



# Telecommunications Act 1984

## 1984 CHAPTER 12

### PART VII

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Miscellaneous*

#### **93 Grants to promote interests of disabled persons.**

- (1) The Secretary of State may, with the approval of the Treasury, make grants for the purpose of defraying or contributing towards—
  - (a) any expenses which may be incurred by any person in supporting research into or the development of apparatus to which this section applies; or
  - (b) any fees incurred by any person in respect of the exercise in relation to apparatus to which this section applies of any function conferred by or under section 22 above.
- (2) This section applies to—
  - (a) telecommunication apparatus which is constructed for use by disabled persons;
  - (b) telecommunication apparatus which is so constructed as to be capable of being adapted for such use; and
  - (c) apparatus by means of which telecommunication apparatus falling within paragraph (b) above may be so adapted.
- (3) In making a grant under this section, the Secretary of State may impose such conditions as he thinks fit and may, in particular, impose a condition requiring the repayment of all or any part of the grant—
  - (a) if any other condition is not complied with; or
  - (b) in such other circumstances as he may specify.
- (4) There shall be paid out of money provided by Parliament any sums required by the Secretary of State for making grants under this section.

*Status: Point in time view as at 06/09/1994.*

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- (5) Any sums received by the Secretary of State under subsection (3) above shall be paid into the Consolidated Fund.

#### **94 Directions in the interests of national security etc.**

- (1) The Secretary of State may, after consultation with a person to whom this section applies, give to that person such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security or relations with the government of a country or territory outside the United Kingdom.
- (2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside the United Kingdom, he may, after consultation with a person to whom this section applies, give to that person a direction requiring him (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.
- (3) A person to whom this section applies shall give effect to any direction given to him by the Secretary of State under this section notwithstanding any other duty imposed on him by or under this Act.
- (4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of opinion that disclosure of the direction is against the interests of national security or relations with the government of a country or territory outside the United Kingdom, or the commercial interests of any person.
- (5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security or relations with the government of a country or territory outside the United Kingdom, or the commercial interests of some other person.
- (6) The Secretary of State may, with the approval of the Treasury, make grants to public telecommunications operators for the purpose of defraying or contributing towards any losses they may sustain by reason of compliance with the directions given under this section.
- (7) There shall be paid out of money provided by Parliament any sums required by the Secretary of State for making grants under this section.
- (8) This section applies to the Director and to any person who is a public telecommunications operator or approved contractor (whether in his capacity as such or otherwise); and in this subsection “approved contractor” means a person approved under section 20 above.

#### **95 Orders under the 1973 and 1980 Acts.**

- (1) Where in the circumstances mentioned in subsection (2) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the 1973 Act or section 10(2)(a) of the 1980 Act, the order may also provide for the revocation or modification of licences granted under section 7 above to such extent as may be requisite to give effect to or to take account of any provision made by the order.

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- (2) Subsection (1) above shall have effect where—
- (a) the circumstances are as mentioned in section 56(1) of the 1973 Act (order on report on monopoly reference) and the monopoly situation exists in relation to a commercial activity connected with telecommunications;
  - (b) the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and the two or more enterprises which ceased to be distinct enterprises were engaged in such an activity; or
  - (c) the circumstances are as mentioned in section 10(1) of the 1980 Act (order on report on competition reference) and the anti-competitive practice relates to the production, supply or acquisition of telecommunication apparatus or the supply or securing of telecommunication services.
- (3) Expressions used in this section which are also used in the 1973 Act or the 1980 Act have the same meanings as in that Act.

