

## SCHEDULES

### SCHEDULE 2

#### THE TELECOMMUNICATIONS CODE

##### *Tidal waters etc.*

- 11 (1) Subject to paragraph 3 above and the following provisions of this code, the operator shall have the right for the statutory purposes—
- (a) to execute any works (including placing any buoy or seamark) on any tidal water or lands for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus ;
  - (b) to keep telecommunication apparatus installed on, under or over tidal water or lands ; and
  - (c) to enter any tidal water or lands to inspect any telecommunication apparatus so installed.
- (2) A right conferred by this paragraph shall not be exercised in relation to any land in which a Crown interest, within the meaning of paragraph 26 below, subsists unless agreement to the exercise of the right in relation to that land has been given, in accordance with sub-paragraph (3) of that paragraph, in respect of that interest.
- (3) Before executing any works in exercise of a right conferred by this paragraph the operator (not being the Secretary of State) shall submit a plan of the proposed works to the Secretary of State for the Secretary of State's approval.
- (4) Sub-paragraph (3) above shall not apply to the execution of any emergency works, but as soon as practicable after commencing any emergency works on any tidal water or lands the operator (not being the Secretary of State) shall submit a plan of those works to the Secretary of State for the Secretary of State's approval.
- (5) As soon as reasonably practicable after a plan is submitted to him under sub-paragraph (3) or (4) above the Secretary of State shall, after consulting such authorities exercising functions in relation to the tidal water or lands in question as it appears to him appropriate to consult, consider whether to approve it; and, if he does approve it, he may do so subject to such modifications and conditions and on such terms as he thinks fit.
- (6) The Secretary of State shall not approve a plan submitted to him under sub-paragraph (3) or (4) above unless he is satisfied that adequate arrangements have been made for compensating any persons appearing to him to be owners of interests in the tidal water or lands in question for any loss or damage sustained by those persons in consequence of the execution of the works to which the plan relates.
- (7) If-
- (a) the operator (not being the Secretary of State) executes any works in exercise of a right conferred by this paragraph, but

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*Status: This is the original version (as it was originally enacted).*

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- (b) those works are executed otherwise than in accordance with a plan approved by the Secretary of State (including, in the case of emergency works, where works already commenced are not approved) or a condition on which any approval of the Secretary of State is given is or has been contravened, the Secretary of State may by notice require the operator to execute such remedial works as the Secretary of State thinks appropriate having regard to the terms and conditions of any approval that he has given and, if those works are not executed in accordance with the notice, may execute them himself at the operator's expense.
- (8) Where, as the result:—
- (a) of the failure of the operator (not being the Secretary of State) reasonably to maintain any telecommunication apparatus kept installed for the purposes of the operator's system on, under or over any tidal water or lands, or
- (b) of the abandonment by the operator of any such apparatus,
- it appears to the Secretary of State that any remedial works should be executed, he may by notice require the operator to execute those works and, if those works are not executed in accordance with the notice, may execute them himself at the operator's expense.
- (9) The Secretary of State shall have power for the purposes of exercising his functions (other than as the operator) under this paragraph, and of determining whether to exercise those functions, to cause a survey or examination to be carried out, at the operator's expense, of any works or apparatus or of the site or proposed site of any works or apparatus.
- (10) Where the Secretary of State is authorised by this paragraph to do any tiling at the operator's expense, the expenses incurred by the Secretary of State in or in connection with the doing of that thing shall be recoverable by the Secretary of State from the operator in any court of competent jurisdiction.
- (11) In this paragraph—
- " remedial works " includes any works of repair or restoration, the alteration of any apparatus and any works to restore the site of any apparatus to its original condition;
- " tidal water or lands " includes any estuary or branch of the sea, the shore below mean high water springs and the bed of any tidal water.