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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1 **U.K.**

Section 1.

#### DIRECTOR GENERAL OF TELECOMMUNICATIONS

##### Textual Amendments

- F1** Sch. 1 repealed (prosp.) by Communications Act 2003 (c. 21), ss. 406, 411, Sch. 19(1) (with Sch. 18, Sch. 19(1) Note 1)

- 1 There shall be paid to the Director such remuneration, and such travelling and other allowances, as the Secretary of State with the approval of the Treasury may determine.

##### Modifications etc. (not altering text)

- C1** Sch. 1 paras. 1-3: transfer of functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 12

- 2 In the case of any such holder of the office of the Director as may be determined by the Secretary of State with the approval of the Treasury, there shall be paid such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or payments towards provision for such a pension, allowance or gratuity as may be so determined.

##### Modifications etc. (not altering text)

- C2** Sch. 1 paras. 1-3: transfer of functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 12

- 3 If, when any person ceases to hold office as the Director, it appears to the Secretary of State with the approval of the Treasury that there are special circumstances which make it right that he should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be so determined.

##### Modifications etc. (not altering text)

- C3** Sch. 1 paras. 1-3: transfer of functions (1.4.1995) by S.I. 1995/269, art. 3, Sch. para. 12

- <sup>F24</sup> .....

##### Textual Amendments

- F2** Sch. 1 para. 4 repealed by Parliamentary and Health Service Commissioners Act 1987 (c. 39, SIF 89), s. 10, Sch. 2

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- 5 In the <sup>M1</sup>House of Commons Disqualification Act 1975 in Part III of Schedule 1 (other disqualifying offices) there shall be inserted (at the appropriate place in alphabetical order) the following entry—

““Director General of Telecommunications”,” and the like insertion shall be made in Part III of Schedule 1 to the

<sup>M2</sup>

Northern Ireland Assembly Disqualification Act 1975.

**Marginal Citations**

**M1** 1975 c. 24.

**M2** 1975 c. 25.

- 6 The Director shall have an official seal for the authentication of documents required for the purposes of his functions.

- 7 The <sup>M3</sup>Documentary Evidence Act 1868 shall have effect as if the Director were included in the first column of the Schedule to that Act, as if the Director and any person authorised to act on behalf of the Director were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Director or by any such person.

**Marginal Citations**

**M3** 1868 c. 37.

- 8 Anything authorised or required by or under this Act or any other enactment to be done by the Director, other than the making of a statutory instrument, may be done by any member of the staff of the Director who is authorised generally or specially in that behalf by the Director.

SCHEDULE 2 **U.K.**

Section 10.

THE TELECOMMUNICATIONS CODE

**Modifications etc. (not altering text)**

**C4** Sch. 2 excluded by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), **s. 189(1)**

**C5** Sch. 2: definition applied (E.W.)(1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss. 221(1), 225(2)**.

**C6** Sch. 2: definition applied (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 219(1), 223(2)**.

**C7** Sch. 2: modified by [Greater Manchester \(Light Rapid Transit System\) Act 1991 \(c. xvi, SIF 200\)](#), s.10.

**C8** Sch. 2 modified (12.11.1992) by [Greater Manchester \(Light Rapid Transit System\) Act 1992 \(c. xviii\)](#), **s.10**

**C9** Sch. 2 applied (27.7.1993) by [1993 c. xii, s. 1](#), **Sch. Pt. IV s. 28**.

Sch. 2 modified (26.5.1994) by [1994 c. vi, s. 10](#)

**C10** Sch. 2 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), arts. 1, 2, **Sch. Pt. I**

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### *Arrangement of paragraphs*

#### Paragraph

1. Interpretation of code.
2. Agreement required to confer right to execute works etc.
3. Agreement required for obstructing access etc.
4. Effect of rights and compensation.
5. Power to dispense with need for required agreement.
6. Acquisition of rights in respect of apparatus already installed.
7. Court to fix financial terms where agreement dispensed with.
8. Notices and applications by potential subscribers.
9. Street works.
10. Power to fly lines.
11. Tidal waters etc.
12. Linear obstacles.
13. Arbitration in relation to linear obstacles.
14. Alteration of apparatus crossing a linear obstacle.
15. Use of certain conduits.
16. Compensation for injurious affection to neighbouring land etc.
17. Objections to overhead apparatus.
18. Obligation to affix notices to overhead apparatus.
19. Tree lopping.
20. Power to require alteration of apparatus.
21. Restriction on right to require the removal of apparatus.
22. Abandonment of apparatus.
23. Undertaker's works.
24. Notices under code.
25. Appeals in Northern Ireland.
26. Application to the Crown.
27. Savings for and exclusion of certain remedies etc.
28. Application of code to existing systems.

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### *Interpretation of code*

- 1 (1) In this code, except in so far as the context otherwise requires—
- “agriculture” and “agricultural”—
- (a) in England and Wales, have the same meanings as in the <sup>M4</sup>Highways Act 1980;
  - (b) in Scotland, have the same meanings as in the <sup>M5</sup>Town and Country Planning (Scotland) Act 1972; and
  - (c) in Northern Ireland, have the same meanings as in the Agriculture Act (Northern Ireland) 1949;
- “alter”, “alteration” and “altered” shall be construed in accordance with sub-paragraph (2) below;
- “bridleway” and “footpath”—
- (a) in England and Wales, have the same meanings as in the Highways Act 1980;
  - (b) in Scotland, have the same meanings as in Part III of the <sup>M6</sup>Countryside (Scotland) Act 1967; and
  - (c) in Northern Ireland, mean a way over which the public have, by virtue of the Access to the <sup>M7</sup>Countryside (Northern Ireland) Order 1983, a right of way on horseback and on foot, respectively;
- [<sup>F3</sup>“conduit” includes a tunnel, subway, tube or pipe;
- “conduit system” means a system of conduits provided so as to be available for use by providers of electronic communications networks for the purposes of the provision by them of their networks;]
- “the court” means, without prejudice to any right of appeal conferred by virtue of paragraph 25 below or otherwise—
- (a) in relation to England and Wales and Northern Ireland, the county court; and
  - (b) in relation to Scotland, the sheriff;
- [<sup>F4</sup>“electronic communications apparatus” means—
- (a) any apparatus (within the meaning of the Communications Act 2003) which is designed or adapted for use in connection with the provision of an electronic communications network;
  - (b) any apparatus (within the meaning of that Act) that is designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network;
  - (c) any line;
  - (d) any conduit, structure, pole or other thing in, on, by or from which any electronic communications apparatus is or may be installed, supported, carried or suspended;
- and references to the installation of electronic communications apparatus are to be construed accordingly;
- “electronic communications network” has the same meaning as in the Communications Act 2003, and references to the provision of such a network are to be construed in accordance with the provisions of that Act;

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“electronic communications service” has the same meaning as in the Communications Act 2003, and references to the provision of such a service are to be construed in accordance with the provisions of that Act;]

“emergency works”, in relation to the operator or a relevant undertaker for the purposes of paragraph 23 below, means works the execution of which at the time it is proposed to execute them is requisite in order to put an end to, or prevent, the arising of circumstances then existing or imminent which are likely to cause—

- (a) danger to persons or property,
- (b) the interruption of any service provided by [<sup>F5</sup>the operator’s network] or, as the case may be, interference with the exercise of any functions conferred or imposed on the undertaker by or under any enactment; or
- (c) substantial loss to the operator or, as the case may be, the undertaker,

and such other works as in all the circumstances it is reasonable to execute with those works;

[<sup>F6</sup>“line” means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the provision of any electronic communications network or electronic communications service;]

“maintainable highway”—

- (a) [<sup>F7</sup>in England and Wales, means a maintainable highway within the meaning of Part III of the New Roads and Street Works Act 1991] other than one which is a footpath or bridleway that crosses, and forms part of, any agricultural land or any land which is being brought into use for agriculture; and
- (b) in Northern Ireland, means a [<sup>F8</sup>road within the meaning of the Roads (Northern Ireland) Order 1993;]

[<sup>F9</sup>“the operator” means—

- (a) where the code is applied in any person’s case by a direction under section 106 of the Communications Act 2003, that person; and
- (b) where it applies by virtue of section 106(3)(b) of that Act, the Secretary of State or (as the case may be) the Northern Ireland department in question;

“the operator’s network” means—

- (a) in relation to an operator falling within paragraph (a) of the definition of “operator”, so much of any electronic communications network or conduit system provided by that operator as is not excluded from the application of the code under section 106(5) of the Communications Act 2003; and
- (b) in relation to an operator falling within paragraph (b) of that definition, the electronic communications network which the Secretary of State or the Northern Ireland department is providing or proposing to provide;]

“railway” includes a light railway;

“the statutory purposes” means the purposes of [<sup>F10</sup>the provision of the operator’s network];

“street” has [<sup>F11</sup>the same meaning as in Part III of the New Roads and Street Works Act 1991][<sup>F12</sup>or, in Northern Ireland, the Street Works (Northern Ireland) Order 1995;]

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[<sup>F13</sup>“signal” has the same meaning as in section 32 of the Communications Act 2003;]

“structure” does not include a building;

[<sup>F14</sup>“telecommunication apparatus” includes any apparatus falling within the definition in section 4(3) of this Act and any apparatus not so falling which is designed or adapted for use in connection with the running of a telecommunication system and, in particular—

- (a) any line, that is to say, any wire, cable, tube, pipe or other similar thing (including its casing or coating) which is so designed or adapted; and
- (b) any structure, pole or other thing in, on, by or from which any telecommunication apparatus is or may be installed, supported, carried or suspended;

and references to the installation of telecommunication apparatus shall be construed accordingly.]

(2) In this code, references to the alteration of any apparatus include references to the moving, removal or replacement of the apparatus.

(3) In relation to any land which, otherwise than in connection with a street on that land, is divided horizontally into different parcels, the references in this code to a place over or under the land shall have effect in relation to each parcel as not including references to any place in a different parcel.

[<sup>F15</sup>(3A) References in this code to the provision of a conduit system include references to establishing or maintaining such a system.]

<sup>F16</sup>(4) .....

<sup>F17</sup>(5) .....

#### Extent Information

**E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

**F3** Sch. 2 para. 1(1): definitions of "conduit" and "conduit system" inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 2(1) (with Sch. 18); 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(2) (with art. 11)

**F4** Sch. 2 para. 1(1): definitions of "electronic communications apparatus", "electronic communications network" and "electronic communications service" inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 2(2) (with Sch. 18); 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(2) (with art. 11)

**F5** Sch. 2 para. 1(1): words in definition of "emergency works" substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 3(2)(a) (with Sch. 18); 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(2) (with art. 11)

**F6** Sch. 2 para. 1(1): definition of "line" substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 2(3) (with

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- Sch. 18); 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(2)** (with art. 11)
- F7** Words in Sch. 2 para. 1(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), **Sch. 8 Pt. IV para. 113(2)(a)**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F8** Words in Sch. 2 para. 1(1) substituted (3.6.1996) by S.I. 1996/3210 (N.I. 19), art. 6(1), **Sch. 3 para. 9(a)(i)**; S.R. 1996/223, art. 2, **Sch.**
- F9** Sch. 2 para. 1(1): definitions of "the operator" and "the operator's network" substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) for definitions of "the operator" and "the operator's system" by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 3(1)** (with Sch. 18); 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(2)** (with art. 11)
- F10** Sch. 2 para. 1(1): words in definition of "the statutory purposes" substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 3(2)(b)** (with Sch. 18); 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(2)** (with art. 11)
- F11** Words in Sch. 2 para. 1(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), **Sch. 8 Pt. IV para. 113(2)(d)**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F12** Words in Sch. 2 para. 1(1) added (3.6.1996) by S.I. 1996/3210 (N.I. 19), art. 60(1), **Sch. 3 para. 9(a)(ii)**; S.R. 1996/223, art. 2, **Sch.**
- F13** Sch. 2 para. 1(1): definition of "signal" inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 2(4)** (with Sch. 18); 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(2)** (with art. 11)
- F14** Sch. 2 para. 1(1): definition of "telecommunications apparatus" repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) 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))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F15** Sch. 2 para. 1(3A) inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 4** (with Sch. 18); 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(2)** (with art. 11)
- F16** Sch. 2 para. 1(4) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1)(2), Sch. 8 Pt. IV para. 113(3), **Sch. 9**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F17** Sch. 2 para. 1(5) repealed (3.6.1996) by S.I. 1995/3210 (N.I. 19), art. 60(2), **Sch. 4**; S.R. 1996/223, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C11** Definition of "telecommunication apparatus" in Sch. 2 para. 1 applied by Heathrow Express Railway Act 1991 (c. vii), **ss. 16(5)**, 17(2)  
Definition of "telecommunication apparatus" in Sch. 2 para. 1 applied (14.7.1992) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), **ss. 122(1)**, 170(1) Sch. 6 para. 7(4); S.I. 1992/1671, art. 2, **Sch.**  
Definition of "telecommunication apparatus" in Sch. 2 para. 1(1) applied (E.W.) (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 219(1)**, 223(2)  
Definition of "telecommunication apparatus" in Sch. 2 para. 1(1) applied (E.W.) (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 221(1)**, 225(2)  
Definition of "telecommunication apparatus" in Sch. 2 para. 1 applied (E.W.S.) by S.I. 1991/1619, **art. 8**
- C12** Sch. 2 para. 1(2) applied (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 95, 335, **Sch. 8 para. 11(4)**  
Sch. 2 para. 1(2) applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 62(6)**

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Sch. 2 para. 1(2) applied (27.5.1997) by 1997 c. 8, ss. 212(7), 278(2)  
Sch. 2 para. 1(2) applied (N.I.) (21.8.1991) by S.I. 1991/1220, arts. 1, 104(3)  
Sch. 2 para. 1(2) applied (24.4.1994) by S.I. 1994/426 (N.I. 1), art. 12(5)

#### Marginal Citations

**M4** 1980 c. 66.  
**M5** 1972 c. 52.  
**M6** 1967 c. 86.  
**M7** S.I. 1983/1895 (N.I. 18).

*Agreement required to confer right to execute works etc.*

- 2 (1) The agreement in writing of the occupier for the time being of any land shall be required for conferring on the operator a right for the statutory purposes—
- (a) to execute any works on that land for or in connection with the installation, maintenance, adjustment, repair or alteration of [<sup>F18</sup>electronic communications apparatus]; or
  - (b) to keep [<sup>F19</sup>electronic communications apparatus] installed on, under or over that land; or
  - (c) to enter that land to inspect any apparatus kept installed (whether on, under or over that land or elsewhere) for the purposes of the operator's [<sup>F20</sup>network].
- (2) A person who is the owner of the freehold estate in any land or is a lessee of any land shall not be bound by a right conferred in accordance with sub-paragraph (1) above by the occupier of that land unless—
- (a) he conferred the right himself as occupier of the land; or
  - (b) he has agreed in writing to be bound by the right; or
  - (c) he is for the time being treated by virtue of sub-paragraph (3) below as having so agreed; or
  - (d) he is bound by the right by virtue of sub-paragraph (4) below.
- (3) If a right falling within sub-paragraph (1) above has been conferred by the occupier of any land for purposes connected with the provision, to the occupier from time to time of that land, of any [<sup>F21</sup>electronic communications services] and—
- (a) the person conferring the right is also the owner of the freehold estate in that land or is a lessee of the land under a lease for a term of a year or more, or
  - (b) in a case not falling within paragraph (a) above, a person owning the freehold estate in the land or a lessee of the land under a lease for a term of a year or more has agreed in writing that his interest in the land should be bound by the right,
- then, subject to paragraph 4 below, that right shall (as well as binding the person who conferred it) have effect, at any time when the person who conferred it or a person bound by it under sub-paragraph (2)(b) or (4) of this paragraph is the occupier of the land, as if every person for the time being owning an interest in that land had agreed in writing to the right being conferred for the said purposes and, subject to its being exercised solely for those purposes, to be bound by it.
- (4) In any case where a person owning an interest in land agrees in writing (whether when agreeing to the right as occupier or for the purposes of sub-paragraph (3)



