



Communications Act 2003

2003 CHAPTER 21

PART 6

MISCELLANEOUS AND SUPPLEMENTAL

Notifications etc. and electronic working

394 Service of notifications and other documents

- (1) This section applies where provision made (in whatever terms) by or under an enactment specified in subsection (2) authorises or requires—
 - (a) a notification to be given to any person; or
 - (b) a document of any other description (including a copy of a document) to be sent to any person.
- (2) Those enactments are—
 - (a) this Act;
 - (b) the Office of Communications Act 2002 (c. 11);
 - ^{F1}(c)
 - ^{F2}(d)
 - (e) the 1990 Act; ^{F3}...
 - (f) the 1996 Act.
 - ^{F4}(g) Part 3 of the Postal Services Act 2011.]
- (3) The notification or document may be given or sent to the person in question—
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at that address.
- (4) The notification or document may be given or sent to a body corporate by being given or sent to the secretary or clerk of that body.
- (5) The notification or document may be given or sent to a firm by being given or sent to—

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- (a) a partner in the firm; or
 - (b) a person having the control or management of the partnership business.
- (6) The notification or document may be given or sent to an unincorporated body or association by being given or sent to a member of the governing body of the body or association.
- (7) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—
- (a) in the case of body corporate, the address of the registered or principal office of the body;
 - (b) in the case of a firm, unincorporated body or association, the address of the principal office of the partnership, body or association;
 - (c) in the case of a person to whom the notification or other document is given or sent in reliance on any of subsections (4) to (6), the proper address of the body corporate, firm or (as the case may be) other body or association in question; and
 - (d) in any other case, the last known address of the person in question.
- (8) In the case of—
- (a) a company registered outside the United Kingdom,
 - (b) a firm carrying on business outside the United Kingdom, or
 - (c) an unincorporated body or association with offices outside the United Kingdom,
- the references in subsection (7) to its principal office include references to its principal office within the United Kingdom (if any).
- (9) In this section—
- “document” includes anything in writing; and
 - “notification” includes notice;
- and references in this section to giving or sending a notification or other document to a person include references to transmitting it to him and to serving it on him.
- (10) This section has effect subject to section 395.

[^{F5}(11) In its application to Schedule 3A this section is subject to paragraph 91 of that Schedule.]

Textual Amendments

- F1** S. 394(2)(c) repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), **Sch. 9 Pt. 1** (with [Sch. 8 Pt. 1](#))
- F2** S. 394(2)(d) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 46(2)**; S.I. 2017/1286, reg. 2(d)
- F3** Word in s. 394(2)(e) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 65(a)**; S.I. 2011/2329, art. 3
- F4** S. 394(2)(g) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 65(b)**; S.I. 2011/2329, art. 3
- F5** S. 394(11) inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 46(3)**; S.I. 2017/1286, reg. 2(d)

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Modifications etc. (not altering text)

- C1** Ss. 394, 395 applied (31.7.2016) by [The Communications \(Access to Infrastructure\) Regulations 2016 \(S.I. 2016/700\)](#), regs. 1, **23**
- C2** S. 394(2)(c) modified (temp.) (8.12.2003) by [The Office of Communications Act 2002 \(Commencement No. 3\)](#) and [Communications Act 2003 \(Commencement No. 2\) Order 2003 \(S.I. 2003/3142\)](#), **art. 3(3)(c)** (with [art. 11](#))

Commencement Information

- I1** S. 394(1)(2)(a)-(d)(3)-(10) 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. 394(1)(2)(a)-(d)(3)-(10) in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), **art. 3(1)**, **Sch. 1** (with [art. 11](#))
- I3** S. 394(2)(e)(f) in force at 29.12.2003 by [S.I. 2003/3142](#), **art. 3(1)**, **Sch. 1** (with [art. 11](#))

395 Notifications and documents in electronic form

- (1) This section applies where—
- (a) section 394 authorises the giving or sending of a notification or other document by its delivery to a particular person (“the recipient”); and
 - (b) the notification or other document is transmitted to the recipient—
 - (i) by means of an electronic communications network; or
 - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.
- (2) The transmission has effect for the purposes of the enactments specified in section 394(2) as a delivery of the notification or other document to the recipient, but only if the requirements imposed by or under this section are complied with.
- (3) Where the recipient is OFCOM—
- (a) they must have indicated their willingness to receive the notification or other document in a manner mentioned in subsection (1)(b);
 - (b) the transmission must be made in such manner and satisfy such other conditions as they may require; and
 - (c) the notification or other document must take such form as they may require.
- (4) Where the person making the transmission is OFCOM, they may (subject to subsection (5)) determine—
- (a) the manner in which the transmission is made; and
 - (b) the form in which the notification or other document is transmitted.
- (5) Where the recipient is a person other than OFCOM—
- (a) the recipient, or
 - (b) the person on whose behalf the recipient receives the notification or other document,
- must have indicated to the person making the transmission the recipient’s willingness to receive notifications or documents transmitted in the form and manner used.
- (6) An indication to any person for the purposes of subsection (5)—
- (a) must be given to that person in such manner as he may require;
 - (b) may be a general indication or one that is limited to notifications or documents of a particular description;

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- (c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission; and
- (d) may be modified or withdrawn at any time by a notice given to that person in such manner as he may require.

[^{F6}(6A) Subsections (5) and (6) do not apply in relation to a notification or other document given by OFCOM under Part 1 or Chapter 1 of Part 2 to the European Commission, BEREC or the regulatory authorities of member States (within the meaning of that Chapter).]

- (7) An indication, requirement or determination given, imposed or made by OFCOM for the purposes of this section is to be given, imposed or made by being published in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it.
- (8) Subsection (9) of section 394 applies for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

F6 S. 395(6A) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 98** (with Sch. 3 para. 2)

Modifications etc. (not altering text)

C1 Ss. 394, 395 applied (31.7.2016) by [The Communications \(Access to Infrastructure\) Regulations 2016 \(S.I. 2016/700\)](#), regs. 1, 23

Commencement Information

I4 S. 395 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))

I5 S. 395 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)

396 Timing and location of things done electronically

- (1) The Secretary of State may by order make provision specifying, for the purposes of the enactments specified in section 394(2), the manner of determining—
 - (a) the times at which things done under those enactments by means of electronic communications networks are done; and
 - (b) the places at which such things are so done, and at which things transmitted by means of such networks are received.
- (2) The provision made by subsection (1) may include provision as to the country or territory in which an electronic address is to be treated as located.
- (3) An order made by the Secretary of State may also make provision about the manner of proving in any legal proceedings—
 - (a) that something done by means of an electronic communications network satisfies the requirements of the enactments specified in section 394(2) for the doing of that thing; and
 - (b) the matters mentioned in subsection (1)(a) and (b).
- (4) An order under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.

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Commencement Information

- I6** S. 396 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))
- I7** S. 396 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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