



Telecommunications Act 1984

1984 CHAPTER 12

PART II

PROVISION OF TELECOMMUNICATION SERVICES

Licensing etc. of telecommunication systems

5 Prohibition on running unlicensed systems.

- [^{F1}(1) Subject to the provisions of this section and section 6 below, a person who runs a telecommunication system within the United Kingdom shall be guilty of an offence unless he is authorised to run the system by a licence granted under section 7 below.
- (2) Subject to the provisions of this section, a person who runs within the United Kingdom a telecommunication system which he is authorised to run by a licence granted under section 7 below shall be guilty of an offence if—
- (a) there is connected to the system—
 - (i) any other telecommunication system; or
 - (ii) any apparatus,which is not authorised by the licence to be so connected; or
 - (b) there are provided by means of the system any telecommunication services which are not authorised by the licence to be so provided.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

Status: Point in time view as at 01/04/2004.

Changes to legislation: Telecommunications Act 1984, Cross Heading: Licensing etc. of telecommunication systems is up to date with all changes known to be in force on or before 26 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)

- (5) In any proceedings for an offence under this section it shall, subject to subsection (6) below, be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (6) Where the defence provided by subsection (5) above involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (7) No proceedings shall be instituted in England and Wales or Northern Ireland in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.]

Textual Amendments

F1 Ss. 5-8 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(a), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with art. 3(2)) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

C1 Ss. 3-7, 12-19, Pt. III (ss. 47-55) applied (with modifications) (7.1.1997) by S.I. 1996/3151, [reg. 8\(2\)](#), [Sch. 1 para. 1](#)

6 Exceptions to section 5.

[^{F2}(1) ^{F3}.....

- (2) Section 5(1) above is not contravened by—
- (a) the running of a telecommunication system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
- (b) the running by a person of a telecommunication system which is not connected to another telecommunication system and in the case of which all the apparatus comprised therein is situated either—
- (i) on a single set of premises in single occupation; or
- (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together; or
- (c) the running by a single individual of a telecommunication system which is not connected to another telecommunication system and in the case of which—
- (i) all the apparatus comprised therein is under his control; and
- (ii) everything conveyed by it that falls within paragraphs (a) to (d) of section 4(1) above is conveyed solely for domestic purposes of his;
- and references in paragraphs (b) and (c) above to another telecommunication system do not include references to [^{F4}a telecommunication system to which subsection (2A) below applies] (whether run by a broadcasting authority or by any other person).

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[^{F5}(2A) This subsection applies to a telecommunication system in the case of which every conveyance made by it is either—

- (a) a transmission, by wireless telegraphy, from a transmitting station for general reception of sounds, visual images or such signals as are mentioned in paragraph (c) of section 4(1) above; or
- (b) a conveyance within a single set of premises of sounds, visual images or such signals which are to be or have been so transmitted.]

(3) In the case of a business carried on by a person, section 5(1) above is not contravened by the running, for the purposes of that business, of a telecommunication system which is not connected to another telecommunication system and with respect to which the conditions specified in subsection (4) below are satisfied.

(4) The said conditions are—

- (a) that no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system;
- (b) that nothing falling within paragraphs (a) to (d) of section 4(1) above is conveyed by the system by way of rendering a service to another;
- (c) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct thereof;
- (d) that in so far as such signals are mentioned in paragraph (c) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any employees of his engaged in the conduct thereof or things used in the course of the business and controlled by him; and
- (e) that, in so far as such signals as are mentioned in paragraph (d) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.

(5) In this section—

“broadcasting authority” means a person licensed under the ^{M1}Wireless Telegraphy Act 1949 to broadcast programmes for general reception;

“business” includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate;

“vessel” means a vessel of any description used in navigation;

“wireless telegraphy” has the same meaning as in the said Act of 1949.]