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- (b) above or otherwise) that his interest should be bound by a right falling within sub-paragraph (1) above, that right shall (except in so far as the contrary intention appears) bind the owner from time to time of that interest and also—
- (a) the owner from time to time of any other interest in the land, being an interest created after the right is conferred and not having priority over the interest to which the agreement relates; and
  - (b) any other person who is at any time in occupation of the land and whose right to occupation of the land derives (by contract or otherwise) from a person who at the time the right to occupation was granted was bound by virtue of this sub-paragraph.
- (5) A right falling within sub-paragraph (1) above shall not be exercisable except in accordance with the terms (whether as to payment or otherwise) subject to which it is conferred; and, accordingly, every person for the time being bound by such a right shall have the benefit of those terms.
- (6) A variation of a right falling within sub-paragraph (1) above or of the terms on which such a right is exercisable shall be capable of binding persons who are not parties to the variation in the same way as, under sub-paragraphs (2), (3) and (4) above, such a right is capable of binding persons who are not parties to the conferring of the right.
- (7) It is hereby declared that a right falling within sub-paragraph (1) above is not subject to the provisions of any enactment requiring the registration of interests in, charges on or other obligations affecting land.
- (8) In this paragraph and paragraphs 3 and 4 below—
- (a) references to the occupier of any land shall have effect—
    - (i) in relation to any footpath or bridleway that crosses and forms part of any agricultural land or any land which is being brought into use for agriculture, as references to the occupier of that land;
    - (ii) in relation to any [<sup>F22</sup>street or, in Scotland, road] (not being such a footpath or bridleway), [<sup>F23</sup>as references—
      - in England and Wales or Northern Ireland, to the street managers within the meaning of Part III of the New Roads and Street Works Act 1991 [<sup>F24</sup>or the Street Works (Northern Ireland) Order 1995], and
      - in Scotland, to the road managers within the meaning of Part IV of that Act; and]
    - (iii) in relation to any land (not being a [<sup>F22</sup>street or, in Scotland, road]) which is unoccupied, as references to the person (if any) who for the time being exercises powers of management or control over the land or, if there is no such person, to every person whose interest in the land would be prejudicially affected by the exercise of the right in question;
  - (b) “lease” includes any leasehold tenancy (whether in the nature of a head lease, sub-lease or underlease) and any agreement to grant such a tenancy but not a mortgage by demise or sub-demise and “lessee” shall be construed accordingly; and
  - (c) references to the owner of a freehold estate shall, in relation to land in Scotland, have effect as references to the person—
    - (i) who is infert proprietor of the land; or
    - (ii) who has right to the land but whose title thereto is not complete; or

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(iii) in the case of land subject to a heritable security constituted by *ex facie* absolute disposition, who is the debtor in the security, except where the creditor is in possession of the land,

other than a person having a right as a superior only.

(9) Subject to paragraphs 9(2) and 11(2) below, this paragraph shall not require any person to give his agreement to the exercise of any right conferred by any of paragraphs 9 to 12 below.

#### Textual Amendments

- F18** Words in Sch. 2 para. 2 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(a) (with Sch. 18); 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(2) (with art. 11)
- F19** Words in Sch. 2 para. 2 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(a) (with Sch. 18); 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(2) (with art. 11)
- F20** Word in Sch. 2 para. 2 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(d) (with Sch. 18); 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(2) (with art. 11)
- F21** Words in Sch. 2 para. 2 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(b) (with Sch. 18); 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(2) (with art. 11)
- F22** Words in Sch. 2 para. 2(8)(a) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), Sch. 8 Pt. IV para. 114(a); S.I. 1992/2984, art. 2(2), Sch. 2; S.I. 1992/2990, art. 2(2), Sch. 2
- F23** Words in Sch. 2 para. 2(8)(a)(ii) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), Sch. 8 Pt. IV para. 114(b); S.I. 1992/2984, art. 2(2), Sch. 2; S.I. 1992/2990, art. 2(2), Sch. 2
- F24** Words in Sch. 2 para. 2(8)(a)(ii) substituted (3.6.1996) by S.I. 1995/3210 (N.I. 19), art. 60(1), Sch. 3 para. 9(b); S.R. 1996/223, art. 2, Sch.

#### *Agreement required for obstructing access etc.*

- 3 (1) A right conferred in accordance with paragraph 2 above or by paragraph 9, 10 or 11 below to execute any works on any land, to keep [<sup>F25</sup>electronic communications apparatus] installed on, under or over any land or to enter any land shall not be exercisable so as to interfere with or obstruct any means of entering or leaving any other land unless the occupier for the time being of the other land conferred, or is otherwise bound by, a right to interfere with or obstruct that means of entering or leaving the other land.
- (2) The agreement in writing of the occupier for the time being of the other land shall be required for conferring any right for the purposes of sub-paragraph (1) above on the operator.

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- (3) The references in sub-paragraph (1) above to a means of entering or leaving any land include references to any means of entering or leaving the land provided for use in emergencies.
- (4) Sub-paragraphs (2) to (7) of paragraph 2 above except sub-paragraph (3) shall apply (subject to the following provisions of this code) in relation to a right falling within sub-paragraph (1) above as they apply in relation to a right falling within paragraph 2(1) above.
- (5) Nothing in this paragraph shall require the person who is the occupier of, or owns any interest in, any land which is a <sup>[F26]</sup>street<sup>[F26]</sup>road or to which paragraph 11 below applies to agree to the exercise of any right on any other land.

#### Textual Amendments

- F25** Words in [Sch. 2 para. 3](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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(2)** (with art. 11)
- F26** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 92\(4\)](#)

#### *Effect of rights and compensation*

- 4 (1) Anything done by the operator in exercise of a right conferred in relation to any land in accordance with paragraph 2 or 3 above shall be deemed to be done in exercise of a statutory power except as against—
  - (a) a person who, being the owner of the freehold estate in that land or a lessee of the land, is not for the time being bound by the right; or
  - (b) a person having the benefit of any covenant or agreement which has been entered into as respects the land under any enactment and which, by virtue of that enactment, binds or will bind persons deriving title or otherwise claiming under the covenantor or, as the case may be, a person who was a party to the agreement.
- (2) Where a right has been conferred in relation to any land in accordance with paragraph 2 or 3 above and anything has been done in exercise of that right, any person who, being the occupier of the land, the owner of the freehold estate in the land or a lessee of the land, is not for the time being bound by the right shall have the right to require the operator to restore the land to its condition before that thing was done.
- (3) Any duty imposed by virtue of sub-paragraph (2) above shall, to the extent that its performance involves the removal of any <sup>[F27]</sup>electronic communications apparatus<sup>[F27]</sup> from any land, be enforceable only in accordance with paragraph 21 below.
- (4) Where—
  - (a) on a right in relation to any land being conferred or varied in accordance with paragraph 2 above, there is a depreciation in the value of any relevant interest in the land, and
  - (b) that depreciation is attributable to the fact that paragraph 21 below will apply to the removal from the land, when the owner for the time being of that interest becomes the occupier of the land, of any <sup>[F27]</sup>electronic communications apparatus<sup>[F27]</sup> installed in pursuance of that right,

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the operator shall pay compensation to the person who, at the time the right is conferred or, as the case may be, varied, is the owner of that relevant interest; and the amount of that compensation shall be equal (subject to sub-paragraph (9) below) to the amount of the depreciation.

- (5) In sub-paragraph (4) above “relevant interest”, in relation to land subject to a right conferred or varied in accordance with paragraph 2 above, means any interest in respect of which the following two conditions are satisfied at the time the right is conferred or varied, namely—
- (a) the owner of the interest is not the occupier of the land but may become the occupier of the land by virtue of that interest; and
  - (b) the owner of the interest becomes bound by the right or variation by virtue only of paragraph 2(3) above.
- (6) Any question as to a person’s entitlement to compensation under sub-paragraph (4) above, or as to the amount of any compensation under that sub-paragraph, shall, in default of agreement, be referred to and determined by the Lands Tribunal; and sections 2 and 4 of the <sup>M8</sup>Land Compensation Act 1961 (procedure and costs before Lands Tribunal) shall apply, with the necessary modifications, in relation to any such determination.
- (7) A claim to compensation under sub-paragraph (4) above shall be made by giving the operator notice of the claim and specifying in that notice particulars of—
- (a) the land in respect of which the claim is made;
  - (b) the claimant’s interest in the land and, so far as known to the claimant, any other interests in the land;
  - (c) the right or variation in respect of which the claim is made; and
  - (d) the amount of the compensation claimed;
- and such a claim shall be capable of being made at any time before the claimant becomes the occupier of the land in question, or at any time in the period of three years beginning with that time.
- (8) For the purposes of assessing any compensation under sub-paragraph (4) above, rules (2) to (4) set out in section 5 of the <sup>M9</sup>Land Compensation Act 1961 shall, subject to any necessary modifications, have effect as they have effect for the purposes of assessing compensation for the compulsory acquisition of any interest in land.
- (9) Without prejudice to the powers of the Lands Tribunal in respect of the costs of any proceedings before the Tribunal by virtue of this paragraph, where compensation is payable under sub-paragraph (4) above there shall also be payable, by the operator to the claimant, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of his claim for that compensation.
- (10) Subsections (1) to (3) of section 10 of the <sup>M10</sup>Land Compensation Act 1973 (compensation in respect of mortgages, [<sup>F28</sup>trusts of land] and settled land) shall apply in relation to compensation under sub-paragraph (4) above as they apply in relation to compensation under Part I of that Act.
- (11) In the application of this paragraph to Scotland—
- (a) for any reference to the Lands Tribunal there is substituted a reference to the Lands Tribunal for Scotland and for any reference to costs there is substituted a reference to expenses;

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- (b) for the reference in sub-paragraph (6) above to sections 2 and 4 of the Land Compensation Act 1961 there is substituted a reference to sections 9 and 11 of the <sup>M11</sup>Land Compensation (Scotland) Act 1963;
  - (c) for the reference in sub-paragraph (8) above to section 5 of the Land Compensation Act 1961 there is substituted a reference to section 12 of the Land Compensation (Scotland) Act 1963;
  - (d) for the reference in sub-paragraph (10) above to subsections (1) to (3) of section 10 of the <sup>M12</sup>Land Compensation Act 1973 there is substituted a reference to subsections (1) and (2) of section 10 of the Land Compensation (Scotland) Act 1973.
- (12) In the application of this paragraph to Northern Ireland—
- (a) for any reference to the Lands Tribunal there is substituted a reference to the Lands Tribunal for Northern Ireland;
  - (b) for the references in sub-paragraphs (6) and (8) above to sections 2, 4 and 5 of the Land Compensation Act 1961 there are substituted references to Articles 4, 5 and 6 of the <sup>M13</sup>Land Compensation (Northern Ireland) Order 1982, respectively;
  - (c) for the references in sub-paragraph (10) above to subsections (1) to (3) of section 10 of the <sup>M14</sup>Land Compensation Act 1973 and to Part I of that Act there are substituted references to paragraphs (1) to (3) of Article 13 of the Land Acquisition and Compensation (Northern Ireland) Order 1973 and to Part II of that Order, respectively.

#### Textual Amendments

- F27** Words in [Sch. 2 para. 4](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))
- F28** Words in [Sch. 2 para. 4\(10\)](#) substituted (E.W.) (1.1.1997) by [1996 c. 47](#), s. 25(1), [Sch. 3 para. 22](#) (with ss. 24(2), 25(4)(5)); [S.I. 1996/2974](#), [art. 2](#)

#### Marginal Citations

- M8** [1961 c. 33](#).  
**M9** [1961 c. 33](#).  
**M10** [1973 c. 26](#).  
**M11** [1963 c. 51](#).  
**M12** [1973 c. 56](#).  
**M13** [S.I. 1982/712 \(N.I. 9\)](#).  
**M14** [S.I. 1973/1896 \(N.I. 21\)](#).

#### *Power to dispense with the need for required agreement*

- 5 (1) Where the operator requires any person to agree for the purposes of paragraph 2 or 3 above that any right should be conferred on the operator, or that any right should bind that person or any interest in land, the operator may give a notice to that person of the right and of the agreement that he requires.
- (2) Where the period of 28 days beginning with the giving of a notice under sub-paragraph (1) above has expired without the giving of the required agreement,

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the operator may apply to the court for an order conferring the proposed right, or providing for it to bind any person or any interest in land, and (in either case) dispensing with the need for the agreement of the person to whom the notice was given.

- (3) The court shall make an order under this paragraph if, but only if, it is satisfied that any prejudice caused by the order—
- (a) is capable of being adequately compensated for by money; or
  - (b) is outweighed by the benefit accruing from the order to the persons whose access to a [<sup>F29</sup>an electronic communications network or to electronic communications services] will be secured by the order;

and in determining the extent of the prejudice, and the weight of that benefit, the court shall have regard to all the circumstances and to the principle that no person should unreasonably be denied access to a [<sup>F29</sup>an electronic communications network or to electronic communications services].

- (4) An order under this paragraph made in respect of a proposed right may, in conferring that right or providing for it to bind any person or any interest in land and in dispensing with the need for any person's agreement, direct that the right shall have effect with such modifications, be exercisable on such terms and be subject to such conditions as may be specified in the order.
- (5) The terms and conditions specified by virtue of sub-paragraph (4) above in an order under this paragraph, shall include such terms and conditions as appear to the court appropriate for ensuring that the least possible loss and damage is caused by the exercise of the right in respect of which the order is made to persons who occupy, own interests in or are from time to time on the land in question.
- (6) For the purposes of proceedings under this paragraph in a county court in England and Wales or Northern Ireland, section 63(1) of the County Courts Act 1984 and Article 33(1) of the <sup>M15</sup>County Courts (Northern Ireland) Order 1980 (assessors) shall have effect as if the words “on the application of any party” were omitted; and where an assessor is summoned, or, in Northern Ireland, appointed, by virtue of this sub-paragraph—
- (a) he may, if so directed by the judge, inspect the land to which the proceedings relate without the judge and report on the land to the judge in writing; and
  - (b) the judge may take the report into account in determining whether to make an order under this paragraph and what order to make.

In relation to any time before 1st August 1984, the reference in this sub-paragraph to section 63(1) of the County Courts Act 1984 shall have effect as a reference to section 91(1) of the <sup>M16</sup>County Courts Act 1959.

- (7) Where an order under this paragraph, for the purpose of conferring any right or making provision for a right to bind any person or any interest in land, dispenses with the need for the agreement of any person, the order shall have the same effect and incidents as the agreement of the person the need for whose agreement is dispensed with and accordingly (without prejudice to the foregoing) shall be capable of variation or release by a subsequent agreement.

