



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]

[^{F1}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

Changes to legislation: Communications Act 2003, Section 105W is up to date with all changes known to be in force on or before 07 May 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

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.
- (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.]

Textual Amendments

F1 S. 105W inserted (1.10.2022) by [Telecommunications \(Security\) Act 2021 \(c. 31\)](#), **ss. 8, 28(2)(b)**; [S.I. 2022/931](#), **reg. 2(b)**

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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\(1\)](#)