
Changes to legislation: Communications Act 2003, Cross Heading: Compensation is up to date with all changes known to be in force on or before 16 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

SCHEDULES

SCHEDULE 2

TRANSFER SCHEMES

Compensation

- 4 (1) Where, in consequence of any provision included in a transfer scheme, the interests, rights or liabilities of a third party are modified as mentioned in sub-paragraph (2), the third party is to be entitled to such compensation as may be just in respect of—
- (a) any diminution in the value of any of his interests or rights, or
 - (b) any increase in the burden of his liabilities,
- which is attributable to that modification.
- (2) The modifications mentioned in sub-paragraph (1) are modifications by virtue of which—
- (a) an interest of the third party in any property is transformed into, or replaced by—
 - (i) an interest in only part of that property; or
 - (ii) separate interests in different parts of that property;
 - (b) a right of the third party against any of the pre-commencement regulators or against the Secretary of State is transformed into, or replaced by, two or more rights which do not include a right which, on its own, is equivalent (disregarding the person against whom it is enforceable) to the right against that regulator or (as the case may be) against the Secretary of State; or
 - (c) a liability of the third party to any of the pre-commencement regulators or to the Secretary of State is transformed into, or replaced by, two or more separate liabilities at least one of which is a liability enforceable by a person other than the person by whom it was enforceable before being so transformed.
- (3) Where—
- (a) a third party would, apart from any provision of a transfer scheme, have become entitled to, or to exercise, any interest or right arising or exercisable in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities, and
 - (b) the provisions of that scheme have the effect of preventing that person's entitlement to, or to exercise, that interest or right from arising on any occasion in respect of anything mentioned in paragraph (a), and
 - (c) provision is not made by a transfer scheme for securing that an entitlement to, or to exercise, that interest or right or an equivalent interest or right, is preserved or created so as to arise in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,

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the third party is to be entitled to such compensation as may be just in respect of the extinguishment of the interest or right.

- (4) A liability to pay compensation under this paragraph shall fall on the persons mentioned in sub-paragraph (5) who (as the case may be)—
- (a) have interests in the whole or any part of the property affected by the modification in question,
 - (b) are subject to the rights of the person to be compensated which are affected by the modification in question,
 - (c) are entitled to enforce the liabilities of the person to be compensated which are affected by that modification, or
 - (d) benefit from the extinguishment of the entitlement mentioned in sub-paragraph (3),
- and that liability shall be apportioned between those persons in such manner as may be appropriate having regard to the extent of their respective interests, rights or liabilities or the extent of the benefit they respectively obtain from the extinguishment.
- (5) Those persons are the pre-commencement regulators and the Secretary of State.
- (6) Sub-paragraph (4) shall have effect subject to so much of any transfer scheme (including the one that gives rise to the liability) as makes provision for the transfer of any liability under that sub-paragraph to OFCOM.
- (7) Any dispute as to whether, or as to the person by whom, any compensation is to be paid under this paragraph, and any dispute as to the amount of compensation to be paid by a person, shall be referred to and determined—
- (a) where the claimant requires the matter to be determined in England and Wales or in Northern Ireland, by an arbitrator appointed by the Lord Chancellor, or
 - (b) where the claimant requires the matter to be determined in Scotland, by an arbiter appointed by the Lord President of the Court of Session.
- (8) In this paragraph “third party”, in relation to provisions capable of giving rise to compensation under this paragraph, means any person other than—
- (a) a pre-commencement regulator; and
 - (b) the Secretary of State.

Commencement Information

II Sch. 2 para. 4 in force at 18.9.2003 by [S.I. 2003/1900](#), art. 2(2), [Sch. 2](#)

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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\(1\)](#)