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#### Textual Amendments

**F29** Words in [Sch. 2 para. 5](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(c\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

#### Marginal Citations

**M15** [S.I. 1980/397 \(N.I. 3\)](#).

**M16** [1959 c. 22](#).

#### *Acquisition of rights in respect of apparatus already installed*

- 6 (1) The following provisions of this paragraph apply where the operator gives notice under paragraph 5(1) above to any person and—
- (a) that notice requires that person's agreement in respect of a right which is to be exercisable (in whole or in part) in relation to [<sup>F30</sup>electronic communications apparatus] already kept installed on, under or over the land in question, and
  - (b) that person is entitled to require the removal of that apparatus but, by virtue of paragraph 21 below, is not entitled to enforce its removal.
- (2) The court may, on the application of the operator, confer on the operator such temporary rights as appear to the court reasonably necessary for securing that, pending the determination of any proceedings under paragraph 5 above or paragraph 21 below, the service provided by the operator's [<sup>F31</sup>network] is maintained and the apparatus properly adjusted and kept in repair.
- (3) In any case where it is shown that a person with an interest in the land was entitled to require the removal of the apparatus immediately after it was installed, the court shall, in determining for the purposes of paragraph 5 above whether the apparatus should continue to be kept installed on, under or over the land, disregard the fact that the apparatus has already been installed there.

#### Textual Amendments

**F30** Words in [Sch. 2 para. 6](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

**F31** Word in [Sch. 2 para. 6](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

#### *Court to fix financial terms where agreement dispensed with*

- 7 (1) The terms and conditions specified by virtue of sub-paragraph (4) of paragraph 5 above in an order under that paragraph dispensing with the need for a person's agreement, shall include—
- (a) such terms with respect to the payment of consideration in respect of the giving of the agreement, or the exercise of the rights to which the order

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- relates, as it appears to the court would have been fair and reasonable if the agreement had been given willingly and subject to the other provisions of the order; and
- (b) such terms as appear to the court appropriate for ensuring that that person and persons from time to time bound by virtue of paragraph 2(4) above by the rights to which the order relates are adequately compensated (whether by the payment of such consideration or otherwise) for any loss or damage sustained by them in consequence of the exercise of those rights.
- (2) In determining what terms should be specified in an order under paragraph 5 above for requiring an amount to be paid to any person in respect of—
- (a) the provisions of that order conferring any right or providing for any right to bind any person or any interest in land, or
- (b) the exercise of any right to which the order relates,
- the court shall take into account the prejudicial effect (if any) of the order or, as the case may be, of the exercise of the right on that person's enjoyment of, or on any interest of his in, land other than the land in relation to which the right is conferred.
- (3) In determining what terms should be specified in an order under paragraph 5 above for requiring an amount to be paid to any person, the court shall, in a case where the order is made in consequence of an application made in connection with proceedings under paragraph 21 below, take into account, to such extent as it thinks fit, any period during which that person—
- (a) was entitled to require the removal of any [<sup>F32</sup>electronic communications apparatus] from the land in question, but
- (b) by virtue of paragraph 21 below, was not entitled to enforce its removal;
- but where the court takes any such period into account, it may also take into account any compensation paid under paragraph 4(4) above.
- (4) The terms specified by virtue of sub-paragraph (1) above in an order under paragraph 5 above may provide—
- (a) for the making of payments from time to time to such persons as may be determined under those terms; and
- (b) for questions arising in consequence of those terms (whether as to the amount of any loss or damage caused by the exercise of a right or otherwise) to be referred to arbitration or to be determined in such other manner as may be specified in the order.
- (5) The court may, if it thinks fit—
- (a) where the amount of any sum required to be paid by virtue of terms specified in an order under paragraph 5 above has been determined, require the whole or any part of any such sum to be paid into court;
- (b) pending the determination of the amount of any such sum, order the payment into court of such amount on account as the court thinks fit.
- (6) Where terms specified in an order under paragraph 5 above require the payment of any sum to a person who cannot be found or ascertained, that sum shall be paid into court.



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### Textual Amendments

**F32** Words in [Sch. 2 para. 7](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

### *Notices and applications by potential subscribers*

- 8 (1) Where—
- (a) it is reasonably necessary for the agreement of any person to the conferring of any right, or to any right's binding any person or any interest in land, to be obtained by the operator before another person (“the potential subscriber”) may be afforded access to the operator's [<sup>F33</sup>network], and
  - (b) the operator has not given a notice or (if he has given a notice) has not made an application in respect of that right under paragraph 5 above,
- the potential subscriber may at any time give a notice to the operator requiring him to give a notice or make an application under paragraph 5 above in respect of that right.
- (2) At any time after notice has been given to the operator under sub-paragraph (1) above, the operator may apply to the court to have the notice set aside on the ground that the conditions mentioned in that sub-paragraph are not satisfied or on the ground that, even if the agreement were obtained, the operator would not afford the potential subscriber access to the operator's [<sup>F33</sup>network] and could not be required to afford him access to that [<sup>F33</sup>network].
- (3) Subject to any order of the court made in or pending any proceedings under sub-paragraph (2) above, if at any time after the expiration of the period of 28 days beginning with the giving to the operator of a notice under sub-paragraph (1) above the operator has not complied with the notice, the potential subscriber may himself, on the operator's behalf, give the required notice and (if necessary) make an application under paragraph 5 above or, as the case may be, make the required application.
- (4) The court may, on an application made by virtue of sub-paragraph (3) above, give such directions as it thinks fit—
- (a) with respect to the separate participation of the operator in the proceedings to which the application gives rise, and
  - (b) requiring the operator to provide information to the court.
- (5) A covenant, condition or agreement which would have the effect of preventing or restricting the taking by any person as a potential subscriber of any step under this paragraph shall be void to the extent that it would have that effect.
- (6) Nothing in this paragraph shall be construed as requiring the operator to reimburse the potential subscriber for any costs incurred by the potential subscriber in or in connection with the taking of any step under this paragraph on the operator's behalf.

### Textual Amendments

**F33** Words in [Sch. 2 para. 8](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#));

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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(2)** (with art. 11)

### Street works

- 9 (1) The operator shall, for the statutory purposes, have the right to do any of the following things, that is to say—
- (a) install [<sup>F34</sup>electronic communications apparatus], or keep [<sup>F34</sup>electronic communications apparatus] installed, under, over, [<sup>F35</sup>in, on,] along or across [<sup>F36</sup>a street or, in Scotland, a road];
  - (b) inspect, maintain, adjust, repair or alter any [<sup>F34</sup>electronic communications apparatus] so installed; and
  - (c) execute any works requisite for or incidental to the purposes of any works falling within paragraph (a) or (b) above, including for those purposes the following kinds of works, that is to say—
    - (i) breaking up or opening [<sup>F36</sup>a street or, in Scotland, a road];
    - (ii) tunnelling or boring under [<sup>F36</sup>a street or, in Scotland, a road]; and
    - (iii) breaking up or opening a sewer, drain or tunnel;
- <sup>F37</sup> . . .
- (2) This paragraph has effect subject to [<sup>F38</sup>section 11(1) of this Act,] paragraph 3 above and the following provisions of this code, and the rights conferred by this paragraph shall not be exercisable [<sup>F39</sup>in a street which is not a maintainable highway or, in Scotland, a road which is not a public road] without either the agreement required by paragraph 2 above or an order of the court under paragraph 5 above dispensing with the need for that agreement.

<sup>F40</sup>(3) . . . . .

#### Textual Amendments

- F34** Words in Sch. 2 para. 9 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(a)** (with Sch. 18); 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(2)** (with art. 11)
- F35** Words in Sch. 2 para. 9(1) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c.22, SIF 59, SIF 108), s. 168(1), **Sch. 8 Pt. IV para. 115(2)**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F36** Words in Sch. 2 para. 9(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), **Sch. 8 Pt. IV para. 115(2)**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F37** Words in Sch. 2 para. 9(1) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(2), **Sch. 9**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F38** Words in Sch. 3 para 9(2) repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) 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))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F39** Words in Sch. 2 para. 9(2) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, SIF 108), s. 168(1), **Sch. 8 Pt. IV para. 115(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**

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**F40** Sch. 2 para. 9(3) repealed (N.I.) (18.11.2001) by S.I. 1995/3210 (N.I. 19), art. 60(2), **Sch. 4**; S.R. 2001/388, art. 2, **Sch.**

#### *Power to fly lines*

- 10 (1) Subject to paragraph 3 above and the following provisions of this code, where any [<sup>F41</sup>electronic communications apparatus] is kept installed on or over any land for the purposes of the operator's [<sup>F42</sup>network], the operator shall, for the statutory purposes, have the right to install and keep installed lines which—
- (a) pass over other land adjacent to or in the vicinity of the land on or over which that apparatus is so kept;
  - (b) are connected to that apparatus; and
  - (c) are not at any point in the course of passing over the other land less than 3 metres above the ground or within 2 metres of any building over which they pass.
- (2) Nothing in sub-paragraph (1) above shall authorise the installation or keeping on or over any land of—
- (a) any [<sup>F41</sup>electronic communications apparatus] used to support, carry or suspend a line installed in pursuance of that sub-paragraph; or
  - (b) any line which by reason of its position interferes with the carrying on of any business [<sup>F43</sup>(within the meaning of section 6 of this Act)] carried on on that land.

[<sup>F44</sup>(3) In this paragraph “business” includes a trade, profession or employment and includes any activity carried on by a body of persons (whether corporate or unincorporate).]

#### **Textual Amendments**

- F41** Words in Sch. 2 para. 10 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(a)** (with Sch. 18); 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(2)** (with art. 11)
- F42** Word in Sch. 2 para. 10 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(d)** (with Sch. 18); 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(2)** (with art. 11)
- F43** Words in Sch. 3 para 10(2)(b) repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) 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))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F44** Sch. 2 para. 10(3) inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 6** (with Sch. 18); 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(2)** (with art. 11)

#### *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—

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- (a) to execute any works (including placing any buoy or sea-mark) on any tidal water or lands for or in connection with the installation, maintenance, adjustment, repair or alteration of [<sup>F45</sup>electronic communications apparatus];
  - (b) to keep [<sup>F45</sup>electronic communications apparatus] installed on, under or over tidal water or lands; and
  - (c) to enter any tidal water or lands to inspect any [<sup>F45</sup>electronic communications 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
  - (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 [<sup>F45</sup>electronic communications apparatus] kept installed for the purposes of the operator's [<sup>F46</sup>network] on, under or over any tidal water or lands, or
  - (b) of the abandonment by the operator of any such apparatus,

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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 thing 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.

#### Textual Amendments

- F45** Words in [Sch. 2 para. 11](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F46** Word in [Sch. 2 para. 11](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

#### *Linear obstacles*

- 12 (1) Subject to the following provisions of this code, the operator shall, for the statutory purposes, have the right in order to cross any relevant land with a line, to install and keep the line and other <sup>F47</sup>electronic communications apparatus] on, under or over that land and—
- (a) to execute any works on that land for or in connection with the installation, maintenance, adjustment, repair or alteration of that line or the other <sup>F47</sup>electronic communications apparatus]; and
- (b) to enter on that land to inspect the line or the other apparatus.
- (2) A line installed in pursuance of any right conferred by this paragraph need not cross the relevant land in question by a direct route or by the shortest route from the point at which the line enters that land, but it shall not cross that land by any route which, in the horizontal plane, exceeds the said shortest route by more than 400 metres.

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- (3) [<sup>F47</sup>Electronic communications apparatus] shall not be installed in pursuance of any right conferred by this paragraph in any position on the relevant land in which it interferes with traffic on the railway, canal or tramway on that land.
- (4) The operator shall not execute any works on any land in pursuance of any right conferred by this paragraph unless—
- (a) he has given the person with control of the land 28 days' notice of his intentions to do so; or
  - (b) the works are emergency works.
- (5) A notice under sub-paragraph (4) above shall contain a plan and section of the proposed works or (in lieu of a plan and section) any description of the proposed works (whether or not in the form of a diagram) which the person with control of the land has agreed to accept for the purposes of this sub-paragraph.
- (6) If, at any time before a notice under sub-paragraph (4) above expires, the person with control of the land gives the operator notice of objection to the works, the operator shall be entitled to execute the works only—
- (a) if, within the period of 28 days beginning with the giving of the notice of objection, neither the operator nor that person has given notice to the other requiring him to agree to an arbitrator to whom the objection may be referred under paragraph 13 below; or
  - (b) in accordance with an award made on such a reference; or
  - (c) to the extent that the works have at any time become emergency works.
- (7) If the operator exercises any power conferred by this paragraph to execute emergency works on any land, he shall, as soon as reasonably practicable after commencing those works, give the person with control of the land a notice identifying the works and containing—
- (a) a statement of the reason why the works are emergency works; and
  - (b) either the matters which would be required to be contained in a notice under sub-paragraph (4) above with respect to those works or, as the case may require, a reference to an earlier notice under that sub-paragraph with respect to those works.
- (8) If within the period of 28 days beginning with the giving of a notice under sub-paragraph (7) above the person to whom that notice was given gives a notice to the operator requiring him to pay compensation, the operator shall be liable to pay that person compensation in respect of loss or damage sustained in consequence of the carrying out of the emergency works in question; and any question as to the amount of that compensation shall, in default of agreement, be referred to arbitration under paragraph 13 below.
- (9) If the operator commences the execution of any works in contravention of any provision of this paragraph, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this paragraph “relevant land” means land which is used wholly or mainly either as a railway, canal or tramway or in connection with a railway, canal or tramway on that land, and a reference to the person with control of any such land is a reference to the person carrying on the railway, canal or tramway undertaking in question.

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### Textual Amendments

- F47** Words in **Sch. 2 para. 12** substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by **Communications Act 2003** (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(a)** (with **Sch. 18**); **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(2)** (with art. 11)

### *Arbitration in relation to linear obstacles*

- 13 (1) Any objection or question which, in accordance with paragraph 12 above, is referred to the arbitration of a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.
- (2) Where an objection under paragraph 12 above is referred to arbitration under this paragraph the arbitrator shall have the power—
- (a) to require the operator to submit to the arbitrator a plan and section in such form as the arbitrator may think requisite for the purposes of the arbitration;
  - (b) to require the observations on any such plan or section of the person who objects to the works to be submitted to the arbitrator in such form as the arbitrator may think requisite for those purposes;
  - (c) to direct the operator or that person to furnish him with such information and to comply with such other requirements as the arbitrator may think requisite for those purposes;
  - (d) to make an award requiring modifications to the proposed works and specifying the terms on which and the conditions subject to which the works may be executed; and
  - (e) to award such sum as the arbitrator may determine in respect of one or both of the following matters, that is to say—
    - (i) compensation to the person who objects to the works in respect of loss or damage sustained by that person in consequence of the carrying out of the works, and
    - (ii) consideration payable to that person for the right to carry out the works.
- (3) Where a question as to compensation in respect of emergency works is referred to arbitration under this paragraph, the arbitrator—
- (a) shall have the power to direct the operator or the person who requires the payment of compensation to furnish him with such information and to comply with such other requirements as the arbitrator may think requisite for the purposes of the arbitration; and
  - (b) shall award to the person requiring the payment of compensation such sum (if any) as the arbitrator may determine in respect of the loss or damage sustained by that person in consequence of the carrying out of the emergency works in question.
- (4) The arbitrator may treat compliance with any requirement made in pursuance of subparagraph (2)(a) to (c) or (3)(a) above as a condition of his making an award.
- (5) In determining what award to make on a reference under this paragraph, the arbitrator shall have regard to all the circumstances and to the principle that no person should

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unreasonably be denied access to [<sup>F48</sup>an electronic communications network or to electronic communications services].

