



Communications Act 2003

2003 CHAPTER 21

PART 1

FUNCTIONS OF OFCOM

General duties in carrying out functions

5 Directions in respect of networks and spectrum functions

- (1) This section applies to the following functions of OFCOM—
 - (a) their functions under Part 2; and
 - (b) their functions under the enactments relating to the management of the radio spectrum that are not contained in that Part.
- (2) It shall be the duty of OFCOM to carry out those functions in accordance with such general or specific directions as may be given to them by the Secretary of State.
- (3) The Secretary of State's power to give directions under this section shall be confined to a power to give directions for one or more of the following purposes—
 - (a) in the interests of national security;
 - (b) in the interests of relations with the government of a country or territory outside the United Kingdom;
 - (c) for the purpose of securing compliance with international obligations of the United Kingdom;
 - (d) in the interests of the safety of the public or of public health.
- [^{F1}(3A) The Secretary of State may not give a direction under this section in respect of a function that Article 3(3a) of the Framework Directive [^{F2}would have required] OFCOM to exercise without seeking or taking instructions from any other body.]
- (4) The Secretary of State is not entitled by virtue of any provision of this section to direct OFCOM to suspend or restrict—

Status: Point in time view as at 21/12/2020.

Changes to legislation: Communications Act 2003, Section 5 is up to date with all changes known to be in force on or before 23 July 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)

- (a) a person's entitlement to provide an electronic communications network or electronic communications service; or
 - (b) a person's entitlement to make available associated facilities.
- [^{F3}(4A) Before giving a direction under this section, the Secretary of State must take due account of the desirability of not favouring—
- (a) one form of electronic communications network, electronic communications service or associated facility, or
 - (b) one means of providing or making available such a network, service or facility, over another.]
- (5) The Secretary of State must publish a direction under this section in such manner as appears to him to be appropriate for bringing it to the attention of the persons who, in his opinion, are likely to be affected by it.
- (6) The Secretary of State is not required by subsection (5) to publish a direction, and he may exclude matter from a direction he does publish, if he considers the publication of the direction or matter to be—
- (a) against the interests of national security; or
 - (b) against the interests of relations with the government of a country or territory outside the United Kingdom.
- (7) Subsection (4) does not affect the Secretary of State's powers under section 132.

Textual Amendments

- F1** S. 5(3A) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 7(a)** (with Sch. 3 para. 2)
- F2** Words in s. 5(3A) substituted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), **Sch. 1 para. 5**
- F3** S. 5(4A) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 7(b)** (with Sch. 3 para. 2)

Commencement Information

- I1** S. 5 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. 5 in force at 18.9.2003 in so far as not already in force by [S.I. 2003/1900](#), art. 2(2), **Sch. 2**
- I3** S. 5 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)

Status:

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