## **96 Prohibitions and restrictions applying to lessees with respect to telecommunications.**

- [<sup>F1</sup>(1) Subject to subsection (4) below, where any provision contained in a lease to which this section applies, or in any agreement made with respect to premises to which such a lease relates, has the effect of imposing on the lessee any prohibition or restriction with respect to any of the matters falling within subsection (3) below, that provision shall have effect in relation to things which are done—
- (a) inside a building, or part of a building, occupied by the lessee under the lease, or
  - (b) for purposes connected with the provision to the lessee by any telecommunications operator of any telecommunication services,
- as if the prohibition or restriction applied only where the lessor has not given his consent in relation to the matter in question and as if the lessor were required not to withhold that consent unreasonably.
- (2) Where a provision of a lease or agreement imposes (whether by virtue of this section or otherwise) a requirement on the lessor under a lease not to withhold his consent unreasonably in relation to any matter falling within subsection (3) below, the question whether that consent is unreasonably withheld shall be determined having regard to all the circumstances and to the principle that no person should unreasonably be denied access to a telecommunication system.
- (3) The matters falling within this subsection are—
- (a) the running of relevant telecommunication systems;
  - (b) the connection of any telecommunication apparatus to a relevant telecommunication system or of relevant telecommunication systems to each other; and
  - (c) the installation, maintenance, adjustment, repair, alteration or use, for purposes connected with the running of a relevant telecommunication system, of any telecommunication apparatus.
- (4) The Secretary of State may by order provide, in relation to such cases, prohibitions or restrictions as are specified in the order, or are of a description so specified, that subsection (1) above shall not apply.

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- (5) This section applies to any lease for a term of a year or more granted on or after the day on which this section comes into force; but the Secretary of State may by order provide that this section shall apply, subject to such transitional provisions as may be contained in the order, to leases granted before that day.
- (6) This section is without prejudice to paragraph 2(3) of the telecommunications code.
- (7) In this section—
- “alteration” and “telecommunication apparatus” have the same meanings as in Schedule 2 to this Act;
- “lease” includes any leasehold tenancy (whether in the nature of a head lease, sub-lease or under lease) and any agreement to grant such a tenancy, and cognate expressions, and references to the grant of a lease, shall be construed accordingly;
- “relevant telecommunications system” means a public telecommunication system or a telecommunication system specified for the purposes of this section in an order made by the Secretary of State, or a telecommunication system which is, or is to be, connected to a public telecommunication system or to a system so specified.]

#### Textual Amendments

- F1** S. 96 repealed (25.7.2003 for specified purposes, otherwise prosp.) by [Communications Act 2003](#) (c. 21), ss. 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\(3\)\)\)](#))

## 96 Prohibitions and restrictions applying to lessees with respect to telecommunications. **U.K.**

- (1) Subject to subsection (4) below, where any provision contained in a lease to which this section applies, or in any agreement made with respect to premises to which such a lease relates, has the effect of imposing on the lessee any prohibition or restriction with respect to any of the matters falling within subsection (3) below, that provision shall have effect in relation to things which are done—
- (a) inside a building, or part of a building, occupied by the lessee under the lease, or
- (b) for purposes connected with the provision to the lessee by any telecommunications operator of any telecommunication services,
- as if the prohibition or restriction applied only where the lessor has not given his consent in relation to the matter in question and as if the lessor were required not to withhold that consent unreasonably.
- (2) Where a provision of a lease or agreement imposes (whether by virtue of this section or otherwise) a requirement on the lessor under a lease not to withhold his consent unreasonably in relation to any matter falling within subsection (3) below, the question whether that consent is unreasonably withheld shall be determined having regard to all the circumstances and to the principle that no person should unreasonably be denied access to a telecommunication system.
- (3) The matters falling within this subsection are—
- (a) the running of relevant telecommunication systems;

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- (b) the connection of any telecommunication apparatus to a relevant telecommunication system or of relevant telecommunication systems to each other; and
  - (c) the installation, maintenance, adjustment, repair, alteration or use, for purposes connected with the running of a relevant telecommunication system, of any telecommunication apparatus.
- (4) The Secretary of State may by order provide, in relation to such cases, prohibitions or restrictions as are specified in the order, or are of a description so specified, that subsection (1) above shall not apply.
- (5) This section applies to any lease for a term of a year or more granted on or after the day on which this section comes into force; but the Secretary of State may by order provide that this section shall apply, subject to such transitional provisions as may be contained in the order, to leases granted before that day.
- (6) This section is without prejudice to paragraph 2(3) of the telecommunications code.
- (7) In this section—
- “alteration” and “telecommunication apparatus” have the same meanings as in Schedule 2 to this Act;
  - “lease” includes any leasehold tenancy (whether in the nature of a head lease, sub-lease or under lease) and any agreement to grant such a tenancy, and cognate expressions, and references to the grant of a lease, shall be construed accordingly;
  - “relevant telecommunications system” means a public telecommunication system or a telecommunication system specified for the purposes of this section in an order made by the Secretary of State, or a telecommunication system which is, or is to be, connected to a public telecommunication system or to a system so specified.

