



Communications Act 2003

2003 CHAPTER 21

PART 6

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

408 Transitional provision for anticipatory carrying out of functions

- (1) This section applies where an order under section 411 bringing into force—
- (a) a provision of Part 1, 2 or 6, or
 - (b) a provision of Chapter 1 of Part 5,
- states that that provision is brought into force at a particular time for the purpose only of enabling specified networks and services functions, or specified spectrum functions, to be carried out during the transitional period by the Director General of Telecommunications or the Secretary of State.
- (2) In relation to times falling in the transitional period, that provision is to have effect as if—
- (a) references in that provision to OFCOM, and
 - (b) references to OFCOM inserted by that provision in any other enactment,
- were references, in accordance with subsection (3), to the Director General of Telecommunications or to the Secretary of State.
- (3) The references have effect—
- (a) as references to the Director General of Telecommunications to the extent that the provision is brought into force for the purpose of enabling specified networks and services functions to be carried out; and
 - (b) as references to the Secretary of State, to the extent that the provision is brought into force for the purpose of enabling specified spectrum functions to be carried out.

Changes to legislation: Communications Act 2003, Section 408 is up to date with all changes known to be in force on or before 23 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

- (4) An order bringing a provision into force as mentioned in subsection (1) may include provision specifying the extent to which it is to be taken, for the purposes of subsection (3), to have been brought into force for the purpose of enabling particular functions to be carried out.
- (5) In relation to times after the end of the transitional period for a provision which has been brought into force for enabling specified functions to be carried out by the Director General of Telecommunications or the Secretary of State, anything which—
- (a) was done, during that period, by or in relation to that Director or the Secretary of State, and
 - (b) was so done for the purposes of, or in connection with, the carrying out of those functions,
- is to have effect as if had been done by or in relation to OFCOM.
- (6) In this section “the transitional period”, in relation to a provision brought into force as mentioned in subsection (1) by an order under section 411, means the period which—
- (a) begins with the time when it is so brought into force; and
 - (b) ends with the time from which that order, or a subsequent order under that section, brings the provision into force for the purpose of conferring on OFCOM the functions in question.
- (7) In this section “networks and services functions” means any of the following functions of OFCOM under this Act—
- (a) their functions under sections 24 and 25;
 - (b) their functions under Chapter 1 of Part 2;
 - (c) their functions under Chapter 3 of Part 2, except to the extent that those functions relate to—
 - (i) disputes relating to rights or obligations conferred or imposed by or under the enactments relating to the management of the radio spectrum; or
 - (ii) decisions made under those enactments;
 - (d) their functions under Chapter 1 of Part 5, except to the extent that those functions relate to broadcasting or related matters;
 - (e) their functions under Schedule 18 to this Act in relation to the abolition of licensing (within the meaning of that Schedule).
- (8) In this section “spectrum functions” means—
- (a) the functions under the enactments relating to the management of the radio spectrum which by virtue of this Act are conferred on OFCOM; and
 - (b) the functions conferred on OFCOM by so much of Chapter 3 of Part 2 as relates to the disputes and decisions mentioned in subsection (7)(c).

Subordinate Legislation Made

P1 S. 408(1)(4) power partly exercised: 25.7.2003 and 18.9.2003 appointed for specified provisions and purposes by {S.I. 2003/1900}, art. 2

Commencement Information

II S. 408 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))

Changes to legislation: *Communications Act 2003, Section 408 is up to date with all changes known to be in force on or before 23 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*

I2 S. 408 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](#))

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\(1\)](#)