

SCHEDULES

SCHEDULE 3

OTHER POWERS ETC., OF LICENCE HOLDERS

Alteration of apparatus, etc., under streets

3.—(1) Subject to sub-paragraph (2), a licence holder may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of—

- (a) any gas apparatus under the control of another licence holder;
- (b) any electric line or electrical plant under the control of an electricity licence holder;
- ^{F1}(bb) any relevant pipe (within the meaning of Article 219 of the Water and Sewerage Services (Northern Ireland) Order 2006) which is under the control of a water undertaker or a sewerage undertaker]
- (c) any [^{F2}electronic communications apparatus] used for the purposes of [^{F2}an electronic communications network] which is operated by a person to whom the [^{F2}electronic communications code] applies; or
- (d) any other apparatus [^{F3}(except any pipe forming part of any sewer)],

in any street which interferes with the exercise of his powers under this Schedule.

(2) In the case of an alteration under this paragraph of any [^{F2}electronic communications apparatus] used for the purposes of [^{F2}an electronic communications network] which is operated by a person to whom the [^{F2}electronic communications code] applies, [^{F4}Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] shall apply instead of sub-paragraphs (3) to (13).

(3) One month before commencing the alterations, except where the alterations are emergency works, the licence holder shall—

- (a) serve a notice on the person for the time being entitled to the gas apparatus, electric line, electrical plant [^{F5}, pipe], [^{F2}electronic communications apparatus] or other apparatus (in this paragraph referred to as “the owners”) describing the proposed alterations; and
- (b) give any further information required by the owners.

(4) The notice mentioned in sub-paragraph (3) shall contain a plan showing the manner in which it is intended that the alterations shall be made.

(5) Within 3 weeks from the service of the notice mentioned in sub-paragraph (3) upon any owners, the owners may require, by requisition served on the licence holder, that any question arising upon the notice as to the works, or to compensation in respect thereof, or any other question shall, in default of agreement, be determined by arbitration.

(6) Where—

- (a) no requisition is served on the licence holder; or

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- (b) after any requisition has been served, any question required to be determined by arbitration has been so determined,

the licence holder may, upon paying or securing any compensation which he may be required to pay or secure, carry out the alterations specified in the notice, but subject in all respects to the provisions of this Schedule, and only in accordance with the notice served by him or such modifications thereof as may have been determined by arbitration, or as may be agreed upon between the parties.

(7) At any time before the licence holder is entitled to commence any such alterations, the owners may serve a notice on the licence holder, stating that they desire to execute the alterations, and where any such notice has been served on the licence holder, he shall not be entitled to execute the alterations, except—

- (a) where the licence holder has required the owners to execute the alterations, and the owners have refused or neglected to comply; or
(b) where the alterations are emergency works.

(8) Where a notice such as is mentioned in sub-paragraph (7) has been served on the licence holder, he shall, not more than 48 hours and not less than 24 hours before the execution of the alterations is required to be commenced, serve on the owners a requisition stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(9) Upon receipt of any requisition, the owners may execute the alterations as required by the licence holder, subject to the restrictions and conditions, so far as they are applicable, to which the licence holder would be subject in executing the alterations.

(10) If the owners decline or, for 24 hours after the time when any such alterations are required to be commenced, neglect to comply with the requisition, the licence holder may execute the alterations in like manner as he might have done if notice had not been served on him under sub-paragraph (7) by the owners.

(11) Where any alterations are emergency works the licence holder may execute them without serving any requisition on the owners; but in that case the licence holder shall, within 24 hours after commencing to execute the alterations, give notice thereof to the owners.

(12) All expenses properly incurred by any owners in complying with any requisition of the licence holder under sub-paragraph (8) shall be a debt recoverable summarily by them from the licence holder.

(13) If the licence holder commences the execution of any work in contravention of sub-paragraph (3)(a), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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| F1 | Sch. 3 para. 3(1)(bb) inserted (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(b) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)) |
| F2 | 2003 c. 21 |
| F3 | By The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(a) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)), it is provided (1.4.2007) that in Sch. 3 "in paragraph 3(1)(c), the words in brackets" are repealed |
| F4 | Words in Sch. 3 para. 3(2) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30) , s. 118(6), Sch. 3 para. 39(3) ; S.I. 2017/1286, reg. 2(d) |
| F5 | Words in Sch. 3 para. 3(3)(a) inserted (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(c) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)) |

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Changes and effects yet to be applied to :

- Instrument am. (pt.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.8](#)
- Instrument amended by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.18](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\), Sch.10, Pt.V, para.18, Sch.14, Pt.II](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order power to amend conferred by [2024 c. 13 s. 138\(2\)-\(7\)](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 18(1A)(aa) inserted by S.I. 2019/93, Sch. 1 para. 7(2)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 23(10) inserted by [2024 c. 13 Sch. 29 para. 5](#)