## **97 Contributions by local authorities towards provision of facilities.**

- (1) Where a local authority consider that it would be for the benefit of the whole or any part of their area that—
- (a) any additional telecommunication facilities should be provided; or
  - (b) any existing telecommunication facilities should continue to be provided,
- by a public telecommunications operator, whether within or outside the area to be benefited, the authority may undertake to pay to that operator any loss he may sustain by reason of the provision or continued provision of those facilities.
- (2) In the application of this section to Scotland, nothing in subsection (1) above shall authorise the giving of an undertaking as respects the provision or continued provision of facilities outside the area to be benefited.
- (3) In this section “local authority”—
- (a) in relation to England and Wales, means a county council,<sup>F2</sup> a district council, a London borough council, the Common Council of the City of London, a parish council or a community council;
  - (b) in relation to Scotland, means a regional, islands or district council;
  - (c) in relation to Northern Ireland, means a district council.

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### Textual Amendments

**F2** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102(2)(3), [Sch. 17](#)

## 98 Use of certain conduits for telecommunication purposes. **E+W**

- (1) The functions of an authority with control of a relevant conduit shall include the power—
  - (a) to carry out, or to authorise another person to carry out, any works in relation to that conduit for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus;
  - (b) to keep telecommunication apparatus installed in that conduit or to authorise any other person to keep telecommunication apparatus so installed;
  - (c) to authorise any person to enter that conduit to inspect telecommunication apparatus kept installed there;
  - (d) to enter into agreements, on such terms (including terms as to the payments to be made to the authority) as it thinks fit, in connection with the doing of anything authorised by or under this section; and
  - (e) to carry on an ancillary business consisting in the making and carrying out of such agreements.
- (2) Where any enactment or subordinate legislation expressly or impliedly imposes any limitation on the use to which a relevant conduit may be put, that limitation shall not have effect so as to prohibit the doing of anything authorised by or under this section.
- (3) Where the doing by an authority with control of a public sewer of anything authorised by this section would, apart from this subsection, constitute a contravention of any obligation imposed (whether by virtue of any conveyance or agreement or otherwise) on the authority, the doing of that thing shall not constitute such a contravention to the extent that it consists in, or in authorising, the carrying out of works or inspections, or keeping of apparatus, wholly inside a public sewer.
- (4) Subject to subsections (2) and (3) above, subsection (1) above is without prejudice to the rights of any person with an interest in land on, under or over which a relevant conduit is situated.
- (5) Without prejudice to subsections (1) to (4) above, the Secretary of State may by order provide for any local Act under or in accordance with which any conduits (whether or not relevant conduits) are kept installed in streets to be amended in such manner as appears to him requisite or expedient for securing—
  - (a) that there is power for those conduits to be used for telecommunication purposes;
  - (b) that the terms (including terms as to payment) on which those conduits are used for those purposes are reasonable; and
  - (c) that the use of those conduits for those purposes is not unreasonably inhibited (whether directly or indirectly) by reason of the terms of any consent, licence or agreement which has been given, granted or made in relation to any of those conduits for the purposes of that Act.
- (6) In this section “relevant conduit” means—
  - (a) any conduit which, whether or not it is itself an electric line, is maintained by an electricity authority for the purpose of enclosing, surrounding or supporting

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such a line, including where such a conduit is connected to any box, chamber or other structure (including a building) maintained by an electricity authority for purposes connected with the conveyance, transmission or distribution of electricity, that box, chamber or structure; or

- (b) a water main or any other conduit maintained by a water authority for the purpose of conveying water from one place to another; or
- (c) a public sewer; or
- (d) a culvert which is a designated watercourse within the meaning of the <sup>M1</sup>Drainage (Northern Ireland) Order 1973.