Textual Amendments

- F2** Ss. 5-8 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(a), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); [S.I. 2003/1900](#), arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with art. 3(2) (as amended (8.12.2003) by [S.I. 2003/3142](#), art. 1(3))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with art. 11)
- F3** [S. 6\(1\)](#) repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 134, 203(1)(3), [Sch. 12 Pt. II para. 1](#), [Sch. 20 para. 38\(1\)\(a\)](#), [Sch. 21](#)
- F4** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), [Sch. 20 para. 38\(1\)\(b\)](#)
- F5** [S. 6\(2A\)](#) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), [Sch. 20 para. 38\(1\)\(c\)](#)

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Modifications etc. (not altering text)

- C2** Ss. 3-7, 12-19, Pt. III (ss.47-55) applied (with modifications) (7.1.1997) by S.I. 1996/3151, reg. 8(2), Sch. 1 para. 1
- C3** S. 6(2)(b) excluded (with saving) (7.1.1997) by S.I. 1996/3151, reg. 8(2), Sch. 1 para. 2(1)(2)

Marginal Citations

- M1** 1949 c. 54.

7 Power to license systems.

[^{F6}(1) A licence may be granted—

- (a) by the Secretary of State after consultation with the Director; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director,

for the running of any such telecommunication system as is specified in the licence or is of a description so specified.

(2) A licence granted under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence.

(3) A licence granted under this section may be granted either to all persons, to persons of a class or to a particular person.

[^{F7}(3A) In granting a licence under this section for the running of a telecommunication system to which the Licensing Directive applies the Secretary of State and the Director shall ensure that the requirements of Article 7 of the Licensing Directive are complied with.]

(4) A licence granted under this section may authorise—

- (a) the connection to any telecommunication system to which the licence relates of—
 - (i) any other telecommunication system specified in the licence or of a description so specified; and
 - (ii) any apparatus so specified or of a description so specified; and
- (b) the provision by means of any telecommunication system to which the licence relates of any telecommunication services specified in the licence or of a description so specified.

(5) A licence granted under this section may include—

- (a) such conditions (whether relating to the running of a telecommunication system to which the licence relates or otherwise) as appear to the Secretary of State or the Director to be requisite or expedient having regard to the duties imposed on him by section 3 above [^{F8}the provisions of Articles 4(1), 8(1) and 8(2) of the Licensing Directive and the obligations imposed on him in pursuance of the Telecommunications (Interconnection) Regulations 1997][^{F9}or by regulation 30 of the Telecommunications (Data Protection and Privacy) Regulations 1999];
- (b) conditions requiring the rendering to the Secretary of State of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and

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- [^{F10}(c) in the case of a licence granted to persons of a class, conditions requiring any person who falls within the class of persons to which the licence relates to notify the Secretary of State or the Director of his intention to run a telecommunication system under that licence.]
- (6) Without prejudice to the generality of paragraph (a) of subsection (5) above, conditions included by virtue of that paragraph in a licence granted under this section to a particular person may require that person—
- (a) to comply with any direction given by the Director as to such matters as are specified in the licence or are of a description so specified;
 - (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified; and
 - (c) to refer for determination by the Director such questions arising under the licence as are specified in the licence or are of a description so specified.
- [^{F11}(6A) Where the Secretary of State or the Director receives an application for a licence to run a telecommunication system which cannot be run in accordance with the terms of a current licence which has been granted to persons of a class, he shall, subject to any time limits for the grant of licences specified in the procedures referred to in subsection (2) of section 7A below—
- (a) grant a temporary licence containing such conditions as he considers appropriate to enable the applicant to commence running that system; or
 - (b) reject the application.
- ^{F11}(6B) Where the Secretary of State or the Director grants a temporary licence under subsection (6A) above he shall, as soon as possible thereafter, either replace it with another licence granted under this section containing such conditions as he considers appropriate, or revoke it.]
- [^{F12}(7) A licence granted under this section otherwise than to a particular person, and the details of the procedures applying to the grant of such a licence, shall be published in such manner as the Secretary of State or the Director considers appropriate for bringing the licence or procedures to the attention of such persons who may be interested and a reference to such publication shall also be published in the London, Edinburgh and Belfast Gazettes.]
- (8) A copy of every licence granted under this section by the Secretary of State shall be sent to the Director.
- (9) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.
- (10) Neither the requirement to consult with the Director imposed by subsection (1)(a) above nor sections 8(5) and 10(6) below shall apply to the granting by the Secretary of State of the licence or licences which, having regard to the provisions of this Act, require to be granted (whether to British Telecommunications or to any other person) before the appointed day.
- [^{F13}(10A) Before the Secretary of State or the Director decides whether to grant or revoke a licence under this section which authorises the running of a telecommunication system to which subsection (10B) below applies, he shall consult with the [^{F14}Independent Television Commission]
- (10B) A telecommunication system is one to which this subsection applies if—

