

*Status: This version of this provision is prospective.*

**Changes to legislation:** *Communications Act 2003, Section 401 is up to date with all changes known to be in force on or before 14 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*



# Communications Act 2003

## 2003 CHAPTER 21

### PART 6

#### MISCELLANEOUS AND SUPPLEMENTAL

#### *Supplemental*

PROSPECTIVE

#### **401** [<sup>F1</sup> Retention by OFCOM of amounts paid under Wireless Telegraphy Act 2006 |

[<sup>F2</sup>(1) OFCOM have power to make a statement setting out—

- (a) the principles under which they may retain any or all of the amounts paid to them—
  - (i) in pursuance of obligations imposed by or under Chapter 1 or 2 of Part 2 of the Wireless Telegraphy Act 2006;
  - (ii) in respect of fees charged under section 53D of that Act, and
- (b) the costs in respect of which the amounts may be retained (which may include costs other than those incurred in the exercise of their functions under those provisions).]

(2) Where such a statement <sup>F3</sup>... authorises the retention of an amount, OFCOM are not required to pay it into the appropriate Consolidated Fund in accordance with section 400.

[<sup>F4</sup>(3) The provision contained in a statement made by OFCOM under this section must be such as appears to them likely to secure, on the basis of such estimates of the likely costs as it is practicable to make, that the amounts retained by OFCOM are objectively justifiable and proportionate to the costs in respect of which they are retained.]

<sup>F4</sup>(4) .....

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- <sup>F4</sup>(5) .....
- (6) A statement under this section may include provision which, for the purposes of <sup>F5</sup>... the statement and of the preparation of accounts in accordance with section 400(4), requires an amount actually received in one year—
- (a) to be treated as referable to costs incurred in that year and in one or more subsequent years; and
  - (b) to be brought into account, in each of those years, in accordance with an apportionment for which provision is made in the statement.
- (7) A deficit or surplus shown (after applying this subsection for all previous years) by an account prepared under section 400(4) is to be carried forward and taken into account in determining what is required by OFCOM in relation to the following year for meeting the costs [<sup>F6</sup> set out in the statement in accordance with subsection (1)(b) ] .
- (8) A statement <sup>F7</sup>... under this section—
- (a) if it is expressed to apply for a limited period, does not apply to any amounts paid to OFCOM after the end of that period; and
  - (b) in any event, does not apply to amounts paid to them after a withdrawal of the statement takes effect.
- (9) OFCOM may revise a statement made under this section.
- (10) The consent of the Treasury [<sup>F8</sup> and the Secretary of State ] is required for the making, revision or withdrawal of a statement under this section.
- (11) Where OFCOM make or revise a statement of this section they must publish so much of the statement or revised statement as appears to them necessary for demonstrating that the statement or revision complies with subsection (3).

#### Textual Amendments

- F1** S. 401 heading substituted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 100\(10\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F2** S. 401(1) substituted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 100\(3\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F3** Words in s. 401(2) omitted (31.7.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), ss. 100\(4\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F4** S. 401(3) substituted for S. 401(3)-(5) (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 100\(5\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F5** Words in s. 401(6) omitted (31.7.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), ss. 100\(6\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F6** Words in s. 401(7) substituted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 100\(7\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F7** Words in s. 401(8) omitted (31.7.2017) by virtue of [Digital Economy Act 2017 \(c. 30\), ss. 100\(8\)](#), 118(6); S.I. 2017/765, reg. 2(bb)
- F8** Words in s. 401(10) inserted (31.7.2017) by [Digital Economy Act 2017 \(c. 30\), ss. 100\(9\)](#), 118(6); S.I. 2017/765, reg. 2(bb)

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**Changes and effects yet to be applied to :**

- s. 401(5)(g) words substituted by [2016 c. 25 Sch. 10 para. 101\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 401(3) already substituted for s. 401(3)-(5) (31.7.2017) by Digital Economy Act 2017 (c. 30), ss. 100(5), 118(6); S.I. 2017/765, reg. 2(bb))
- 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\(1\)](#)