(7) In this section a reference to the authority with control of a relevant conduit—

- (a) in relation to a conduit or structure falling within paragraph (a) or (b) of subsection (6) above, shall be construed as a reference to the authority by whom the conduit or structure is maintained;
- (b) in relation to a public sewer, shall be construed, subject to subsection (8) below, as a reference to the [<sup>F3</sup> person] in whom the sewer is vested; and
- (c) in relation to a culvert falling within paragraph (d) of subsection (6) above, shall be construed as a reference to the Department of Agriculture for Northern Ireland.

(8) Where—

- (a) the functions of an authority with control of a public sewer are, in pursuance of any enactment, discharged on its behalf by [<sup>F4</sup> another person], and
- (b) the [<sup>F5</sup> other person] is authorised by the authority with control of the sewer to act on its behalf for the purposes of the matters referred to in subsection (1) above,

this section shall have effect in relation to that sewer as if any reference to the authority with control of the sewer included, to such extent as may be necessary for the [<sup>F5</sup> other person] so to act, a reference to the [<sup>F5</sup> other person].

(9) In this section—

“alteration”, “street” and “telecommunication apparatus” have the same meanings as in Schedule 2 to this Act;

“conduit” includes a tunnel or subway;

“electric line”—

- (a) in Great Britain, has the same meaning as in [<sup>F6</sup> the Electricity Act 1989]; and
- (b) in Northern Ireland, has the same meaning as in the [<sup>F7</sup> Electricity (Northern Ireland) Order 1992];

“electricity authority” means [<sup>F8</sup> a person authorised by a licence under Part I of the Electricity Act 1989 to transmit or supply electricity] or [<sup>F9</sup> a person authorised by a licence under Part II of the Electricity (Northern Ireland) Order 1992 to transmit or supply electricity];

“public sewer”—

- (a) in England and Wales, has the same meaning as in the <sup>M2</sup>Public Health Act 1936;
- (b) in Scotland, means any sewer which is vested in a regional or islands council; and
- (c) in Northern Ireland, means a sewer as defined in the <sup>M3</sup>Water and Sewerage Services (Northern Ireland) Order 1973;

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[<sup>F10</sup>“sewerage authority” shall be construed in accordance with section 62 of the Local Government etc. (Scotland) Act 1994;

“subordinate legislation” means any subordinate legislation within the meaning of the Interpretation Act 1978 or any instrument, as defined in section 1 of the <sup>M4</sup>Interpretation Act (Northern Ireland) 1954;

“water authority”—

- [
- <sup>F11</sup>(a) in England and Wales, means the National Rivers Authority or a water undertaker;]
- (b) in Scotland, means a water authority or water development board within the meaning of the <sup>M5</sup>Water (Scotland) Act 1980; and
- (c) in Northern Ireland, means the Department of the Environment for Northern Ireland;

“water main”—

- [
- <sup>F12</sup>(a) in England and Wales, means a water main [<sup>F13</sup>or resource main within the meaning of the Water Industry Act 1991];]
- (b) in Scotland, means a main within the meaning of the <sup>M6</sup>Water (Scotland) Act 1980; and
- (c) in Northern Ireland, means a main within the meaning of the <sup>M7</sup>Water and Sewerage Services (Northern Ireland) Order 1973.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; separate versions have been created for Scotland only and Northern Ireland only.

#### Textual Amendments

- F3** Word in s. 98(7)(b) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 68(1)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F4** Words in s. 98(8)(a) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 paras. 68(1)(b)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F5** Words in s. 98(8) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 paras. 68(1)(b)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F6** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(a), Sch. 17 paras. 33, **35(1)**
- F7** Words in s. 98(9) substituted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12**, para. 28(a); S.R. 1992/117, **art. 3(1)**
- F8** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(b), Sch. 17 paras. 33, **35(1)**
- F9** Words in s. 98(9) substituted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 28(b)**; S.R. 1992/117, **art. 3(1)**
- F10** Definition of "sewerage authority" in s. 98(9) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 133(3)(b)**; S.I. 1996/323, **art. 4(b)(c)**
- F11** Para. (a) of definition of "water authority" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 68(c)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F12** Para. (a) of definition of "water main" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 68(c)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**



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**F13** Words in para. (a) in definition of 'water main' in s. 98(9) substituted (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 38(1)**.