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- (a) any person proposes to provide or is providing, by means of the system, a [^{F15}local delivery service (within the meaning of Part II of the Broadcasting Act 1990)]; and
 - (b) notice of that fact has been given to the Secretary of State or the Director.]
- (11) Where a licence granted under this section to a particular person includes a provision requiring that person to run any telecommunication system to which the licence relates through the agency of some other person, that other person, as well as the first mentioned person, shall be taken for the purposes of this section and the following provisions of this Part to be authorised by that licence to run that system.
- [^{F16}(12) Where the Secretary of State or the Director proposes—
- (a) to revoke a licence granted to persons of a class; or
 - (b) to refuse to grant a licence to, or to revoke a licence, granted to a particular person, including a temporary licence granted under subsection (6A) above,
- he shall give notice of his proposal in accordance with subsection (13) below and shall consider any representations or objections which are duly made and not withdrawn.
- ^{F16}(13) The Secretary of State or the Director shall—
- (a) in the case of a licence referred to in subsection (12)(a) above, publish in such manner as he thinks appropriate a notice stating the reasons why he proposes to revoke the licence and specifying the time (not being less than 28 days from the date of publication) within which representations or objections with respect to the revocation may be made;
 - (b) in the case of a licence referred to in subsection (12)(b) above, give to the person applying for or holding the licence a notice stating the reasons why he proposes to refuse to grant, or to revoke, the licence and specifying the time (not being less than 28 days from the date of the notice) within which representations or objections with respect to the refusal or revocation may be made.
- ^{F16}(14) After the Secretary of State or the Director has confirmed or withdrawn a proposal published or notified under subsection (13) above he shall—
- (a) in the case of a licence referred to in subsection (12)(a) above, publish in such manner as he thinks appropriate;
 - (b) in the case of a licence referred to in subsection (12)(b) above, give to the person applying for or holding the licence,
- a notice in accordance with subsection (15) below.
- ^{F16}(15) The notice required by subsection (14) above shall—
- (a) state whether the proposal has been confirmed or withdrawn;
 - (b) give reasons for that decision;
 - (c) in the case of a decision to revoke the licence, specify the date on which the licence ceases to have effect.
- ^{F16}(16) In this section—
- “Licensing Directive” means Directive [97/13/EC](#) of the European Parliament and of the Council on a common framework for general authorisations and individual licences in the field of telecommunication services. ^{F17}.]]

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Textual Amendments

- F6** Ss. 5-8 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(a), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with art. 3(2)) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)
- F7** S. 7(3A) inserted (31.12.1997) by S.I. 1997/2930, [reg. 3\(2\)](#)
- F8** Words in s. 7(5)(a) inserted (31.12.1997) by S.I. 1997/2930, [reg. 3\(3\)\(a\)](#)
- F9** Words in s. 7(5)(a) added (1.3.2000) by S.I. 1999/2390, [reg. 3\(3\)](#), [Sch. 1 Pt. II para. 2](#)
- F10** S. 7(5)(c) substituted (31.12.1997) by S.I. 1997/2930, [reg. 3\(3\)\(b\)](#)
- F11** S. 7(6A)(6B) inserted (31.12.1997) by S.I. 1997/2930, [reg. 3\(4\)](#)
- F12** S. 7(7) substituted (31.12.1997) by S.I. 1997/2930, [reg. 3\(5\)](#)
- F13** S. 7(10A)(10B) inserted by [Cable and Broadcasting Act 1984 \(c.46, SIF 96\)](#), s. 57(1), [Sch. 5 para. 45\(1\)](#), the amendment being continued by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(4), [Sch. 22 para. 4](#)
- F14** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [ss. 4\(6\)](#), 87(6),203(1), [Sch. 20 para. 38\(2\)](#) (a)
- F15** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [ss. 4\(6\)](#), 87(6),203(1), [Sch. 20 para. 38\(2\)](#) (b)
- F16** S. 7(12)-(16) inserted (31.12.1997) by S.I. 1997/2930, [reg. 3\(6\)](#)
- F17** O.J. No. L117, 7.5.97, p.15.