- (6) For the purposes of the making of an award under this paragraph—
- (a) the references in sub-paragraphs (2)(e) and (3)(b) above to loss shall, in relation to a person carrying on a railway, canal or tramway undertaking, include references to any increase in the expenses of carrying on that undertaking; and
  - (b) the consideration mentioned in sub-paragraph (2)(e) above shall be determined on the basis of what would have been fair and reasonable if the person who objects to the works had given his authority willingly for the works to be executed on the same terms and subject to the same conditions (if any) as are contained in the award.
- (7) In the application of this paragraph to Scotland, the reference to an arbitrator shall have effect as a reference to an arbiter and the arbiter may and, if so directed by the Court of Session, shall state a case for the decision of that Court on any question of law arising in the arbitration.

<sup>F49</sup>(8) .....

#### Textual Amendments

- F48** Words in [Sch. 2 para. 13](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(c\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F49** [Sch. 2 para. 13\(8\)](#) repealed (31.1.1997) by [1996 c. 23](#), s. 107(2), [Sch. 4](#) (with s. 81(2)); [S.I. 1996/3146](#), [art. 3](#) (with [Sch. 2](#))

#### *Alteration of apparatus crossing a linear obstacle*

- 14 (1) Without prejudice to the following provisions of this code, the person with control of any relevant land may, on the ground that any [<sup>F50</sup>electronic communications apparatus] kept installed on, under or over that land for the purposes of the operator's [<sup>F51</sup>network] interferes, or is likely to interfere, with—
- (a) the carrying on of the railway, canal or tramway undertaking carried on by that person, or
  - (b) anything done or to be done for the purposes of that undertaking,
- give notice to the operator requiring him to alter that apparatus.
- (2) The operator shall within a reasonable time and to the reasonable satisfaction of the person giving the notice comply with a notice under sub-paragraph (1) above unless before the expiration of the period of 28 days beginning with the giving of the notice he gives a counter-notice to the person with control of the land in question specifying the respects in which he is not prepared to comply with the original notice.
- (3) Where a counter-notice has been given under sub-paragraph (2) above the operator shall not be required to comply with the original notice but the person with control of the relevant land may apply to the court for an order requiring the alteration of any [<sup>F50</sup>electronic communications apparatus] to which the notice relates.



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- (4) The court shall not make an order under this paragraph unless it is satisfied that the order is necessary on one of the grounds mentioned in sub-paragraph (1) above and in determining whether to make such an order the court shall also have regard to all the circumstances and to the principle that no person should unreasonably be denied access to [<sup>F52</sup>an electronic communications network or to electronic communications services].
- (5) An order under this paragraph may take such form and be on such terms as the court thinks fit and may impose such conditions and may contain such directions to the operator or the person with control of the land in question as the court thinks necessary for resolving any difference between the operator and that person and for protecting their respective interests.
- (6) In this paragraph references to relevant land and to the person with control of such land have the same meaning as in paragraph 12 above.

#### Textual Amendments

- F50** Words in [Sch. 2 para. 14](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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(2)** (with [art. 11](#))
- F51** Word in [Sch. 2 para. 14](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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(2)** (with [art. 11](#))
- F52** Words in [Sch. 2 para. 14](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(c\)](#) (with [Sch. 18](#)); [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(2)** (with [art. 11](#))

#### *Use of certain conduits*

- 15 (1) Nothing in the preceding provisions of this code shall authorise the doing of anything inside a relevant conduit without the agreement of the authority with control of that conduit.
- (2) The agreement of the authority with control of a public sewer shall be sufficient in all cases to confer a right falling within any of the preceding provisions of this code where the right is to be exercised wholly inside that sewer.
- (3) In this paragraph—
- (a) “relevant conduit” and “public sewer” have the same meanings as in section 98 of this Act; and
  - (b) a reference to the authority with control of a relevant conduit shall be construed in accordance with subsections (7) and (8) of that section.

#### *Compensation for injurious affection to neighbouring land etc.*

- 16 (1) Where a right conferred by or in accordance with any of the preceding provisions of this code is exercised, compensation shall be payable by the operator under section 10 of the <sup>M17</sup>Compulsory Purchase Act 1965 (compensation for injurious affection to

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neighbouring land etc.) as if that section had effect in relation to injury caused by the exercise of such a right as it has effect in relation to injury caused by the execution of works on land that has been compulsorily purchased.

- (2) Sub-paragraph (1) above shall not confer any entitlement to compensation on any person in respect of the exercise of a right conferred in accordance with paragraph 2 or 3 above, if that person conferred the right or is bound by it by virtue of paragraph 2(2)(b) or (d) above, but, save as aforesaid, the entitlement of any person to compensation under this paragraph shall be determined irrespective of his ownership of any interest in the land where the right is exercised.
- (3) Compensation shall not be payable on any claim for compensation under this paragraph unless the amount of the compensation exceeds £50.
- (4) In the application of this paragraph to Scotland—
  - (a) for any reference in sub-paragraph (1) to section 10 of the <sup>M18</sup>Compulsory Purchase Act 1965 there is substituted a reference to section 6 of the <sup>M19</sup>Railway Clauses Consolidation (Scotland) Act 1845;
  - (b) for the reference in that sub-paragraph to land that has been compulsorily purchased there is substituted a reference to land that has been taken or used for the purpose of a railway;
  - (c) any question as to a person's entitlement to compensation by virtue of that sub-paragraph, or as to the amount of that compensation, shall, in default of agreement, be determined by the Lands Tribunal for Scotland.
- (5) In the application of this paragraph to Northern Ireland—
  - (a) for any reference in sub-paragraph (1) to section 10 of the Compulsory Purchase Act 1965 there is substituted a reference to Article 18 of the <sup>M20</sup>Land Compensation (Northern Ireland) Order 1982;
  - (b) any question as to a person's entitlement to compensation by virtue of sub-paragraph (1) above, or as to the amount of that compensation, shall, in default of agreement, be determined by the Lands Tribunal for Northern Ireland.

#### Marginal Citations

**M17** 1965 c. 56.

**M18** 1965 c. 56.

**M19** 1845 c. 33.

**M20** S.I. 1982/712 (N.I. 9).

#### *Objections to overhead apparatus*

- 17 (1) This paragraph applies where the operator has completed the installation for the purposes of the operator's [<sup>F53</sup>network] of any [<sup>F54</sup>electronic communications apparatus] the whole or part of which is at a height of 3 metres or more above the ground.
- (2) At any time before the expiration of the period of 3 months beginning with the completion of the installation of the apparatus a person who is the occupier of or owns an interest in—
  - (a) any land over or on which the apparatus has been installed, or

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- (b) any land the enjoyment of which, or any interest in which, is, because of the nearness of the land to the land on or over which the apparatus has been installed, capable of being prejudiced by the apparatus,  
may give the operator notice of objection in respect of that apparatus.
- (3) No notice of objection may be given in respect of any apparatus if the apparatus—
- replaces any [<sup>F54</sup>electronic communications apparatus] which is not substantially different from the new apparatus; and
  - is not in a significantly different position.
- (4) Where a person has both given a notice under this paragraph and applied for compensation under any of the preceding provisions of this code, the court—
- may give such direction as it thinks fit for ensuring that no compensation is paid until any proceedings under this paragraph have been disposed of, and
  - if the court makes an order under this paragraph, may provide in that order for some or all of the compensation otherwise payable under this code to that person not to be so payable, or, if the case so requires, for some or all of any compensation paid under this code to that person to be repaid to the operator.
- (5) At any time after the expiration of the period of 2 months beginning with the giving of a notice of objection but before the expiration of the period of 4 months beginning with the giving of that notice, the person who gave the notice may apply to the court to have the objection upheld.
- (6) Subject to sub-paragraph (7) below, the court shall uphold the objection if the apparatus appears materially to prejudice the applicant's enjoyment of, or interest in, the land in right of which the objection is made and the court is not satisfied that the only possible alterations of the apparatus will—
- substantially increase the cost or diminish the quality of the service provided by the operator's [<sup>F53</sup>network] to persons who have, or may in future have, access to it, or
  - involve the operator in substantial additional expenditure (disregarding any expenditure occasioned solely by the fact that any proposed alteration was not adopted originally or, as the case may be, that the apparatus has been unnecessarily installed), or
  - give to any person a case at least as good as the applicant has to have an objection under this paragraph upheld.
- (7) The court shall not uphold the objection if the applicant is bound by a right of the operator falling within paragraph 2 or 3(1) above to install the apparatus and it appears to the court unreasonable, having regard to the fact that the applicant is so bound and the circumstances in which he became so bound, for the applicant to have given notice of objection.
- (8) In considering the matters specified in sub-paragraph (6) above the court shall have regard to all the circumstances and to the principle that no person should unreasonably be denied access to [<sup>F55</sup>an electronic communications network or to electronic communications services].
- (9) If it upholds an objection under this paragraph the court may by order—
- direct the alteration of the apparatus to which the objection relates;

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- (b) authorise the installation (instead of the apparatus to which the objection relates), in a manner and position specified in the order, of any apparatus so specified;
  - (c) direct that no objection may be made under this paragraph in respect of any apparatus the installation of which is authorised by the court.
- (10) The court shall not make any order under this paragraph directing the alteration of any apparatus or authorising the installation of any apparatus unless it is satisfied either—
- (a) that the operator has all such rights as it appears to the court appropriate that he should have for the purpose of making the alteration or, as the case may be, installing the apparatus, or
  - (b) that—
    - (i) he would have all those rights if the court, on an application under paragraph 5 above, dispensed with the need for the agreement of any person, and
    - (ii) it would be appropriate for the court, on such an application, to dispense with the need for that agreement;
- and, accordingly, for the purposes of dispensing with the need for the agreement of any person to the alteration or installation of any apparatus, the court shall have the same powers as it would have if an application had been duly made under paragraph 5 above for an order dispensing with the need for that person's agreement.
- (11) For the purposes of sub-paragraphs (6)(c) and (10) above, the court shall have power on an application under this paragraph to give the applicant directions for bringing the application to the notice of such other interested persons as it thinks fit.

#### Textual Amendments

- F53** Words in [Sch. 2 para. 17](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F54** Words in [Sch. 2 para. 17](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F55** Words in [Sch. 2 para. 17](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(c\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

#### *Obligation to affix notices to overhead apparatus*

- 18 (1) Where the operator has for the purposes of the operator's [<sup>F56</sup>network] installed any [<sup>F57</sup>electronic communications apparatus] the whole or part of which is at a height of 3 metres or more above the ground, the operator shall, before the expiration of the period of 3 days beginning with the completion of the installation, in a secure and durable manner affix a notice—
- (a) to every major item of apparatus installed; or

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- (b) if no major item of apparatus is installed, to the nearest major item of <sup>F57</sup>electronic communications apparatus] to which the apparatus that is installed is directly or indirectly connected.
- (2) A notice affixed under sub-paragraph (1) above shall be affixed in a position where it is reasonably legible and shall give the name of the operator and an address in the United Kingdom at which any notice of objection may be given under paragraph 17 above in respect of the apparatus in question; and any person giving such a notice at that address in respect of that apparatus shall be deemed to have been furnished with that address for the purposes of <sup>F58</sup>paragraph 24(2A)(a)] below.
- (3) If the operator contravenes the requirements of this paragraph he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) In any proceedings for an offence under this paragraph it shall 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.

#### Textual Amendments

- F56** Words in Sch. 2 para. 18 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(d) (with Sch. 18); 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(2) (with art. 11)
- F57** Words in Sch. 2 para. 18 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 5(a) (with Sch. 18); 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(2) (with art. 11)
- F58** Words in Sch. 2 para. 18(2) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, Sch. 17 para. 75 (with Sch. 18); 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(2) (with art. 11)

#### Tree lopping

- 19 (1) Where any tree overhangs any <sup>F59</sup>street][<sup>F59</sup>road] and, in doing so, either—
- (a) obstructs or interferes with the working of any <sup>F60</sup>electronic communications apparatus] used for the purposes of the operator's <sup>F61</sup>network], or
- (b) will obstruct or interfere with the working of any <sup>F60</sup>electronic communications apparatus] which is about to be installed for those purposes, the operator may by notice to the occupier of the land on which the tree is growing require the tree to be lopped so as to prevent the obstruction or interference.
- (2) If within the period of 28 days beginning with the giving of the notice by the operator, the occupier of the land on which the tree is growing gives the operator a counter-notice objecting to the lopping of the tree, the notice shall have effect only if confirmed by an order of the court.
- (3) If at any time a notice under sub-paragraph (1) above has not been complied with and either—

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- (a) a period of 28 days beginning with the giving of the notice has expired without a counter-notice having been given, or
  - (b) an order of the court confirming the notice has come into force,
- the operator may himself cause the tree to be lopped as mentioned in sub-paragraph (1) above.
- (4) Where the operator lops a tree in exercise of the power conferred by sub-paragraph (3) above he shall do so in a husband-like manner and in such a way as to cause the minimum damage to the tree.
- (5) Where—
- (a) a notice under sub-paragraph (1) above is complied with either without a counter-notice having been given or after the notice has been confirmed, or
  - (b) the operator exercises the power conferred by sub-paragraph (3) above,
- the court shall, on an application made by a person who has sustained loss or damage in consequence of the lopping of the tree or who has incurred expenses in complying with the notice, order the operator to pay that person such compensation in respect of the loss, damage or expenses as it thinks fit.

#### Textual Amendments

- F59** Word "road" substituted (S.) for "street" by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 92\(4\)\(j\)](#)
- F60** Words in [Sch. 2 para. 19](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F61** Words in [Sch. 2 para. 19](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

#### *Power to require alteration of apparatus*

- 20 (1) Where any [<sup>F62</sup>electronic communications apparatus] is kept installed on, under or over any land for the purposes of the operator's [<sup>F63</sup>network], any person with an interest in that land or adjacent land may (notwithstanding the terms of any agreement binding that person) by notice given to the operator require the alteration of the apparatus on the ground that the alteration is necessary to enable that person to carry out a proposed improvement of the land in which he has an interest.
- (2) Where a notice is given under sub-paragraph (1) above by any person to the operator, the operator shall comply with it unless he gives a counter-notice under this sub-paragraph within the period of 28 days beginning with the giving of the notice.
- (3) Where a counter-notice is given under sub-paragraph (2) above to any person, the operator shall make the required alteration only if the court on an application by that person makes an order requiring the alteration to be made.
- (4) The court shall make an order under this paragraph for an alteration to be made only if, having regard to all the circumstances and the principle that no person should

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unreasonably be denied access to [<sup>F64</sup>an electronic communications network or to electronic communications services], it is satisfied—

- (a) that the alteration is necessary as mentioned in sub-paragraph (1) above; and
- (b) that the alteration will not substantially interfere with any service [<sup>F65</sup>which is or is likely to be provided using] the operator's [<sup>F63</sup>network].

(5) The court shall not make an order under this paragraph for the alteration of any apparatus unless it is satisfied either—

- (a) that the operator has all such rights as it appears to the court appropriate that he should have for the purpose of making the alteration, or
- (b) that—
  - (i) he would have all those rights if the court, on an application under paragraph 5 above, dispensed with the need for the agreement of any person, and
  - (ii) it would be appropriate for the court, on such an application, to dispense with the need for that agreement;

and, accordingly, for the purposes of dispensing with the need for the agreement of any person to the alteration of any apparatus, the court shall have the same powers as it would have if an application had been duly made under paragraph 5 above for an order dispensing with the need for that person's agreement.

(6) For the purposes of sub-paragraph (5) above, the court shall have power on an application under this paragraph to give the applicant directions for bringing the application to the notice of such other interested persons as it thinks fit.

(7) An order under this paragraph may provide for the alteration to be carried out with such modifications, on such terms and subject to such conditions as the court thinks fit, but the court shall not include any such modifications, terms or conditions in its order without the consent of the applicant, and if such consent is not given may refuse to make an order under this paragraph.