#### Marginal Citations

- M1** S.I. 1973/69 (N.I. 1).
- M2** 1936 c. 49.
- M3** S.I. 1973/70 (N.I. 2).
- M4** 1954 c. 33 (N.I.).
- M5** 1980 c. 45.
- M6** 1980 c. 45.
- M7** S.I. 1973/70 (N.I. 2).

## 98 Use of certain conduits for telecommunication purposes. **N.I.**

- (1) The functions of an authority with control of a relevant conduit shall include the power—
  - (a) to carry out, or to authorise another person to carry out, any works in relation to that conduit for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus;
  - (b) to keep telecommunication apparatus installed in that conduit or to authorise any other person to keep telecommunication apparatus so installed;
  - (c) to authorise any person to enter that conduit to inspect telecommunication apparatus kept installed there;
  - (d) to enter into agreements, on such terms (including terms as to the payments to be made to the authority) as it thinks fit, in connection with the doing of anything authorised by or under this section; and
  - (e) to carry on an ancillary business consisting in the making and carrying out of such agreements.
- (2) Where any enactment or subordinate legislation expressly or impliedly imposes any limitation on the use to which a relevant conduit may be put, that limitation shall not have effect so as to prohibit the doing of anything authorised by or under this section.
- (3) Where the doing by an authority with control of a public sewer of anything authorised by this section would, apart from this subsection, constitute a contravention of any obligation imposed (whether by virtue of any conveyance or agreement or otherwise) on the authority, the doing of that thing shall not constitute such a contravention to the extent that it consists in, or in authorising, the carrying out of works or inspections, or keeping of apparatus, wholly inside a public sewer.
- (4) Subject to subsections (2) and (3) above, subsection (1) above is without prejudice to the rights of any person with an interest in land on, under or over which a relevant conduit is situated.
- (5) Without prejudice to subsections (1) to (4) above, the Secretary of State may by order provide for any local Act under or in accordance with which any conduits (whether or not relevant conduits) are kept installed in streets to be amended in such manner as appears to him requisite or expedient for securing—
  - (a) that there is power for those conduits to be used for telecommunication purposes;
  - (b) that the terms (including terms as to payment) on which those conduits are used for those purposes are reasonable; and

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- (c) that the use of those conduits for those purposes is not unreasonably inhibited (whether directly or indirectly) by reason of the terms of any consent, licence or agreement which has been given, granted or made in relation to any of those conduits for the purposes of that Act.
- (6) In this section “relevant conduit” means—
- (a) any conduit which, whether or not it is itself an electric line, is maintained by an electricity authority for the purpose of enclosing, surrounding or supporting such a line, including where such a conduit is connected to any box, chamber or other structure (including a building) maintained by an electricity authority for purposes connected with the conveyance, transmission or distribution of electricity, that box, chamber or structure; or
  - (b) a water main or any other conduit maintained by a water authority for the purpose of conveying water from one place to another; or
  - (c) a public sewer; or
  - (d) a culvert which is a designated watercourse within the meaning of the <sup>M9</sup>Drainage (Northern Ireland) Order 1973.
- (7) In this section a reference to the authority with control of a relevant conduit—
- (a) in relation to a conduit or structure falling within paragraph (a) or (b) of subsection (6) above, shall be construed as a reference to the authority by whom the conduit or structure is maintained;
  - (b) in relation to a public sewer, shall be construed, subject to subsection (8) below, as a reference to the authority in whom the sewer is vested; and
  - (c) in relation to a culvert falling within paragraph (d) of subsection (6) above, shall be construed as a reference to the Department of Agriculture for Northern Ireland.
- (8) Where—
- (a) the functions of an authority with control of a public sewer are, in pursuance of any enactment, discharged on its behalf by another authority, and
  - (b) the other authority is authorised by the authority with control of the sewer to act on its behalf for the purposes of the matters referred to in subsection (1) above,
- this section shall have effect in relation to that sewer as if any reference to the authority with control of the sewer included, to such extent as may be necessary for the other authority so to act, a reference to the other authority.
- (9) In this section—
- “alteration”, “street” and “telecommunication apparatus” have the same meanings as in Schedule 2 to this Act;
- “conduit” includes a tunnel or subway;
- “electric line”—
- (a) in Great Britain, has the same meaning as in <sup>F15</sup>the Electricity Act 1989; and
  - (b) in Northern Ireland, has the same meaning as in the <sup>F16</sup>Electricity (Northern Ireland) Order 1992;
- “electricity authority” means <sup>F17</sup>a person authorised by a licence under Part I of the Electricity Act 1989 to transmit or supply electricity] or <sup>F18</sup>a person authorised by a licence under Part II of the Electricity (Northern Ireland) Order 1992 to transmit or supply electricity];
- “public sewer”—