Modifications etc. (not altering text)

- C4** Ss. 3-7, 12-19, [Pt. III](#) (ss.47-55) applied (with modifications) (7.1.1997) by S.I. 1996/3151, [reg. 8\(2\)](#), [Sch. 1 para. 1](#)
S. 7 modified (7.1.1997) by S.I. 1996/3151, [reg. 4\(1\)\(2\)](#)

[^{F18}7A Licensing procedures

- [^{F19}(1) Licences granted under section 7 above to particular persons shall be granted on the basis of procedures established by the Secretary of State or the Director, details of which shall be contained in a notice given by him.
- (2) The details given in a notice under subsection (1) above in relation to any licences shall include—
- time limits for dealing with applications for the grant of a licence;
 - requirements which must be met for the grant of a licence;
 - information about the conditions to be included in a licence;
 - details of the fees or the method of calculating the fees payable in respect of a licence.
- (3) Where the person applying for a licence fails to provide any information which the Secretary of State or the Director reasonably requires in order to satisfy himself that the applicant is able to comply with the conditions in the licence the Secretary of State or the Director may refuse to grant the licence.
- (4) A notice under this section shall be published in such manner as the Secretary of State or the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of those likely to be affected by them, and a reference to such notice shall also be published in the London, Edinburgh and Belfast Gazettes.]]

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Textual Amendments

F18 S. 7A inserted (31.12.1997) by S.I. 1997/2930, reg. 3(7)

F19 Ss. 5-8 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 147(a), 406, 408, 411, Sch. 19(1) (with Sch. 18, Sch. 19(1) Note 1); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), Sch. 1 (with art. 3(2)) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

8 Special provisions applicable to certain licences.

[^{F20}(1) This section applies to any licence granted under section 7 above to a particular person which includes conditions requiring that person—

- (a) to provide such telecommunication services as are specified in the licence or are of a description so specified;
- (b) to connect to any telecommunication system to which the licence relates, or permit the connection to any such system of, such other telecommunication systems and such apparatus as are specified in the licence or are of a description so specified;
- (c) to permit the provision by means of any telecommunication system to which the licence relates of such services as are specified in the licence or are of a description so specified;
- (d) not to show undue preference to, or to exercise undue discrimination against, particular persons or persons of any class or description (including, in particular, persons in rural areas) as respects any service provided, connection made or permission given in pursuance of such conditions as are mentioned in the foregoing paragraphs (whether in respect of the charges or other terms or conditions applied or otherwise); and
- (e) to publish, in such manner and at such times as are specified in the licence, a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions that are to be applicable to such services so provided, such connections so made and such permissions so given as are specified in the licence or are of a description so specified.

(2) Where a licence granted under section 7 above to a particular person includes a condition requiring that person to provide such directory information services to which this subsection applies as are specified in the licence or are of a description so specified, subsection (1) above shall have effect as if the conditions there mentioned included a condition requiring that person to provide without charge for subscribers who are blind or otherwise disabled such directory information services to which this subsection applies as are appropriate to meet the needs of those subscribers and are specified in the licence or are of a description so specified.

(3) Subsection (2) above applies to any directory information service which is provided for the purpose of facilitating the use of a voice telephony service and in that subsection “blind or otherwise disabled” means so blind or otherwise disabled as to be unable to use a telephone directory.

(4) It is immaterial for the purposes of subsections (1) and (2) above whether the person to whom the licence is granted is required to refer for determination by the Director such

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questions arising under the conditions mentioned in those subsections as are specified in the licence or are of a description so specified.

(5) Before granting a licence to which this section applies, the Secretary of State or the Director shall give notice—

- (a) stating that he proposes to grant the licence and setting out its effect;
- (b) stating the reasons why he proposes to grant the licence; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(6) A notice under subsection (5) above shall be given by publication in such manner as the Secretary of State or the Director considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.]

Textual Amendments

F20 Ss. 5-8 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(a), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with [art. 3\(2\)](#) (as amended (8.12.2003) by S.I. 2003/3142, [art. 1\(3\)](#))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with [art. 11](#))

9 Public telecommunication systems.

[^{F21}(1) The Secretary of State may by order designate as a public telecommunication system any telecommunication system the running of which is authorised by a licence to which section 8 above applies; and any reference in this Act to a public telecommunication system is a reference to a telecommunication system which is so designed and the running of which is so authorised.

