



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 1

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

General conditions: customer interests

52 Conditions relating to customer interests

- (1) It shall be the duty of OFCOM to set such general conditions (if any) as they consider appropriate for securing that—
- (a) public communications providers, or
 - (b) such descriptions of them as OFCOM consider appropriate,
- establish and maintain procedures, standards and policies with respect to the matters mentioned in subsection (2).
- (2) Those matters are—
- (a) the handling of complaints made to public communications providers by any of their domestic and small business customers [^{F1}, where the complaint relates to contractual conditions, or to the performance of a contract for the supply of an electronic communications network or service] ;
 - (b) the resolution of disputes between such providers and any of their domestic and small business customers [^{F2}, where the complaint relates to contractual conditions, or to the performance of a contract for the supply of an electronic communications network or service] ;
 - (c) the provision of remedies and redress in respect of matters that form the subject-matter of such complaints or disputes;

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- [^{F3}(ca) the payment of compensation to a person in respect of delay in porting a number to another public communications provider, or abuse of the process for porting a number;]
- (d) the information about service standards and about the rights of domestic and small business customers that is to be made available to those customers by public communications providers;
- (e) any other matter appearing to OFCOM to be necessary for securing effective protection for the domestic and small business customers of such providers.
- (3) It shall be the duty of OFCOM, in setting conditions in accordance with subsection (1), to secure so far as they consider appropriate—
- (a) that the procedures established and maintained for the handling of complaints and the resolution of disputes are easy to use, transparent [^{F4}, non-discriminatory] and effective;
- (b) that domestic and small business customers have the right to use those procedures free of charge; and
- (c) that where public communications providers are in contravention of conditions set in accordance with the preceding provisions of this section, the providers follow such procedures as may be required by the general conditions.
- (4) Subject to section 55, OFCOM’s duties under subsections (1) and (3) so far as relating to procedures for the handling of complaints are to be performed, to such extent as they consider appropriate, by the setting of general conditions requiring public communications providers to establish and maintain procedures that conform with a code of practice which is—
- (a) applicable to the providers to whom the conditions apply; and
- (b) for the time being approved by OFCOM for the purposes of this subsection.
- (5) Subject to section 55, OFCOM’s duties under subsections (1) and (3) so far as relating to procedures for resolving disputes are to be performed, to such extent as they consider appropriate, by the setting of general conditions requiring public communications providers—
- (a) to establish and maintain procedures for resolving disputes; and
- (b) to secure that those procedures are, and continue to be, approved by OFCOM.
- (6) In this section “domestic and small business customer”, in relation to a public communications provider, means a customer of that provider who is neither—
- (a) himself a communications provider; nor
- (b) a person who is such a customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise).

Textual Amendments

- F1** Words in s. 52(2)(a) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 28(a)** (with Sch. 3 para. 2)
- F2** Words in s. 52(2)(b) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 28(b)** (with Sch. 3 para. 2)
- F3** S. 52(2)(ca) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 28(c)** (with Sch. 3 para. 2)

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F4 Words in s. 52(3)(a) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 1 para. 28\(d\)](#) (with [Sch. 3 para. 2](#))

Commencement Information

- I1** S. 52 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))
- I2** S. 52 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](#))

53 Approval of codes of practice for the purposes of s. 52

- (1) Where a code of practice is submitted to OFCOM for approval, they shall approve that code if and only if, in their opinion, it makes all such provision as they consider necessary in relation to the matters dealt with in the code for the protection of the domestic and small business customers of the public communications providers to whom the code applies.
- (2) It shall be the duty of OFCOM to keep under review the codes of practice for the time being approved by them.
- (3) OFCOM may at any time, by a notification given or published in such manner as they consider appropriate—
- (a) approve modifications that have been made to an approved code;
 - (b) withdraw their approval from a code; or
 - (c) give notice that the withdrawal of their approval will take effect from such time as may be specified in the notification unless such modifications of the code as are specified in the notification are made before that time.
- (4) In considering—
- (a) whether to approve a code of practice, or
 - (b) whether or in what manner to exercise their powers under subsections (2) and (3) of this section,
- OFCOM must have regard to the matters mentioned in subsection (5).
- (5) Those matters are—
- (a) the need to secure that customers are able readily to comprehend the procedures that are provided for by an approved code of practice;
 - (b) the need to secure that there is consistency between the different codes for the time being approved by OFCOM; and
 - (c) the need to secure that the number of different codes so approved is kept to a minimum.
- (6) In this section—
- “approval” means approval for the purposes of section 52(4) and “approve” and “approved” are to be construed accordingly; and
 - “domestic and small business customer” has the same meaning as in section 52.