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- (a) in England and Wales, has the same meaning as in the <sup>M10</sup>Public Health Act 1936;
  - (b) in Scotland, means any sewer which is vested in a regional or islands council; and
  - (c) in Northern Ireland, means a sewer as defined in the <sup>M11</sup>Water and Sewerage Services (Northern Ireland) Order 1973;  
“subordinate legislation” means any subordinate legislation within the meaning of the Interpretation Act 1978 or any instrument, as defined in section 1 of the <sup>M12</sup>Interpretation Act (Northern Ireland) 1954;  
“water authority”—
- [<sup>F19</sup>(a) in England and Wales, means the National Rivers Authority or a water undertaker;]
- (b) in Scotland, means a water authority or water development board within the meaning of the <sup>M13</sup>Water (Scotland) Act 1980; and
  - (c) in Northern Ireland, means the Department of the Environment for Northern Ireland;  
“water main”—
- [<sup>F20</sup>(a) in England and Wales, means a water main within the meaning of the Water Act 1989 or any resource main within the meaning of paragraph 1 of Schedule 19 to that Act;]
- (b) in Scotland, means a main within the meaning of the <sup>M14</sup>Water (Scotland) Act 1980; and
  - (c) in Northern Ireland, means a main within the meaning of the <sup>M15</sup>Water and Sewerage Services (Northern Ireland) Order 1973.

#### Extent Information

- E2** This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales only and Scotland only.

#### Textual Amendments

- F15** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(a), Sch. 17 paras. 33, **35(1)**
- F16** Words in s. 98(9) substituted (1.4.1992) by [S.I. 1992/231 \(N.I. 1\)](#), art. 95(1), **Sch. 12 para. 28(a)**; [S.R. 1992/117](#), **art. 3(1)**
- F17** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(b), Sch. 17 paras. 33, **35(1)**
- F18** Words in s. 98(9) substituted (1.4.1992) by [S.I. 1992/231 \(N.I. 1\)](#), art. 95(1), **Sch. 12 para. 28(b)**; [S.R. 1992/117](#), **art. 3(1)**
- F19** Para. (a) of definition of "water authority" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 68(c)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F20** Para. (a) of definition of "water main" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 68(c)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Marginal Citations

- M9** [S.I. 1973/69 \(N.I. 1\)](#).  
**M10** 1936 c. 49.  
**M11** [S.I. 1973/70 \(N.I. 2\)](#).

*Status: Point in time view as at 06/09/1994.*

*Changes to legislation: Telecommunications Act 1984, Cross Heading: Miscellaneous 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)*