(2) An order under subsection (1) above shall not come into operation until after the end of the period of 28 days beginning with—

- (a) the day on which copies of the order, and of the licence to which section 8 above applies, are laid before each House of Parliament; or
- (b) if such copies are so laid on different days, the last of those days.

(3) In this Act “public telecommunications operator” means a person authorised by a licence to which section 8 above applies to run a public telecommunication system.

(4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with a telecommunication system ceasing to be a public telecommunication system, or a person ceasing to be a public telecommunications operator, the Secretary of State may make a scheme giving effect to such transitional provision as he thinks fit.]

Textual Amendments

F21 Ss. 9-11 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(b), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900,

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arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

Modifications etc. (not altering text)

C5 Definition of "public telecommunications operator" in s. 9(3) applied (E.W.) by London Docklands Railway Act 1991 (c. xxiii, SIF 200), s. 2(1).

10 The telecommunications code.

[^{F22}(1) Subject to the following provisions of this section, the code (to be known as “the telecommunications code”) which is contained in Schedule 2 to this Act shall have effect—

- (a) where it is applied to a particular person by a licence granted by the Secretary of State under section 7 above authorising that person to run a telecommunication system; and
- (b) where the Secretary of State or a Northern Ireland department is running or is proposing to run a telecommunication system.

(2) The telecommunications code shall not be applied to a person authorised by a licence under section 7 above to run a telecommunication system unless—

- (a) that licence is a licence to which section 8 above applies; or
- (b) it appears to the Secretary of State—
 - (i) that the running of the system will benefit the public; and
 - (ii) that it is not practicable for the system to be run without the application of that code to that person.

(3) Where the telecommunications code is applied to any person by a licence under section 7 above it shall have effect subject to such exceptions and conditions as may be included in the licence for the purpose of qualifying the rights exercisable by that person by virtue of the code.

[^{F23}(3A) Where—

- (a) the telecommunications code expressly or impliedly imposes any limitation on the use to which any telecommunication apparatus installed by a person authorised by a licence under section 7 above may be put, and
- (b) that person is a party to a relevant agreement,

that limitation shall not have effect so as to preclude the doing of anything which is done in relation to that apparatus in pursuance of that agreement; and anything which is so done shall be disregarded in determining, for the purposes of the telecommunications code as it applies in relation to that person, the purposes for which the apparatus is used.

(3B) Subsection (3A) above shall not be construed, in relation to a person who is authorised by a relevant agreement to share the use of any apparatus installed by another party to the agreement, as affecting any requirement on him (whether imposed by any statutory provision or otherwise) to obtain any consent or permission in connection with the installation by him of any apparatus, or the doing by him of any other thing, in pursuance of the agreement.

(3C) In subsections (3A) and (3B) above “relevant agreement”, in relation to any telecommunication apparatus, means an agreement in writing—

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- (a) to which the parties are two or more persons to whom the telecommunications code has been applied by a licence granted under section 7 above; and
 - (b) which relates to the sharing by those persons of the use of that apparatus,
- and in subsection (3B) above “statutory provision” means any provision of an enactment or of an instrument having effect under an enactment.]
- (4) Without prejudice to the generality of subsection (3) above, the exceptions and conditions there mentioned shall include such exceptions and conditions as appear to the Secretary of State to be requisite or expedient for the purpose of securing—
- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved;
 - (b) that there is no greater damage to [^{F24}streets][^{F24}roads] or interference with traffic than is reasonably necessary;
 - (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code;
- and any condition falling within this subsection may impose on the person to whom the code is applied a requirement to comply with directions given in a manner specified in the condition and by a person so specified or of a description so specified.
- (5) A licence under section 7 above which applies the telecommunications code to any person in relation to any part or locality of the United Kingdom shall include a condition requiring that person to cause copies of—
- (a) the exceptions and conditions subject to which the telecommunications code has effect as so applied; and
 - (b) every direction given in a manner specified in any such condition by a person so specified or of a description so specified,
- to be open for inspection by members of the public free of charge at such premises in that part or locality as are specified in the licence or are of a description so specified.
- (6) Before granting under section 7 above a licence which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, the Secretary of State shall publish a notice—
- (a) stating that he proposes to apply the code to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which he proposes that the code should have effect as so applied;
 - (b) stating the reasons why he proposes to apply the code to that person in relation to that part or locality and why he proposes that the code as so applied should have effect subject to those exceptions and conditions; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed application of the code to that person in relation to that part or locality and with respect to the proposed exceptions and conditions may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (7) If the Secretary of State, on reconsidering in pursuance of subsection (6) above any proposals specified in a notice under that subsection, grants a licence under section 7 above applying the telecommunications code to any person in relation to any part or locality of the United Kingdom, he shall on granting that licence publish a further notice—

