

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

The New Towns (Scotland) Act 1968

- 47 (1) The New Towns (Scotland) Act 1968 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 14(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. ".
- (3) In the proviso to section 19(1) (under which the power to override servitudes etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system. ".
- (4) For section 24 (which contains provision with respect to telegraphic lines where a public right of way is extinguished under that Act) there shall be substituted the following section: —
- “**24** (1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local highway authority, and at the time of the publication of the notice required by subsection (2) of that section any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;
 - (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
 - (c) subject to paragraph (b) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the

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apparatus which he has then neither removed nor given notice of his intention to remove;

- (d) the operator of the system shall be entitled to recover from the corporation or authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require ;
- (e) where under the foregoing provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(2) Where the Secretary of State makes an order under section 23 of this Act in relation to a right of way in circumstances in which subsection (1) of this section applies in relation to the operator of any telecommunications code system, the Secretary of State shall send a copy of the order to the operator.”.

(5) Where in any case a notice has been given before the appointed day under section 23(2) of the said Act of 1968 (notice of proposal to extinguish right of way) section 24 of that Act shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.

(6) In section 26 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), after subsection (7) there shall be inserted the following subsection: —

“(8) Except in a case in which section 24 above has effect—

- (a) the reference in paragraph (a) of subsection (2) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; and
- (b) the reference in paragraph (b) of that subsection to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system ;

and for the purposes of this subsection, in this section (except in the said paragraphs (a) and (b)) and in Schedule 5 to this Act and section 27 below, references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

(7) After section 36 (which, with section 35, makes provision for the transfer etc. of the undertakings of development corporations) there shall be inserted the following section: —

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“36A Application of ss. 35 and 36 to operators of certain telecommunication systems.

Sections 35 and 36 of this Act shall have effect as if references to statutory undertakers included references to the operator of any telecommunications code system and as if for this purpose—

- (a) references to a statutory undertaking were references to the running of such a system ; and
- (b) references to the appropriate Minister were references to the Secretary of State for Trade and Industry.”.