**M12** 1954 c. 33 (N.I.).

**M13** 1980 c. 45.

**M14** 1980 c. 45.

**M15** S.I. 1973/70 (N.I. 2).

## 98 Use of certain conduits for telecommunication purposes. **S**

- (1) The functions of an authority with control of a relevant conduit shall include the power—
  - (a) to carry out, or to authorise another person to carry out, any works in relation to that conduit for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus;
  - (b) to keep telecommunication apparatus installed in that conduit or to authorise any other person to keep telecommunication apparatus so installed;
  - (c) to authorise any person to enter that conduit to inspect telecommunication apparatus kept installed there;
  - (d) to enter into agreements, on such terms (including terms as to the payments to be made to the authority) as it thinks fit, in connection with the doing of anything authorised by or under this section; and
  - (e) to carry on an ancillary business consisting in the making and carrying out of such agreements.
- (2) Where any enactment or subordinate legislation expressly or impliedly imposes any limitation on the use to which a relevant conduit may be put, that limitation shall not have effect so as to prohibit the doing of anything authorised by or under this section.
- (3) Where the doing by an authority with control of a public sewer of anything authorised by this section would, apart from this subsection, constitute a contravention of any obligation imposed (whether by virtue of any conveyance or agreement or otherwise) on the authority, the doing of that thing shall not constitute such a contravention to the extent that it consists in, or in authorising, the carrying out of works or inspections, or keeping of apparatus, wholly inside a public sewer.
- (4) Subject to subsections (2) and (3) above, subsection (1) above is without prejudice to the rights of any person with an interest in land on, under or over which a relevant conduit is situated.
- (5) Without prejudice to subsections (1) to (4) above, the Secretary of State may by order provide for any local Act under or in accordance with which any conduits (whether or not relevant conduits) are kept installed in [<sup>F21</sup>roads] to be amended in such manner as appears to him requisite or expedient for securing—
  - (a) that there is power for those conduits to be used for telecommunication purposes;
  - (b) that the terms (including terms as to payment) on which those conduits are used for those purposes are reasonable; and
  - (c) that the use of those conduits for those purposes is not unreasonably inhibited (whether directly or indirectly) by reason of the terms of any consent, licence or agreement which has been given, granted or made in relation to any of those conduits for the purposes of that Act.
- (6) In this section “relevant conduit” means—

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- (a) any conduit which, whether or not it is itself an electric line, is maintained by an electricity authority for the purpose of enclosing, surrounding or supporting such a line, including where such a conduit is connected to any box, chamber or other structure (including a building) maintained by an electricity authority for purposes connected with the conveyance, transmission or distribution of electricity, that box, chamber or structure; or
  - (b) a water main or any other conduit maintained by a water authority for the purpose of conveying water from one place to another; or
  - (c) a public sewer; or
  - (d) a culvert which is a designated watercourse within the meaning of the <sup>M16</sup>Drainage (Northern Ireland) Order 1973.
- (7) In this section a reference to the authority with control of a relevant conduit—
- (a) in relation to a conduit or structure falling within paragraph (a) or (b) of subsection (6) above, shall be construed as a reference to the authority by whom the conduit or structure is maintained;
  - (b) in relation to a public sewer, shall be construed, subject to subsection (8) below, as a reference to the person in whom the sewer is vested; and
  - (c) in relation to a culvert falling within paragraph (d) of subsection (6) above, shall be construed as a reference to the Department of Agriculture for Northern Ireland.
- (8) Where—
- (a) the functions of an authority with control of a public sewer are, in pursuance of any enactment, discharged on its behalf by another authority, and
  - (b) the other authority is authorised by the authority with control of the sewer to act on its behalf for the purposes of the matters referred to in subsection (1) above,
- this section shall have effect in relation to that sewer as if any reference to the authority with control of the sewer included, to such extent as may be necessary for the [other person] so to act, a reference to the other authority.
- (9) In this section—
- “alteration”, “[<sup>F22</sup>road]” and “telecommunication apparatus” have the same meanings as in Schedule 2 to this Act;
  - “conduit” includes a tunnel or subway;
  - “electric line”—
  - (a) in Great Britain, has the same meaning as in [<sup>F23</sup>the Electricity Act 1989]; and
  - (b) in Northern Ireland, has the same meaning as in the [<sup>F24</sup>Electricity (Northern Ireland) Order 1992];
  - “electricity authority” means [<sup>F25</sup>a person authorised by a licence under Part I of the Electricity Act 1989 to transmit or supply electricity] or [<sup>F26</sup>a person authorised by a licence under Part II of the Electricity (Northern Ireland) Order 1992 to transmit or supply electricity];
  - “public sewer”—
  - (a) in England and Wales, has the same meaning as in the <sup>M17</sup>Public Health Act 1936;
  - (b) in Scotland, means any sewer which is vested in a regional or islands council; and