(8) An order made under this paragraph on the application of any person shall, unless the court otherwise thinks fit, require that person to reimburse the operator in respect of any expenses which the operator incurs in or in connection with the execution of any works in compliance with the order.

(9) In sub-paragraph (1) above “improvement” includes development and change of use.

#### Textual Amendments

**F62** Words in [Sch. 2 para. 20](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))

**F63** Words in [Sch. 2 para. 20](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))

**F64** Words in [Sch. 2 para. 20](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(c\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))

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**F65** Words in Sch. 2 para. 20(4)(b) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, Sch. 3 para. 7 (with Sch. 18); 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(2) (with art. 11)

*Restriction on right to require the removal of apparatus*

- 21 (1) Where any person is for the time being entitled to require the removal of any of the operator's [<sup>F66</sup>electronic communications apparatus] from any land (whether under any enactment or because that apparatus is kept on, under or over that land otherwise than in pursuance of a right binding that person or for any other reason) that person shall not be entitled to enforce the removal of the apparatus except, subject to sub-paragraph (12) below, in accordance with the following provisions of this paragraph.
- (2) The person entitled to require the removal of any of the operator's [<sup>F66</sup>electronic communications apparatus] shall give a notice to the operator requiring the removal of the apparatus.
- (3) Where a person gives a notice under sub-paragraph (2) above and the operator does not give that person a counter-notice within the period of 28 days beginning with the giving of the notice, that person shall be entitled to enforce the removal of the apparatus.
- (4) A counter-notice given under sub-paragraph (3) above to any person by the operator shall do one or both of the following, that is to say—
- (a) state that that person is not entitled to require the removal of the apparatus;
  - (b) specify the steps which the operator proposes to take for the purpose of securing a right as against that person to keep the apparatus on the land.
- (5) Those steps may include any steps which the operator could take for the purpose of enabling him, if the apparatus is removed, to re-install the apparatus; and the fact that by reason of the following provisions of this paragraph any proposed re-installation is only hypothetical shall not prevent the operator from taking those steps or any court or person from exercising any function in consequence of those steps having been taken.
- (6) Where a counter-notice is given under sub-paragraph (3) above to any person, that person may only enforce the removal of the apparatus in pursuance of an order of the court; and, where the counter-notice specifies steps which the operator is proposing to take to secure a right to keep the apparatus on the land, the court shall not make such an order unless it is satisfied—
- (a) that the operator is not intending to take those steps or is being unreasonably dilatory in the taking of those steps; or
  - (b) that the taking of those steps has not secured, or will not secure, for the operator as against that person any right to keep the apparatus installed on, under or over the land or, as the case may be, to re-install it if it is removed.
- (7) Where any person is entitled to enforce the removal of any apparatus under this paragraph (whether by virtue of sub-paragraph (3) above or an order of the court under sub-paragraph (6) above), that person may, without prejudice to any method available to him apart from this sub-paragraph for enforcing the removal of that apparatus, apply to the court for authority to remove it himself; and, on such an application, the court may, if it thinks fit, give that authority.



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- (8) Where an apparatus is removed by any person under an authority given by the court under sub-paragraph (7) above, any expenses incurred by him in or in connection with the removal of the apparatus shall be recoverable by him from the operator in any court of competent jurisdiction; and in so giving an authority to any person the court may also authorise him, in accordance with the directions of the court, to sell any apparatus removed under the authority and to retain the whole or a part of the proceeds of sale on account of those expenses.
- (9) Any [<sup>F66</sup>electronic communications apparatus] kept installed on, under or over any land shall (except for the purposes of this paragraph and without prejudice to paragraphs 6(3) and 7(3) above) be deemed, as against any person who was at any time entitled to require the removal of the apparatus, but by virtue of this paragraph not entitled to enforce its removal, to have been lawfully so kept at that time.
- (10) Where this paragraph applies (whether in pursuance of an enactment amended by Schedule 4 to this Act or otherwise) in relation to [<sup>F66</sup>electronic communications apparatus] the alteration of which some person (“the relevant person”) is entitled to require in consequence of the stopping up, closure, change or diversion of any [<sup>F67</sup>street][<sup>F67</sup>road] or the extinguishment or alteration of any public right of way—
- (a) the removal of the apparatus shall constitute compliance with a requirement to make any other alteration;
  - (b) a counter-notice under sub-paragraph (3) above may state (in addition to, or instead of, any of the matters mentioned in sub-paragraph (4) above) that the operator requires the relevant person to reimburse him in respect of any expenses which he incurs in or in connection with the making of any alteration in compliance with the requirements of the relevant person;
  - (c) an order made under this paragraph on an application by the relevant person in respect of a counter-notice containing such a statement shall, unless the court otherwise thinks fit, require the relevant person to reimburse the operator in respect of any expenses which he so incurs; and
  - (d) sub-paragraph (8) above shall not apply.
- (11) References in this paragraph to the operator’s [<sup>F66</sup>electronic communications apparatus] include references to [<sup>F66</sup>electronic communications apparatus] which (whether or not vested in the operator) is being, is to be or has been used for the purposes of the operator’s [<sup>F68</sup>network].
- (12) A person shall not, under this paragraph, be entitled to enforce the removal of any apparatus on the ground only that he is entitled to give a notice under paragraph 11, 14, 17 or 20 above; and this paragraph is without prejudice to paragraph 23 below and to the power to enforce an order of the court under the said paragraph 11, 14, 17 or 20.

#### Textual Amendments

**F66** Words in [Sch. 2 para. 21](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

**F67** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 92\(4\)\(k\)](#)

**F68** Word in [Sch. 2 para. 21](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#));

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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(2)** (with art. 11)

#### Modifications etc. (not altering text)

- C13** Sch. 2 para. 21 applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), s. **62(7)**  
Sch. 2 para. 21 applied (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 95, 335, **Sch. 8 para. 11(5)**  
Sch. 2 para. 21 applied (N.I) (21.8.1991) by S.I. 1991/1220, **arts. 1**, 104(4)  
Sch. 2 para. 21 applied (24.4.1994) by S.I. 1994/426 (N.I. 1), **arts. 1(2)**, 12(6) (with arts. 2(3), 16)  
Sch. 2 para. 21 applied (27.5.1997) by 1997 c. 8, **ss. 212(8)**, 278(2)
- C14** Sch. 2 para. 21 restricted (18.12.1996) by 1996 c. 61, s. 52, **Sch. 15 Pt. IV para. 2(1)**
- C15** Sch. 2 para. 21 excluded (E.W.S.N.I.) (22.7.2008) by Crossrail Act 2008 (c. 18), s. 50, **Sch. 17 Pt. 4 para. 2(2)**

#### *Abandonment of apparatus*

- 22 Without prejudice to the preceding provisions of this code, where the operator has a right conferred by or in accordance with this code for the statutory purposes to keep [<sup>F69</sup>electronic communications apparatus] installed on, under or over any land, he is not entitled to keep that apparatus so installed if, at a time when the apparatus is not, or is no longer, used for the purposes of the operator's [<sup>F70</sup>network], there is no reasonable likelihood that it will be so used.

#### Textual Amendments

- F69** Words in Sch. 2 para. 22 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(a)** (with Sch. 18); 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(2)** (with art. 11)
- F70** Word in Sch. 2 para. 22 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 5(d)** (with Sch. 18); 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(2)** (with art. 11)

#### *Undertaker's works*

- 23 (1) The following provisions of this paragraph apply where a relevant undertaker is proposing to execute any undertaker's works which involve or are likely to involve a temporary or permanent alteration of any [<sup>F71</sup>electronic communications apparatus] kept installed on, under or over any land for the purposes of the operator's [<sup>F72</sup>network].
- (2) The relevant undertaker shall, not less than 10 days before the works are commenced, give the operator a notice specifying the nature of the undertaker's works, the alteration or likely alteration involved and the time and place at which the works will be commenced.
- (3) Sub-paragraph (2) above shall not apply in relation to any emergency works of which the relevant undertaker gives the operator notice as soon as practicable after commencing the works.
- (4) Where a notice has been given under sub-paragraph (2) above by a relevant undertaker to the operator, the operator may within the period of 10 days beginning

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with the giving of the notice give the relevant undertaker a counter-notice which may state either—

- (a) that the operator intends himself to make any alteration made necessary or expedient by the proposed undertaker's works; or
  - (b) that he requires the undertaker in making any such alteration to do so under the supervision and to the satisfaction of the operator.
- (5) Where a counter-notice given under sub-paragraph (4) above states that the operator intends himself to make any alteration—
  - (a) the operator shall (subject to sub-paragraph (7) below) have the right, instead of the relevant undertaker, to execute any works for the purpose of making that alteration; and
  - (b) any expenses incurred by the operator in or in connection with the execution of those works and the amount of any loss or damage sustained by the operator in consequence of the alteration shall be recoverable by the operator from the undertaker in any court of competent jurisdiction.
- (6) Where a counter-notice given under sub-paragraph (4) above states that any alteration is to be made under the supervision and to the satisfaction of the operator—
  - (a) the relevant undertaker shall not make the alteration except as required by the notice or under sub-paragraph (7) below; and
  - (b) any expenses incurred by the operator in or in connection with the provision of that supervision and the amount of any loss or damage sustained by the operator in consequence of the alteration shall be recoverable by the operator from the undertaker in any court of competent jurisdiction.
- (7) Where—
  - (a) no counter-notice is given under sub-paragraph (4) above, or
  - (b) the operator, having given a counter-notice falling within that sub-paragraph, fails within a reasonable time to make any alteration made necessary or expedient by the proposed undertaker's works or, as the case may be, unreasonably fails to provide the required supervision,the relevant undertaker may himself execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the operator; but in either case the undertaker shall execute the works to the satisfaction of the operator.
- (8) If the relevant undertaker or any of his agents—
  - (a) executes any works without the notice required by sub-paragraph (2) above having been given, or
  - (b) unreasonably fails to comply with any reasonable requirement of the operator under this paragraph,he shall, subject to sub-paragraph (9) below, be guilty of an offence and liable on summary conviction to a fine which—
  - (i) if the service provided by the operator's [<sup>F72</sup>network] is interrupted by the works or failure, shall not exceed level 4 on the standard scale; and
  - (ii) if that service is not so interrupted, shall not exceed level 3 on the standard scale.
- (9) Sub-paragraph (8) above does not apply to a Northern Ireland department.
- (10) In this paragraph—

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“relevant undertaker” means—

- (a) any person (including a local authority) authorised by any Act (whether public general or local) or by any order or scheme made under or confirmed by any Act to carry on—
  - (i) any railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking; <sup>F73</sup>or]
  - (ii) <sup>F74</sup>.....
  - (iii) <sup>F75</sup>any undertaking for the supply of water or the disposal of sewage;]
- (b) any person (apart from the operator) to whom this code is applied [<sup>F76</sup>by a direction under section 106 of the Communications Act 2003]; and
- (c) any person to whom this paragraph is applied by any Act amended by or under or passed after this Act;

“undertaker’s works” means—

- (a) in relation to a relevant undertaker falling within paragraph (a) of the preceding definition, any works which that undertaker is authorised to execute for the purposes of, or in connection with, the carrying on by him of the undertaking mentioned in that paragraph;
- (b) in relation to a relevant undertaker falling within paragraph (b) of that definition, any works which that undertaker is authorised to execute by or in accordance with any provision of this code; and
- (c) in relation to a relevant undertaker falling within paragraph (c) of that definition, the works for the purposes of which this paragraph is applied to that undertaker.

- (11) The application of this paragraph by virtue of paragraph (c) of each of the definitions in sub-paragraph (10) above to any person for the purposes of any works shall be without prejudice to its application by virtue of paragraph (a) of each of those definitions to that person for the purposes of any other works.

#### Textual Amendments

- F71** Words in Sch. 2 para. 23 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F72** Words in Sch. 2 para. 23 substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(d\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)
- F73** Word inserted (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\(3\)](#), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58
- F74** Subparagraph (a)(ii) repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), ss. 112(3)(4), [Sch. 17 para. 35\(1\)](#), [Sch. 18](#)
- F75** Subparagraph (a)(iii) repealed (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. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 41(1), 57(6), 58, [Sch. 27](#)
- F76** [Sch. 2 para. 23\(10\)](#): words in definition of “relevant undertaker” substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406,

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408, 411, **Sch. 3 para. 8** (with Sch. 18); 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(2)** (with art. 11)

#### **Modifications etc. (not altering text)**

- C16** Sch. 2 para. 23 applied (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), **ss. 50(3)(4)**, 75(9)(10)
- C17** Sch. 2 para. 23 applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 62** and Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107), s. 13(1), **Sch. 4 para. 4**
- C18** Sch. 2 para. 23 applied (E.W.) by Water Act 1989 (c. 15, SIF 130), **ss. 58(7)**, 101(1), 141(6), 160(1)(2) (4)(8), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- C19** Sch. 2 para. 23 applied (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), **ss. 95**, 134, 335, **Sch. 8 para. 11(1)**
- C20** Sch. 2 para. 23 extended (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(6), Sch. 17 paras. 33, **35(1)**
- C21** Sch. 2 para. 23 extended (E.W.S.) by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), Sch. 7 para. 2(7), **Sch. 8 para. 33**
- C22** Sch. 2 para. 23 applied (E.W.) (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 183**, 223(2), **Sch. 13 para. 4** (with savings in s. 183, Sch. 13 para. 1(1)) (as amended (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(r), **Sch. 23 para. 28(4)(f)**)
- C23** Sch. 2 para. 23 applied (E.W.) (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 178**, 225(2), **Sch. 22 para. 5** (with savings in s. 178, Sch. 22 para. 1(1))
- C24** Sch. 2 para. 23 applied (5.11.1993) by 1993 c. 42, s. 2, **Sch. 2 para. 16**.  
Sch. 2 para. 23 applied (24.4.1994) by S.I. 1994/426 (N.I. 1), **arts. 1(2)**, 12(1) (with arts. 2(3), 16)  
Sch. 2 para. 23 amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(7)**; S.I. 1996/218, **art. 2**  
Sch. 2 para. 23 applied (11.11.1996) by S.I. 1996/2714, **art. 5(6)**  
Sch. 2 para. 23 restricted (18.12.1996) by 1996 c. 61, s. 52, **Sch. 15 Pt. IV para. 2(2)**  
Sch. 2 para. 23 applied (21.5.1997) by S.I. 1997/1266, **art. 6(7)**
- C25** Sch. 2 para. 23 applied (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), **art. 4(6)** (with art. 50)
- C26** Sch. 2 para. 23 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), **arts. 1**, 245, **Sch. 10 para. 4** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
- C27** Sch. 2 para. 23 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), s. 50, **Sch. 17 Pt. 4 para. 2(1)(2)**
- C28** Sch. 2 para. 23(8) applied (with modifications) (24.4.1994) by S.I. 1994/426 (N.I. 1), **arts. 1(2)**, 12(2) (with arts. 2(3), 16)

#### *Notices under code*

24 (1) Any notice required to be given by the operator to any person for the purposes of any provision of this code must be in a form approved by <sup>[F77]</sup>OFCOM] as adequate for indicating to that person the effect of the notice and of so much of this code as is relevant to the notice and to the steps that may be taken by that person under this code in respect of that notice.

<sup>[F78]</sup>(2) A notice required to be given to any person for the purposes of any provision of this code is not to be sent to him by post unless it is sent by a registered post service or by recorded delivery.