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- (a) stating that the code has been applied to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which the code has effect as so applied; and
 - (b) stating the reasons why the code has been applied to that person in relation to that part or locality and why the code as so applied has effect subject to those exceptions and conditions.
- (8) Where the Secretary of State has granted a licence under section 7 above which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, he may—
- (a) with the consent of that person; or
 - (b) if it appears to him requisite or expedient to do so for the purpose mentioned in subsection (4) above,
- modify the exceptions and conditions subject to which the code has effect as so applied.
- (9) Before modifying the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, the Secretary of State shall publish a notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications; and
 - (c) specifying the time (not being less than 28 days from the date of publication of this notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (10) If the Secretary of State, on reconsidering in pursuance of subsection (9) above any proposals specified in a notice under that subsection, modifies the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, he shall on making the modifications publish a further notice—
- (a) stating that the modifications have been made and setting out their effect; and
 - (b) stating the reasons why the modifications have been made.
- (11) A notice under this section shall be published in such manner as the Secretary of State considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.]

Textual Amendments

- F22** Ss. 9-11 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(b), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with art. 3(2)) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)
- F23** [S. 10\(3A\)-\(3C\)](#) inserted (31.12.1997) by S.I. 1997/2930, [reg. 3\(8\)](#)
- F24** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 92\(2\)](#)

Modifications etc. (not altering text)

- C6** [S. 10](#) restricted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 32, 45, [Sch. 7 Pt. VI](#) para. 2

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11 Provisions supplementary to section 10.

[^{F25F26}(1).....

^{F26}(2).....

- (3) The Secretary of State may from time to time by order provide that the telecommunications code shall have effect for all purposes as if an amount specified in the order were substituted for the amount specified, or for the time being having effect as if specified, in sub-paragraph (3) of paragraph 16 of the code as the minimum amount of compensation payable under that paragraph; and an order under this subsection may contain such transitional provisions as the Secretary of State considers appropriate.
- (4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with the telecommunications code ceasing to apply to any person by reason of the expiry or revocation of a person's licence under section 7 above, the Secretary of State may make a scheme giving effect to such transitional provision as the Secretary of State thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, a scheme under that subsection may—
 - (a) impose obligations on a person to whom the telecommunications code has ceased to apply as mentioned in subsection (4) above to remove anything installed in pursuance of any right conferred by or in accordance with the telecommunications code, to restore land to its condition before anything was done in pursuance of any such right or to pay the expenses of any such removal or restoration;
 - (b) provide for those obligations to be enforceable in such manner (otherwise than by criminal penalties) and by such persons as may be specified in the scheme;
 - (c) authorise the retention of apparatus on any land pending the grant of a licence under section 7 above authorising the running by any person of a telecommunication system for the purposes of which that apparatus may be used;
 - (d) provide for the purposes of any provision contained in the scheme by virtue of paragraph (a), (b) or (c) above for such questions arising under the scheme as are specified in the scheme, or are of a description so specified, to be referred to, and determined by, the Director.]

Textual Amendments

- F25** Ss. 9-11 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(b), 406, 408, 411, [Sch. 19\(1\)](#) (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), [Sch. 1](#) (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)
- F26** S. 11(1)(2) repealed (3.6.1996) by S.I. 1995/3210 (N.I. 19), art. 60(2), [Sch. 4](#); S.R. 1996/223, art. 2, [Sch.](#)

Status:

Point in time view as at 01/04/2004.

Changes to legislation:

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