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- (c) in Northern Ireland, means a sewer as defined in the <sup>M18</sup>Water and Sewerage Services (Northern Ireland) Order 1973;  
“subordinate legislation” means any subordinate legislation within the meaning of the Interpretation Act 1978 or any instrument, as defined in section 1 of the <sup>M19</sup>Interpretation Act (Northern Ireland) <sup>M20</sup>1954;  
“water authority”—
- [<sup>F27</sup>(a) in England and Wales, means the National Rivers Authority or a water undertaker;]
- (b) in Scotland, means a water authority or water development board within the meaning of the <sup>M21</sup>Water (Scotland) Act 1980; and
- (c) in Northern Ireland, means the Department of the Environment for Northern Ireland;  
“water main”—
- [<sup>F28</sup>(a) in England and Wales, means a water main within the meaning of the Water Act 1989 or any resource main within the meaning of paragraph 1 of Schedule 19 to that Act;]
- (b) in Scotland, means a main within the meaning of the <sup>M22</sup>Water (Scotland) Act 1980; and
- (c) in Northern Ireland, means a main within the meaning of the <sup>M23</sup>Water and Sewerage Services (Northern Ireland) Order 1973.

#### Extent Information

- E3** This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and Northern Ireland only.

#### Textual Amendments

- F21** Word in s. 98(5) substituted (S.) by [Roads \(Scotland\) Act 1994 \(c. 54, SIF 108\)](#), **Sch. 9 para. 92(3)(a)**
- F22** Word in s. 98(9) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 92(3)(b)**
- F23** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(a), Sch. 17 paras. 33, **35(1)**
- F24** Words in s. 98 substituted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12**, para. 28(a); S.R. 1992/117, **art. 3(1)**
- F25** Words in s. 98(9) substituted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 29(2)(b), Sch. 17 paras. 33, **35(1)**
- F26** Words in s. 98(9) substituted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 28(b)**; S.R. 1992/117, **art. 3(1)**
- F27** Para. (a) of definition of "water authority" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 68(c)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F28** Para. (a) of definition of "water main" in s. 98(9) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 68(c)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Marginal Citations

- M16** S.I. 1973/69 (N.I. 1).  
**M17** 1936 c. 49.  
**M18** S.I. 1973/70 (N.I. 2).  
**M19** 1954 c. 33 (N.I.).  
**M20** 1954 c. 33 (N.I.).  
**M21** 1980 c. 45.

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**M22** 1980 c. 45.

**M23** S.I. 1973/70 (N.I. 2).

**99 Power of Post Office to provide telecommunication services etc.**

(1) In section 7(1) of the <sup>M8</sup>Post Office Act 1969 (powers of the Post Office) after paragraph (b) there shall be inserted the following paragraph—

“(bb) to provide, in such parts of post offices as are open to the public (whether for the transaction of postal business or otherwise), such services provided by means of telecommunication systems as it thinks fit;”.

(2) In section 29(1) of that Act (exclusion of liability of Post Office etc. in relation to telepost services) paragraph (c) shall be omitted.

(3) In section 86(1) of that Act (interpretation of Part III), for the definitions of “telecommunication system” and “telepost services” there shall be substituted the following definitions—

“telecommunication system” has the meaning given by subsection (1) of section 4 of the Telecommunications Act 1984 (read with subsection (2) of that section);

“telepost service” means a service whereby the Post Office does all or any of the following things, namely—

- (a) receives or collects in whatever form communications which are to be sent by means of a telecommunication system;
- (b) sends or receives by means of such a system communications which have been received or collected, or are to be delivered, by it in whatever form; and
- (c) delivers in whatever form communications which have been sent by means of such a system.

**Marginal Citations**

**M8** 1969 c. 48.

**F14**<sup>100</sup> .....

**Textual Amendments**

**F14** S. 100 repealed (6.9.1994) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), ss. 109, 110(4), [Sch. 7 Pt. III](#); S.I. 1994/2162, [art. 2](#)

**Status:**

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