(2A) For the purposes, in the case of such a notice, of section 394 of the Communications Act 2003 and the application of section 7 of the Interpretation Act 1978 in relation to that section, the proper address of a person is—

(a) if the person to whom the notice is to be given has furnished the person giving the notice with an address for service under this code, that address; and

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- (b) only if he has not, the address given by that section of the Act of 2003.]
- (5) If it is not practicable, for the purposes of giving any notice under this code, after reasonable inquiries to ascertain the name and address—
- (a) of the person who is for the purposes of any provision of this code the occupier of any land, or
- (b) of the owner of any interest in any land,
- a notice may be given under this code by addressing it to a person by the description of “occupier” of the land (describing it) or, as the case may be, “owner” of the interest (describing both the interest and the land) and by delivering it to some person on the land or, if there is no person on the land to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous object on the land.
- (6) In any proceedings under this code a certificate [F79 issued by OFCOM] and stating that a particular form of notice has been approved by [F80 them] as mentioned in subparagraph (1) above shall be conclusive evidence of the matter certified.

#### Textual Amendments

- F77** Words in Sch. 2 para. 24(1) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 9(1)** (with Sch. 18); 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(2)** (with art. 11)
- F78** Sch. 2 para. 24(2)(2A) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) for Sch. 2 para. 24(2)-(4) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 9(2)** (with Sch. 18); 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(2)** (with art. 11)
- F79** Words in Sch. 2 para. 24(6) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 9(3)(a)** (with Sch. 18); 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(2)** (with art. 11)
- F80** Word in Sch. 2 para. 24(6) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 106, 406, 408, 411, **Sch. 3 para. 9(3)(b)** (with Sch. 18); 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(2)** (with art. 11)

#### Appeals in Northern Ireland

- 25 Article 60 of the <sup>M21</sup>County Courts (Northern Ireland) Order 1980 (ordinary appeals from the county court in civil cases) shall apply in relation to any determination of the court in Northern Ireland under this code in like manner as it applies in relation to any decree of the court made in the exercise of the jurisdiction conferred by Part III of that Order.

#### Marginal Citations

- M21** S.I. 1980/397 (N.I. 3).

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### *Application to the Crown*

- 26 (1) This code shall apply in relation to land in which there subsists, or at any material time subsisted, a Crown interest as it applies in relation to land in which no such interest subsists.
- (2) In this paragraph “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall or to a Government department or which is held in trust for Her Majesty for the purposes of a Government department and, without prejudice to the foregoing, includes any interest which belongs to Her Majesty in right of Her Majesty’s Government in Northern Ireland or to a Northern Ireland department or which is held in trust for Her Majesty for the purposes of a Northern Ireland department.
- (3) An agreement required by this code to be given in respect of any Crown interest subsisting in any land shall be given by the appropriate authority, that is to say—
- (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or, as the case may require, the government department having the management of the land in question;
  - (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of that Duchy;
  - (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (d) in the case of land belonging to Her Majesty in right of Her Majesty’s Government in Northern Ireland, the Northern Ireland department having the management of the land in question;
  - (e) in the case of land belonging to a government department or a Northern Ireland department or held in trust for Her Majesty for the purposes of a government department or a Northern Ireland department, that department;
- and if any question arises as to what authority is the appropriate authority in relation to any land that question shall be referred to the Treasury, whose decision shall be final.
- (4) Paragraphs 12(9) and 18(3) above shall not apply where this code [<sup>F81</sup>applies in the case of the Secretary of State or a Northern Ireland department by virtue of section 106(3)(b) of the Communications Act 2003].

#### **Textual Amendments**

**F81** Words in Sch. 2 para. 26(4) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 10](#) (with [Sch. 18](#)); [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\(2\)](#) (with art. 11)

### *Savings for and exclusion of certain remedies etc.*

- 27 (1) Except in so far as provision is otherwise made by virtue of <sup>F82</sup>. . . Schedule 4 to this Act, this code shall not authorise the contravention of any provision made by or under any enactment passed before this Act.

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- (2) The provisions of this code, except paragraphs 8(5) and 21 and sub-paragraph (1) above, shall be without prejudice to any rights or liabilities arising under any agreement to which the operator is a party.
- (3) Except as provided under the preceding provisions of this code, the operator shall not be liable to compensate any person for, or be subject to any other liability in respect of, any loss or damage caused by the lawful exercise of any right conferred by or in accordance with this code.
- (4) The ownership of any property shall not be affected by the fact that it is installed on or under, or affixed to, any land by any person in exercise of a right conferred by or in accordance with this code.

#### Textual Amendments

**F82** Words in [Sch. 2 para 27\(1\)](#) repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) 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\(3\)](#))); [S.I. 2003/3142](#), **art. 3(2)** (with [art. 11](#))

#### *Application of code to existing systems*

- 28 (1) Subject to the following provisions of this paragraph, references in this code to [F83electronic communications apparatus] installed on, under or over any land include references to [F83electronic communications apparatus] so installed before this code comes into force.
- (2) Without prejudice to sub-paragraph (1) above, any line or other apparatus lawfully installed before this code comes into force which if this code had come into force could have been installed under paragraph 12 of this code shall (subject to sub-paragraph (6) below) be treated for the purposes of this code as if it had been so installed.
- (3) Any consent given (or deemed to have been given) for the purposes of any provision of the Telegraph Acts 1863 to 1916 before this code comes into force shall—
  - (a) have effect after this code comes into force as an agreement given for the purposes of this code, and
  - (b) so have effect, to any extent that is necessary for ensuring that the same persons are bound under this code as were bound by the consent, as if it were an agreement to confer a right or, as the case may require, to bind any interest in land of the person who gave (or is deemed to have given) the consent.
- (4) Where by virtue of sub-paragraph (3) above any person is bound by any right, that right shall not be exercisable except on the same terms and subject to the same conditions as the right which, by virtue of the giving of the consent, was exercisable before this code comes into force; and where under any enactment repealed by this Act those terms or conditions included a requirement for the payment of compensation or required the determination of any matter by any court or person, the amount of the compensation or, as the case may be, that matter shall be determined after the coming into force of this code in like manner as if this Act had not been passed.



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- (5) A person shall not be entitled to compensation under any provision of this code if he is entitled to compensation in respect of the same matter by virtue of sub-paragraph (4) above.
- (6) Neither this code nor the repeal by this Act of any provision of the Telegraph Acts 1863 to 1916 (which contain provisions confirming or continuing in force certain agreements) shall prejudice any rights or liabilities (including any rights or liabilities transferred by virtue of section 60 of this Act) which arise at any time under any agreement which was entered into before this code comes into force and relates to the installation, maintenance, adjustment, repair, alteration or inspection of any [F83electronic communications apparatus] or to keeping any such apparatus installed on, under or over any land.
- (7) Any person who before the coming into force of this code has—
- (a) given a notice (“the Telegraph Acts notice”) under or for the purposes of any provision of the Telegraph Acts 1863 to 1916 to any person, or
  - (b) made an application under or for the purposes of any such provision (including, in particular, an application for any matter to be referred to any court or person),
- may give a notice to the person to whom the Telegraph Acts notice was given or, as the case may be, to every person who is or may be a party to the proceedings resulting from the application stating that a specified step required to be taken under or for the purposes of this code, being a step equivalent to the giving of the Telegraph Acts notice or the making of the application, and any steps required to be so taken before the taking of that step should be treated as having been so taken.
- (8) A notice may be given under sub-paragraph (7) above with respect to an application notwithstanding that proceedings resulting from the application have been commenced.
- (9) Where a notice has been given to any person under sub-paragraph (7) above, that person may apply to the court for an order setting aside the notice on the ground that it is unreasonable in all the circumstances to treat the giving of the Telegraph Acts notice or the making of the application in question as equivalent to the taking of the steps specified in the notice under that sub-paragraph; but unless the court sets aside the notice under that sub-paragraph, the steps specified in the notice shall be treated as having been taken and any proceedings already commenced shall be continued accordingly.
- (10) Where before this code comes into force anything has, in connection with the exercise by the operator of any power conferred on him by the Telegraph Acts 1863 to 1916, been done under or for the purposes of the street works code contained in the M22Public Utilities Street Works Act 1950, that thing shall, in so far as it could have been done in connection with the exercise of any power conferred by this code, have effect after this code comes into force, without any notice being given under sub-paragraph (7) above, as if it had been done in connection with the power conferred by this code.
- (11) In relation to anything done under section 5 of Schedule 3 to the M23Water Act 1945 or section 5 of Schedule 4 to the M24Water (Scotland) Act 1980 before the coming into force of this code, the preceding provisions of this paragraph shall have effect, so far as the context permits, as if references to the Telegraph Acts 1863 to 1916 included references to that section.

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- (12) References in this paragraph to the coming into force of this code shall have effect as references to the time at which the code comes into force in relation to the operator.

#### Textual Amendments

**F83** Words in [Sch. 2 para. 28](#) substituted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 5\(a\)](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))

#### Marginal Citations

**M22** 1950 c. 39.  
**M23** 1945 c. 42.  
**M24** 1980 c. 45.

### *<sup>F84</sup>Effect of agreements concerning sharing of apparatus*

#### Textual Amendments

**F84** [Sch. 2 para. 29](#) and cross-heading inserted (25.7.2003 for certain purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 106, 406, 408, 411, [Sch. 3 para. 11](#) (with [Sch. 18](#)); [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\(2\)](#) (with [art. 11](#))

- 29 (1) This paragraph applies where—
- (a) this code has been applied by a direction under section 106 of the Communications Act 2003 in a person’s case;
  - (b) this code expressly or impliedly imposes a limitation on the use to which electronic communications apparatus installed by that person may be put or on the purposes for which it may be used; and
  - (c) that person is a party to a relevant agreement or becomes a party to an agreement which (after he has become a party to it) is a relevant agreement.
- (2) The limitation is not to preclude—
- (a) the doing of anything in relation to that apparatus, or
  - (b) its use for particular purposes,
- to the extent that the doing of that thing, or the use of the apparatus for those purposes, is in pursuance of the agreement.
- (3) This paragraph is not to be construed, in relation to a person who is entitled or authorised by or under a relevant agreement to share the use of apparatus installed by another party to the agreement, as affecting any consent requirement imposed (whether by a statutory provision or otherwise) on that person.
- (4) In this paragraph—
- “consent requirement”, in relation to a person, means a requirement for him to obtain consent or permission to or in connection with—
- (a) the installation by him of apparatus; or
  - (b) the doing by him of any other thing in relation to apparatus the use of which he is entitled or authorised to share;

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“relevant agreement” means an agreement in relation to electronic communications apparatus which—

- (a) relates to the sharing by different parties to the agreement of the use of that apparatus; and
- (b) is an agreement that satisfies the requirements of sub-paragraph (5);

“statutory provision” means a provision of an enactment or of an instrument having effect under an enactment.

(5) An agreement satisfies the requirements of this sub-paragraph if—

- (a) every party to the agreement is a person in whose case this code applies by virtue of a direction under section 106 of the Communications Act 2003; or
- (b) one or more of the parties to the agreement is a person in whose case this code so applies and every other party to the agreement is a qualifying person.

(6) A person is a qualifying person for the purposes of sub-paragraph (5) if he is either—

- (a) a person who provides an electronic communications network without being a person in whose case this code applies; or
- (b) a designated provider of an electronic communications service consisting in the distribution of a programme service by means of an electronic communications network.

(7) In sub-paragraph (6)—

“designated” means designated by an order made by the Secretary of State;

“programme service” has the same meaning as in the Broadcasting Act 1990.]

## SCHEDULE 3 U.K.

Section 75

### PENALTIES AND MODE OF TRIAL UNDER THE WIRELESS TELEGRAPHY ACT 1949

#### Modifications etc. (not altering text)

**C29** [Sch. 3](#) extended (Guernsey) (with modifications) (1.6.1994) by [S.I. 1994/1064](#), [art. 3\(1\)](#), [Sch. Pt. I](#)

**C30** [Sch. 3](#) extended (Jersey) (with modifications) (29.12.2003) by [The Wireless Telegraphy \(Jersey\) Order 2003 \(S.I. 2003/3196\)](#), [art. 3\(1\)](#), [Sch. Pt. I](#)

1 The following subsections shall be substituted for subsection (1) of section 14 of the 1949 Act—

“(1) Any person committing—

- (a) any offence under section 5(a) of this Act; or
- (b) any offence under section 13 of this Act;

shall be liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both, or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(1A) Any person committing—

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- (a) any offence under section 1(1) of this Act consisting in the installation or use, otherwise than under and in accordance with a wireless telegraphy licence, of any apparatus not designed or adapted for emission (as opposed to reception); or
- (b) any offence under section 3(2) of this Act consisting in a contravention, in relation to any such apparatus, of any regulations made under that section; or
- (c) any offence under section 11(7) or 12(5) of this Act involving or consisting in a contravention of a notice of the Secretary of State in relation to any apparatus, not being apparatus the use of which is likely to cause undue interference with any wireless telegraphy used for the purpose of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend; or
- (d) any offence under section 1(5) or 7(4) of this Act; or
- (e) any offence under section 12A of this Act; or
- (f) any offence under this Act which is an offence under section 5 or 8(2) of the Wireless Telegraphy Act 1967 (failure to comply with notices under Part I of that Act, giving false information, etc.);

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(1B) Any person committing—

- (a) any offence under section 1(1) of this Act other than one within subsection (1A)(a) of this section; or
- (b) any offence under section 11(7) of this Act other than one within subsection (1A)(c) of this section;

shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale, or both.

(1C) Any person committing any other offence under this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

<sup>F85</sup>2 .....

#### Textual Amendments

**F85** Sch. 3 para. 2 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. XIV Group 2.

3 The following provisions shall not apply where a person is convicted of an offence under the 1949 Act—

- [<sup>F86</sup>(a) section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (which gives the convicting court in England and Wales power to deprive a person convicted of an offence of property used etc. for purposes of crime); and]
- (b) [<sup>F87</sup>Part II of the Proceeds of Crime (Scotland) Act 1995] and [<sup>F88</sup>Article 11 of the Criminal Justice (Northern Ireland) Order 1994] (which give the convicting court in Scotland and Northern Ireland respectively power corresponding to the power under [<sup>F89</sup>that section]).

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### Textual Amendments

- F86** Sch. 3 para. 3(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 92(a)**
- F87** Words in Sch. 3 para. 3(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 48(4)**
- F88** Words in Sch. 3 para. 3(b) substituted (9.1.1995) by S.I. 1994/2795 (N.I. 15), art. 26(1), **Sch. 2 para. 10**; S.R. 1994/446, **art. 2**
- F89** Words in Sch. 3(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9** 92(b)

## SCHEDULE 4 **U.K.**

Section 109.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### Modifications etc. (not altering text)

- C31** Definition of "telecommunications code system" in Sch. 4 applied by [Heathrow Express Railway Act 1991 \(c. vii\)](#), **ss. 16(5), 17(2)**
- C32** Definition of "telecommunications code system" in Sch. 4 para. 1(1) applied (E.W.) (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss. 178, 225(2)**, **Sch. 22 para. 1(4)(c)**.
- C33** Definition of "telecommunications code system" in Sch. 4 para. 1(1) applied (E.W.) (1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 183, 223(2)**, **Sch. 13 para. 1(5)(c)**
- C34** Definition of "telecommunications code system" in Sch. 4 applied by [Strathclyde Regional Council Order Confirmation Act 1991 \(c. xx, SIF 200\)](#), s. 1, Sch. Pt. IV s. 11(2).

