of person;
 - (c) goods, services or facilities proposed to be supplied, provided or made available by a person who has not, or has not recently, supplied, provided or made available for use in the United Kingdom—
 - (i) goods, services or facilities of that description; or
 - (ii) any goods, services or facilities;
 - (d) the manner in which a public electronic communications network or a public electronic communications service is, or is proposed to be, provided or facilities that are associated facilities by reference to such a network or service are, or are proposed to be, made available;
 - (e) future developments of such a network or service or such associated facilities.
- (5) The Secretary of State may require a person to provide information under this section at such times or in such circumstances as may be specified by the Secretary of State.
- (6) A person must comply with a requirement imposed under this section in such manner and within such reasonable period as may be specified by the Secretary of State.
- (7) The powers in this section are subject to the limitations in section [105Z28](#).
- (8) A reference in this section to a facility includes a reference to a facility, element or service that is an associated facility.

Textual Amendments

F9 Ss. [105Z27-105Z29](#) inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), ss. [23](#), [28\(1\)\(c\)](#)

105Z28 Restrictions on imposing information requirements

- (1) This section limits the purposes for which, and manner in which, requirements may be imposed under section [105Z27](#).
- (2) The Secretary of State is not to require a person to provide information under section [105Z27](#) except by a notice served on the person that—
 - (a) describes the required information; and
 - (b) sets out the Secretary of State’s reasons for requiring it.
- (3) The Secretary of State is not to impose a requirement on a person under section [105Z27\(3\)](#) except by a notice served on the person that sets out the requirement and the Secretary of State’s reasons for imposing it.
- (4) The requirements in subsections [\(2\)\(b\)](#) and [\(3\)](#) do not apply if or to the extent that the Secretary of State considers that setting out reasons in the notice would be contrary to the interests of national security.
- (5) The Secretary of State is not to require the provision of information under section [105Z27](#) except where the making of a demand for the information is proportionate to the use to which the information is to be put in the carrying out of the Secretary of State’s functions.

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- (6) The Secretary of State is not to impose a requirement on a person under section [105Z27\(3\)](#) except where the imposition of the requirement is proportionate to the use to which the information required to be produced, generated, obtained, collected or retained (including information required to be produced or generated by processing, collating or analysing) is to be put in the carrying out of the Secretary of State's functions.
- (7) A requirement to provide information under section [105Z27](#) does not require a person to disclose information in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

Textual Amendments

F9 Ss. [105Z27-105Z29](#) inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 23, 28(1)(c)**

105Z29 Enforcement of information requirements etc

- (1) Sections [105Z18](#), [105Z19\(1\)](#) to [\(3\)](#), [105Z20](#) and [105Z21](#) apply in relation to a contravention by a person of a requirement under section [105Z27](#) as they apply in relation to a contravention by a public communications provider of a requirement imposed by a designated vendor direction, subject to subsection [\(2\)](#).
- (2) 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.
- (3) The Secretary of State may by regulations amend subsection [\(2\)](#) so as to substitute a different amount for the amount for the time being specified in subsection [\(2\)\(a\)](#) or [\(b\)](#).
- (4) No regulations are to be made containing provision authorised by subsection [\(3\)](#) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.]

Textual Amendments

F9 Ss. [105Z27-105Z29](#) inserted (17.11.2021) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 23, 28(1)(c)**

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\(1\)](#)