Commencement Information

- I3** S. 53 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))

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14 S. 53 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](#))

54 Approval of dispute procedures for the purposes of s. 52

- (1) Before giving their approval to any dispute procedures, OFCOM must consult the Secretary of State.
- (2) OFCOM are not to approve dispute procedures unless they are satisfied that the arrangements under which the procedures have effect—
 - (a) are administered by person who is for practical purposes independent (so far as decisions in relation to disputes are concerned) of both OFCOM and the communications providers to whom the arrangements apply;
 - (b) give effect to procedures that are easy to use, transparent [^{F5}, non-discriminatory] and effective;
 - (c) give, in the case of every communications provider to whom the arrangements apply, a right to each of his domestic and small business customers to use the procedures free of charge;
 - (d) ensure that all information necessary for giving effect to the procedures is obtained;
 - (e) ensure that disputes are effectively investigated;
 - (f) include provision conferring power to make awards of appropriate compensation; and
 - (g) are such as to enable awards of compensation to be properly enforced.
- (3) OFCOM may approve dispute procedures subject to such conditions (including conditions as to the provision of information to OFCOM) as they may think fit.
- (4) It shall be the duty of OFCOM to keep under review the dispute procedures for the time being approved by them.
- (5) OFCOM may at any time, by a notification given or published in such manner as they consider appropriate—
 - (a) modify the conditions of their approval of any dispute procedures or withdraw such an approval; or
 - (b) give notice that the modification of those conditions, or the withdrawal of such an approval, will take effect from such time as may be specified in the notification unless the procedures (or the arrangements under which they have effect) are modified before that time in the manner required by the notification.
- (6) In considering—
 - (a) whether to approve dispute procedures, or
 - (b) whether or in what manner to exercise their powers under subsections (3) to (5),
 OFCOM must have regard to the matters mentioned in subsection (7).
- (7) Those matters are—
 - (a) the need to secure that customers are able readily to comprehend dispute procedures;
 - (b) the need to secure that there is consistency between the different procedures for the time being approved by OFCOM; and
 - (c) the need to secure that the number of different sets of procedures so approved is kept to a minimum.

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(8) In this section—

“approval” means approval for the purposes of subsection (5) of section 52 and “approve” and “approved” are to be construed accordingly;

“dispute procedures” means any such procedures as may fall to be approved for the purposes of that subsection; and

“domestic and small business customer” has the same meaning as in section 52.

Textual Amendments

F5 Words in s. 54(2)(b) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 29** (with **Sch. 3 para. 2**)

Commencement Information

I5 S. 54 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))

I6 S. 54 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](#))

55 Orders by OFCOM in the absence of conditions under s. 52

(1) OFCOM may make an order under this section if, at any time, they consider in relation to any one or more public communications providers—

(a) that it is not practicable, or at least not appropriate, for OFCOM’s duties under subsections (1) and (3) of section 52 to be performed in a particular respect by the setting of general conditions; and

(b) that it is necessary to make the order for the purpose—

(i) of securing the necessary protection for the customers of that provider or of those providers; ^{F6}...

^{F6}(ii)

(2) An order under this section may make such of the following provisions as OFCOM think fit—

(a) provision imposing requirements with respect to the complaints and disputes mentioned in section 52(2);

(b) provision for the enforcement of those requirements;

(c) provision making other arrangements for the purposes of those requirements.

(3) The power to make provision by an order under this section includes, in particular—

(a) power to establish a body corporate with the capacity to make its own rules and to establish its own procedures;

(b) power to determine the jurisdiction of a body established by such an order or, for the purposes of the order, of any other person;

(c) power to confer jurisdiction with respect to any matter on OFCOM themselves;

(d) power to provide for a person on whom jurisdiction is conferred by the arrangements to make awards of compensation, to direct the reimbursement of costs or expenses, or to do both;

(e) power to provide for such a person to enforce, or to participate in the enforcement of, any awards or directions made under such an order; and

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- (f) power to make such other provision as OFCOM think fit for the enforcement of such awards and directions.
- (4) An order under this section may require such public communications providers as may be determined by or under the order to make payments to OFCOM in respect of expenditure incurred by OFCOM in connection with—
 - (a) the establishment and maintenance, in accordance with such an order, of a body corporate or of a procedure; or
 - (b) the making of any other arrangements for the purposes of the requirements of such an order.
- (5) The consent of the Secretary of State is required for the making by OFCOM of an order under this section.
- (6) Section 403 applies to the power of OFCOM to make an order under this section.
- (7) A statutory instrument containing an order made by OFCOM under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F6** S. 55(1)(b)(ii) and word omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/246\)](#), reg. 1(2), **Sch. 1 para. 18**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I7** S. 55 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))
- I8** S. 55 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)

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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\(1\)](#)