#### *Interpretation*

- 1 (1) In this Schedule and in any enactment amended by this Schedule—
- “the operator” means—
- (a) in relation to a telecommunications code system the running of which is authorised by a licence under section 7 of this Act, the person to whom the telecommunications code is applied by that licence; and
- (b) in relation to a telecommunications code system which the Secretary of State or a Northern Ireland department is running or proposing to run, the Secretary of State or, as the case may be, that department;
- “public telecommunications operator” has the meaning given by section 9(3) of this Act;
- “telecommunication apparatus” has the same meaning as in Schedule 2 to this Act;
- “telecommunication system” has the meaning given by subsection (1) of section 4 above (read with subsection (2) of that section);
- “the telecommunications code” means the code contained in Schedule 2 to this Act;
- “telecommunications code system” means—
- (a) a telecommunications system the running of which is authorised by a licence under section 7 of this Act applying the telecommunications code to any person; or
- (b) a telecommunication system which the Secretary of State or a Northern Ireland department is running or proposing to run and in

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relation to which the telecommunications code has effect by virtue of section 10(1)(b) of this Act.

- (2) Subsection (11) of section 7 of this Act shall apply for the purposes of this Schedule and any enactment amended by this Schedule as it applies for the purposes of that section and the following provisions of Part II of this Act.

### General

2

[<sup>F90</sup>A requirement to do what is necessary to inform designated persons holding office under the Crown concerning matters and things transmitted or in the course of transmission by means of telecommunication services provided by a public telecommunications operator may be laid on the operator for the like purposes and in the like manner as, immediately before the appointed day, a requirement could have been laid on British Telecommunications to do what is necessary to inform such persons concerning matters and things transmitted or in the course of transmission by means of such services provided by it.]

#### Textual Amendments

**F90** Sch. 4 para. 2 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with [art. 11](#))

#### Enactments relating to statutory undertakers, etc.

3

[<sup>F91</sup>(1) The references to British Telecommunications in the following enactments (under which British Telecommunications is a statutory undertaker and its undertaking a statutory undertaking) shall (without prejudice to the following provisions of this Schedule) cease to have effect, namely—

- (a) section 73(1) of the <sup>M25</sup>Control of Pollution Act 1974;
- (b) [<sup>F92</sup>section 10(4) of the <sup>M26</sup>Scottish Development Agency Act 1975;]
- (c) section 27(1) of the <sup>M27</sup>Welsh Development Agency Act 1975;
- (d) section 44(1) of the <sup>M28</sup>Local Government (Miscellaneous Provisions) Act 1976;
- <sup>F93</sup>(e) .....
- (f) Article 53(1) of the <sup>M29</sup>Pollution Control and Local Government (Northern Ireland) Order 1978;
- (g) section 13(4) of the <sup>M30</sup>Electricity (Scotland) Act 1979;
- (h) section 61(2) of the <sup>M31</sup>Ancient Monuments and Archaeological Areas Act 1979;
- (i) sections [<sup>F94</sup> 20(9),] 144(6), 169(4), 170(3), 178(5), [<sup>F94</sup> 181(9),] 254(6), and 290(9) of and paragraph 3(3) of Schedule 6 to the <sup>M32</sup>Highways Act 1980;
- <sup>F95</sup>(j) .....
- (k) section 79(1)(c) of the <sup>M33</sup>New Towns Act 1981;
- (l) section 8(1)(c) of the <sup>M34</sup>Acquisition of Land Act 1981;

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- (m) section 105(1) of the <sup>M35</sup>Civil Aviation Act 1982.
- (2) The following provisions of Schedule 3 to the <sup>M36</sup>1981 Act (being provisions by virtue of which British Telecommunications is for the purposes of certain enactments to be treated as a statutory undertaker, a public utility undertaking or other public body) shall cease to have effect—
- (a) paragraph 10(1) and (5) (miscellaneous);
  - (b) paragraph 23 (the <sup>M37</sup>Civil Defence Act 1939);
  - (c) paragraph 31 (the <sup>M38</sup>War Damaged Sites Act 1949);
  - (d) paragraph 39 (Schedule 4 to the <sup>M39</sup>Public Health Act 1961);
  - (e) paragraph 50 (the <sup>M40</sup>Local Government and Roads Act (Northern Ireland) 1968);
  - (f) paragraph 52 (the <sup>M41</sup>Harbours Act (Northern Ireland) 1970);
  - (g) paragraph 55(2) (the <sup>M42</sup>Planning (Northern Ireland) Order 1972);
  - (h) paragraph 66 (the <sup>M43</sup>Fair Employment (Northern Ireland) Act 1976);
  - (i) paragraph 73(2) (Schedule 16 to the <sup>M44</sup>Local Government, Planning and Land Act 1980); and
  - (j) paragraph 74(2) (certain provisions of the <sup>M45</sup>Highways Act 1980);]

#### Textual Amendments

- F91** Sch. 4 para. 3 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with [art. 11](#))
- F92** Sch. 4 para. 3(1)(b) repealed (E.W.S.) by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(2), [Sch. 5 Pt. I](#)
- F93** Sch. 4 para. 3(1)(e) repealed (1.10.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)
- F94** Words in Sch. 4 para. 3(1)(i) repealed (1.1.1993 for E.W.S and otherwise *prosp.*) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), ss. 168(2), 170, [Sch.9](#); (E.W.) S.I. 1992/2984, [art. 2\(2\)](#), [Sch. 2](#); (S.) S.I. 1992/2990, [art. 2\(2\)](#), [Sch. 2](#)
- F95** Sch. 4 para. 3(1)(j) repealed (17.2.1994) by S.I. 1993/3160 (N.I. 15), [art. 134\(3\)](#), [Sch. 11](#).

#### Marginal Citations

- M25** 1974 c. 40.  
**M26** 1975 c. 69.  
**M27** 1975 c. 70.  
**M28** 1976 c. 57.  
**M29** S.I. 1978/1049 (N.I. 19).  
**M30** 1979 c. 11.  
**M31** 1979 c. 46.  
**M32** 1980 c. 66.  
**M33** 1981 c. 64.  
**M34** 1981 c. 67.  
**M35** 1982 c. 16.  
**M36** 1981 c. 38.  
**M37** 1939 c. 31.  
**M38** 1949 c. 84.

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- M39** 1961 c. 64.
- M40** 1968 c. 30 (N.I.).
- M41** 1970 c. 1 (N.I.).
- M42** S.I. 1972/1634 (N.I. 17).
- M43** 1976 c. 25.
- M44** 1980 c. 65.
- M45** 1980 c. 66.

### *The Telegraph Acts 1863 and 1868*

**F96**<sup>4</sup> .....

#### **Textual Amendments**

**F96** Sch. 4 para. 4 repealed (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(2), **Sch. 2** (with art. 4(11))

### *The <sup>M46</sup>Foreign Enlistment Act 1870*

#### **Marginal Citations**

**M46** 1870 c. 90.

5 In section 30 of the Foreign Enlistment Act 1870 (interpretation), in the definition of “military service” for the words “military telegraphy” there shall be substituted the words “military telecommunications”.

6 **F97** .....

#### **Textual Amendments**

**F97** Sch. 4 paras. 6, 8, 9 repealed by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

### *The <sup>M47</sup>Military Tramways Act 1887*

#### **Marginal Citations**

**M47** 1887 c. 65.

**F98**<sup>7</sup> .....

#### **Textual Amendments**

**F98** Sch. 4 para. 7 repealed (E.W.S.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I**; S.I. 1992/2784, art. 2(b), **Sch. 2 Pt. I** (with art. 3(1)).



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8 F99 .....

**Textual Amendments**

**F99** Sch. 4 paras. 6, 8, 9 repealed by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(3)(4), Sch. 17 para. 35(1), Sch. 18

9 F100 .....

**Textual Amendments**

**F100** Sch. 4 paras. 6, 8, 9 repealed by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(3)(4), Sch. 17 para. 35(1), Sch. 18

*The <sup>M48</sup>Telegraph Act 1899*

**Marginal Citations**

**M48** 1899 c. 38.

10 In section 2(1) of the Telegraph Act 1899 (supplemental provision with respect to public telephonic systems by certain local authorities), for the words from “by” to “communication” there shall be substituted the words “ to run a public telecommunication system (within the meaning of the Telecommunications Act 1984) ”.

11 F101 .....

**Textual Amendments**

**F101** Sch. 4 para. 11 repealed by Cinemas Act 1985 (c. 13, SIF 45A), Sch. 3

*The <sup>M49</sup>Official Secrets Act 1911*

**Marginal Citations**

**M49** 1911 c. 28.

12 [ <sup>F102</sup>(1)

<sup>F103</sup>(2) Any telecommunications station or office belonging to, or occupied by, a public telecommunications operator shall be a prohibited place for the purposes of that Act.]

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#### Textual Amendments

**F102** Sch. 4 para. 12 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

**F103** Sch. 4 para. 12(1) repealed by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(4), **Sch. 2**

13

F104

#### Textual Amendments

**F104** Sch. 4 paras. 13, 15, 24, 34 and 70 repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

### *The <sup>M50</sup>Official Secrets Act 1920*

#### Marginal Citations

**M50** 1920 c. 75.

F105 14

#### Textual Amendments

**F105** Sch. 4 para. 14 repealed (26.3.2001) by S.I. 2001/1149, arts. 1(2), 3(2), **Sch. 2** (with art. 4(11))

15

F106

#### Textual Amendments

**F106** Sch. 4 paras. 13, 15, 24, 34 and 70 repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

### *The <sup>M51</sup>Law of Property Act 1925*

#### Marginal Citations

**M51** 1925 c. 20.

16

[<sup>F107</sup>In subsection (4) of section 194 of the Law of Property Act 1925 (under which that section does not apply, among other things, to a telegraphic line of British Telecommunications), for the words from “telegraphic line” onwards there shall be

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substituted the words “ telecommunication apparatus installed for the purposes of a telecommunications code system ”.]

#### Textual Amendments

**F107** Sch. 4 para. 16 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with [art. 11](#))

#### *The <sup>M52</sup>Roads Improvement Act 1925*

#### Marginal Citations

**M52** 1925 c. 68.

[<sup>F108</sup>17(1) For subsection (6) of section 1 of the Roads Improvement Act 1925 (which applies section 7 of the <sup>M53</sup>Telegraph Act 1878 to work in connection with the planting of trees etc. in highways) there shall be substituted the following subsections:—

“(6) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works which may be done in exercise of the powers conferred by this section, to the persons on whom those powers are conferred.

(7) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Minister.”.

(2) For subsection (9) of section 5 of the said Act of 1925 (saving for enactments relating to telegraphs) there shall be substituted the following subsection:—

“(9) Nothing in this section shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.”.]

#### Textual Amendments

**F108** Sch. 4 paras. 17, 19, 26 and 51 repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#)

#### Marginal Citations

**M53** 1878 c. 76.

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*The <sup>M54</sup>Public Health Act 1925*

**Marginal Citations**  
**M54** 1925 c. 71.

18 In section 10 of the Public Health Act 1925 (under which nothing in that Act is to affect works or apparatus of British Telecommunications), for the words from “works” to “or any” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or the execution for those purposes of any works or any ”.

*The <sup>M55</sup>Bridges Act 1929*

**Marginal Citations**  
**M55** 1929 c. 33.

[<sup>F109</sup>19 For section 13 of the Bridges Act 1929 (which applies section 7 of the Telegraph Act 1878 to work authorised or required by an order made under that Act) there shall be substituted the following section:—

“13 (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a bridge owner or highway authority for the purposes of works authorised or required by an order under this Act.

(2) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Secretary of State in any capacity.”.]

**Textual Amendments**  
**F109** Sch. 4 paras. 17, 19, 26 and 51 repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), Sch. 11

20 <sup>F110</sup> .....

**Textual Amendments**  
**F110** Sch. 4 para. 20 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1

*The <sup>M56</sup>Civil Defence Act (Northern Ireland) 1939*

**Marginal Citations**  
**M56** 1939 c. 15 (N.I.).

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21 For section 71 of the Civil Defence Act (Northern Ireland) 1939 (which applies section 7 of the <sup>M57</sup>Telegraph Act 1878 to work authorised or required to be done under that Act) there shall be substituted the following section:—

“71 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes conferred by this Act, to the persons on whom those powers are conferred.”

**Marginal Citations**

**M57** 1878 c. 76.

*The <sup>M58</sup>Water Act 1945*

**Marginal Citations**

**M58** 1945 c. 42.

[<sup>F111</sup>22(1) The Water Act 1945 shall be amended in accordance with the following provisions of this paragraph.

(2) For section 60 (which applies section 7 of the Telegraph Act 1878 to works authorised by an order under the Water Act 1945) there shall be substituted the following section:—

“60 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works the execution of which is authorised by an order under this Act, to the person authorised by that order to execute those works.”

(3) In the proviso to section 4 of Schedule 3 (subsidiary works not to interfere with telegraphic lines etc.), for the words from “telegraphic line” onwards there shall be substituted the words “telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system.”

(4) Section 5 of Schedule 3 (which confers power on a water undertaker to operate a system of telegraphic communication) shall cease to have effect.

(5) In section 70 of Schedule 3, for paragraph (a) of the proviso (works under that section not to interfere with telegraphic lines) there shall be substituted the following paragraph:—

“(a) any telecommunication apparatus kept installed for the purposes of a telecommunications code system, except in accordance with, and subject to the provisions of, the telecommunications code;”

(6) Without prejudice to section 20(2) of the <sup>M59</sup>Interpretation Act 1978 (references to enactments), references in this paragraph to a provision of the said Schedule 3 shall include references to that Schedule as incorporated or applied by or under any enactment.]

*Status: Point in time view as at 05/07/2004.*

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#### Textual Amendments

**F111** Sch. 4 paras. 22 and 42 repealed (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. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27**

#### Marginal Citations

**M59** 1978 c. 30.

#### *The <sup>M60</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947*

#### Marginal Citations

**M60** 1947 c. 42.

23 In section 3 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which empowers the Secretary of State to extinguish certain public rights of way over land acquired), after subsection (4) there shall be inserted the following subsection:—

“(4A) In subsection (4) above, the reference to apparatus belonging to statutory undertakers shall include a reference to apparatus kept installed for the purposes of a telecommunications code system; and in relation to any such apparatus the references to the undertakers shall have effect as references to the operator of the system.”.

24 **F112** .....

#### Textual Amendments

**F112** Sch. 4 paras. 13, 15, 24, 34 and 70 repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), ss. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

#### *The Roads Act (Northern Ireland) 1948*

25 For subsections (1) and (2) of section 41 of the Roads Act (Northern Ireland) 1948, as applied by any statutory provision passed before the coming into operation of the <sup>M61</sup>Roads (Northern Ireland) Order 1980, there shall be substituted the following subsections:—

“(1) Subject to subsection (1A), nothing in this Act or in any order made under it shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.

(1A) Where in pursuance of an order under section 17 any road is stopped up, diverted or abandoned and immediately before that order comes into force there is under, in, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code

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system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into force; but the Department or any person in whom the site of that road is vested shall be entitled to require the alteration of the apparatus.

- (1B) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of any work authorised to be carried out under this Act.
- (1C) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsection (1A) as it applies for the purposes of that code.
- (2) Paragraph 21 of the telecommunications code (restrictions on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

**Marginal Citations**

**M61** [S.I. 1980/1085 \(N.I. 11\)](#).

*The <sup>M62</sup>Special Roads Act 1949*

**Marginal Citations**

**M62** [1949 c. 32](#).

[<sup>F113</sup>26(1) For section 20 of the Special Roads Act 1949 (saving for British Telecommunications) there shall be substituted the following section:—

- “**20** (1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or applies to any telecommunication apparatus kept installed for the purposes of any such system.
- (2) Where in pursuance of an order under section 3 of this Act any road is stopped up or diverted and immediately before the order comes into force there is under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunication code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not become operative; but any person entitled to land over which the road subsisted shall be entitled to require the alteration of the apparatus.
- (3) Where an order under the said section 3 provides for the alteration of any road, not being a trunk road and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a

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telecommunications code system, the highway authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

- (2) In relation to an order under section 3 of the said Act of 1949 coming into force before the appointed day, section 20 of that Act shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.]

#### Textual Amendments

**F113** Sch. 4 paras. 17, 19, 26 and 51 repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), Sch. 11

#### *The <sup>M63</sup>Coast Protection Act 1949*

#### Marginal Citations

**M63** 1949 c. 74.

- 27 In section 47 of the Coast Protection Act 1949, for paragraph (b) (savings for powers or duties of British Telecommunications) there shall be substituted the following paragraph:—
- “(b) affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code;”.

#### *The National Parks and Access to the <sup>M64</sup>Countryside Act 1949*

#### Marginal Citations

**M64** 1949 c. 97.

- 28 (1) In the proviso to section 20(2) of the National Parks and Access to the Countryside Act 1949 (byelaws for protection of nature reserves not to interfere with the exercise of functions by statutory undertakers), at the end there shall be inserted the words “ or with the running of a telecommunications code system or the exercise of any right



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conferred by or in accordance with the telecommunications code on the operator of any such system.”.

- (2) [<sup>F114</sup>In section 60(5)(f) of that Act (under which land covered by works used for the purposes of a statutory undertaking is excepted land for the purposes of Part V of that Act), after the word “undertaking” there shall be inserted the words “ or a telecommunications code system ”.]

#### Textual Amendments

**F114** Sch. 4 para. 28(2) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

### *The <sup>M65</sup>Public Utilities Street Works Act 1950*

#### Marginal Citations

**M65** 1950 c. 39.

[<sup>F115</sup>29(1) The Public Utilities Street Works Act 1950 shall be amended in accordance with the following provisions of this paragraph.

- (2) In sections 3(2)(b), 4(2)(b), 6(1)(b), 10(1)(i), 26(2) and 28(3)(a) and paragraph 5(1)(b) of Schedule 1 and paragraph 1(1) of Schedule 3 (which refer to overhead telegraphic lines), for the words “an overhead telegraphic line”, wherever occurring, there shall be substituted the words “ overhead telecommunication apparatus ”.
- (3) For paragraph (c) of section 38(3) (under which the references to a service pipe or service line include certain underground telegraphic lines) there shall be substituted the following paragraph:—
- “(c) any telecommunication apparatus placed or intended to be placed underground for the purpose of providing a service by means of a telecommunication system to or from any premises, as distinct from telecommunication apparatus placed or intended to be placed for the general purposes of any such system”.
- (4) In Schedule 7 (application to London)—
- (a) in paragraph 6, for the words “overhead telegraphic lines” there shall be substituted the words “ overhead telecommunication apparatus ”; and
- (b) in paragraph 8(1), for the words “an overhead telegraphic line” there shall be substituted the words “ overhead telecommunication apparatus ”.]

#### Textual Amendments

**F115** Sch. 4 para. 29 repealed (1.1.1993 for E.W.S. and otherwise *prosp.*) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), ss. 168(2), 170, Sch.9; (E.W.) S.I. 1992/2984, art. 2, Sch.2; (S.) S.I. 1992/2990, art. 2, Sch.2

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30 F116 .....

**Textual Amendments**  
F116 Sch. 4 paras. 30, 32 repealed by Cable and Broadcasting Act 1984 (c. 46, SIF 96), Sch. 6

*The <sup>M66</sup>Local Government (Miscellaneous Provisions) Act 1953*

**Marginal Citations**  
M66 1953 c. 26.

- 31 In section 6 of the Local Government (Miscellaneous Provisions) Act 1953 (supplementary provisions as to bus shelters)—
- (a) in subsection (1), for the words from “telegraphic line” to “in obtaining” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system and the operator of that system notifies the local authority that he requires to obtain access to the apparatus, the authority shall, unless they temporarily remove the shelter or accommodation for the purpose of affording such access or so much thereof as is necessary for that purpose, be liable to repay to the operator so much of the expenses reasonably incurred by him in obtaining ”; and
  - (b) in subsection (2), for the words from “telegraphic line” to “there were” there shall be substituted the words “ telecommunication apparatus as is therein mentioned, and as if for any reference therein to the operator of the system in question there were ”.

32<sup>F117</sup>

**Textual Amendments**  
F117 Sch. 4 paras. 30, 32 repealed by Cable and Broadcasting Act 1984 (c. 46, SIF 96), Sch. 6

*The Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955*

- 33 For subsection (2) of section 17 of the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 (which applies section 7 of the <sup>M67</sup>Telegraph Act 1878 in relation to schemes under the said Act of 1955) there shall be substituted the following subsection:—
- “(2) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply by the Department for the purposes of any works authorised by a scheme under this Act.”.

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**Marginal Citations**

**M67** 1878 c. 76.

34

**F118**

**Textual Amendments**

**F118** Sch. 4 paras. 13, 15, 24, 34 and 70 repealed by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

*The <sup>M68</sup>Housing Act 1957*

**Marginal Citations**

**M68** 1957 c. 56.

[<sup>F119</sup>35(1) After section 74 of the Housing Act 1957, in Part III of that Act (clearance and redevelopment), there shall be inserted the following section:—

**“ Saving for telecommunication apparatus etc.**

- (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.
- (2) Where in pursuance of an order under section 64 of this Act a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.
- (3) The proviso to subsection (3) of the said section 64 shall have effect in relation to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, and to telecommunication apparatus kept installed for the purposes of any such system, as it has effect in relation to rights vested in and apparatus belonging to statutory undertakers.
- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement

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conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

- (2) In relation to any order under section 64 of the said Act of 1957 coming into force before the appointed day, paragraph 33 of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.]

#### Textual Amendments

**F119** Sch. 4 para. 35 repealed (E.W.) by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 3, Sch. 1 Pt. I

#### *The Land Drainage (Scotland) Act 1958*

- 36 (1) For section 17 of the <sup>M69</sup>Land Drainage (Scotland) Act 1958 (which applies section 7 of the <sup>M70</sup>Telegraph Act 1878 to works under an improvement order) there shall be substituted the following section:—

“17 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the authorised persons under an improvement order for the purposes of works in pursuance of that order.”.

- (2) In the proviso to paragraph 3 of Schedule 2 to that Act (temporary works not to interfere with telegraphic lines etc.), for the words from “telegraphic line” onwards there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ”.

#### Marginal Citations

**M69** 1958 c. 24.

**M70** 1878 c. 76.

#### *The <sup>M71</sup>Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958*

#### Marginal Citations

**M71** 1958 c. 50.

- 37 In section 3 of the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 (supplementary provisions as to bus shelters etc.)—

(a) in subsection (1), for the words from “telegraphic line” to “in obtaining” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system, and the operator of that system notifies the local authority that he requires to obtain access to that apparatus, the authority shall, unless they temporarily remove the shelter, barriers or posts for the purpose of affording such access, or

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- so much thereof as is necessary for that purpose, be liable to repay the operator of that system so much of the expenses reasonably incurred by him in obtaining ”; and
- (b) in subsection (2), for the words from “telegraphic line” to “there were” there shall be substituted the words “ telecommunication apparatus as is therein mentioned, and as if for any reference therein to the operator of the system in question there were ”.

*The<sup>M72</sup>Opencast Coal Act 1958*

**Marginal Citations**

**M72** 1958 c. 69.

- 38 (1) Section 45 of the Opencast Coal Act 1958 (provisions as to telegraphic lines) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1) (prohibition on interference with telegraphic lines), for the words from “telegraphic line” onwards there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or include any right or power to require any such apparatus to be altered ”.
- (3) For subsection (2) (application of section 7 of the Telegraph Act 1878 to authorised operations) there shall be substituted the following subsection:—
- “(2) Where an authorisation has been granted under section 1 of this Act, paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Board for the purposes of any authorised operations.”.
- (4) In subsection (3) (powers in relation to telegraphic lines where public right of way suspended), for the words from “telegraphic line” to “that line” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same rights in respect of that apparatus ”.
- (5) For subsection (4) (meaning of “telegraphic line” and “alter”) there shall be substituted the following subsection:—
- “(4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsection (1) above as it applies for the purposes of that code.”.

*The<sup>M73</sup>Flood Prevention (Scotland) Act 1961*

**Marginal Citations**

**M73** 1961 c. 41.

- 39 (1) The Flood Prevention (Scotland) Act 1961 shall be amended in accordance with the following provisions of this paragraph.

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- (2) In section 3(4) (flood prevention works affecting statutory undertakers to be carried out only with their consent, which shall not be unreasonably refused), for the words “except with the consent in writing of the statutory undertakers” there shall be substituted the words “ or any telecommunication apparatus kept installed for the purposes of a telecommunications code system or the running of any such system, except with the consent in writing of the statutory undertakers or, as the case may be, the operator of the system ”.
- (3) In the proviso to paragraph 2 of Schedule 1 (temporary works not to interfere with certain telegraphic lines etc.), for the words from “telegraphic line” onwards there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ”.
- (4) In paragraph 3(1) of Schedule 2 (which specifies the persons on whom certain notices are to be served), for paragraph (e) there shall be substituted the following paragraph:
- 
- “(e) the operator of a telecommunications code system the running of which may be affected by any of the operations or by any alteration in the flow of water caused by the operations”.

*The <sup>M74</sup>Public Health Act 1961*

**Marginal Citations**

**M74** 1961 c. 64.

40

[<sup>F120</sup>In section 29B(3) of the Public Health Act 1961 (which prevents interference with the apparatus or works of statutory undertakers), at the end there shall be inserted the words “ or with any telecommunication apparatus kept installed, or works executed, for the purposes of a telecommunications code system. ”.]

**Textual Amendments**

**F120** Sch. 4 para. 40 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)

*The <sup>M75</sup>Pipe-lines Act 1962*

**Marginal Citations**

**M75** 1962 c. 58.

41

In section 40 of the Pipe-lines Act 1962 (avoidance of interference with telegraphic lines etc.)—

- (a) in subsection (1), for the words from “telegraphic line” to “such line” there shall be substituted the words “ telecommunication apparatus kept installed

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- for the purposes of a telecommunications code system or with the service provided by any such system”; and
- (b) for subsections (2) and (3) there shall be substituted the following subsection:—

“(2) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works in pursuance of a compulsory rights order, to the person authorised to execute those works.”.

*The <sup>M76</sup>Water Resources Act 1963*

**Marginal Citations**

**M76** 1963 c. 38.

[<sup>F121</sup>42(1) In section 67 of the Water Resources Act 1963 (compulsory powers for carrying out engineering or building operations), after subsection (5) there shall be inserted the following subsection:—

“(5A) An order under this section shall not authorise the doing of anything to or in relation to any telecommunication apparatus kept installed for the purposes of a telecommunications code system.”.

(2) For section 130 of that Act (which applies section 7 of the <sup>M77</sup>Telegraph Act 1878 to engineering or building operations of a water authority) there shall be substituted the following section:—

“**130** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a water authority for the purposes of engineering or building operations of the authority.”.]

**Textual Amendments**

**F121** Sch. 4 paras. 22 and 42 repealed (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. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27**

**Marginal Citations**

**M77** 1878 c. 76.

*The <sup>M78</sup>Harbours Act 1964*

**Marginal Citations**

**M78** 1964 c. 40.

43 For section 53 of the Harbours Act 1964 (saving for telegraphic lines) there shall be substituted the following section:—

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“53 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works in pursuance of a harbour revision order and works authorised by a harbour empowerment order, to the person authorised to execute those works.”.

*The New Towns Act (Northern Ireland) 1965*

44 (1) In section 25 of the New Towns Act (Northern Ireland) 1965 (extinguishment of public rights of way), after subsection (9) there shall be inserted the following subsections:—

“(9A) Where in pursuance of an order under this section a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way existed shall be entitled to require the alteration of the apparatus.

(9B) Where the Department has approved an order under this section in respect of any right of way in circumstances in which subsection (9A) applies in relation to the operator of any telecommunications code system, the Department shall send a copy of the order to the operator.

(9C) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal, or replacement of apparatus) shall apply for the purposes of subsection (9A) as it applies for the purposes of that code.

(9D) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(2) In relation to an order under section 25 of the said Act of 1965 coming into force before the appointed day, paragraph 76(2) of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

*The <sup>M79</sup>Housing (Scotland) Act 1966*

**Marginal Citations**

M79 1966 c. 49.

[<sup>F122</sup>45 After section 57 of the Housing (Scotland) Act 1966, in Part III of that Act (clearance), there shall be inserted the following section:—



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### “ Saving for telecommunication apparatus.

Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.”.]

#### Textual Amendments

**F122** Sch. 4 para. 45 repealed (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

### *The <sup>M80</sup>Countryside (Scotland) Act 1967*

#### Marginal Citations

**M80** 1967 c. 86.

- 46 (1) In section 11(5)(f) of the Countryside (Scotland) Act 1967 (under which land covered by works used for the purposes of a statutory undertaking is excepted land for the purposes of Part II of that Act), after the words “statutory undertaking” there shall be inserted the words “ or a telecommunications code system ”.
- (2) In subsection (7) of section 38 of that Act (saving in respect of telegraphic lines in the case of the closure or diversion of a public path), for the words from “any telegraphic line” to the end of the proviso there shall be substituted the words “ any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not come into force; but any person entitled to land over which the path subsisted shall be entitled to require the alteration of the apparatus ”; and after that subsection there shall be inserted the following subsections:—
- “(8) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (9) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (3) In relation to any such order as is mentioned in the said subsection (7) coming into force before the appointed day, that subsection shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (2) above.
- (4) In subsection (6) of section 54 of the said Act of 1967 (byelaws for the protection of the countryside etc. not to interfere with the exercise of functions by statutory undertakers), at the end there shall be inserted the words “ or with the running of

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a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system.”.

*The <sup>M81</sup>New Towns (Scotland) Act 1968*

**Marginal Citations**

**M81** 1968 c. 16.

- 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 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

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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.”.

*The <sup>M82</sup>Countryside Act 1968*

**Marginal Citations**

**M82** 1968 c. 41.

- 48 (1) In subsections (4) and (12) of section 41 of the Countryside Act 1968 (certain byelaws not to interfere with exercise of certain functions), at the end there shall be inserted the words “ or with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system ”.
- (2) In paragraph 6 of Schedule 2 to that Act (saving for rights 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. ”.

*The <sup>M83</sup>Sewerage (Scotland) Act 1968*

**Marginal Citations**

**M83** 1968 c. 47.

- 49 In section 22(1) of the Sewerage (Scotland) Act 1968 (Part I of that Act not to authorise interference with carrying on of a statutory undertaking), for the words from “without” onwards there shall be substituted the words “ or the running of a telecommunications code system without the consent of the statutory undertakers concerned or, as the case may be, of the operator of that system. ”.

*The <sup>M84</sup>Post Office Act 1969*

**Marginal Citations**

**M84** 1969 c. 48.

F12350 .....

*Status: Point in time view as at 05/07/2004.*

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### Textual Amendments

**F123** Sch. 4 para. 50 repealed (26.3.2001) by 2000 c. 26, s. 127(6), Sch. 9; S.I. 2001/1148, art. 2, Sch. (with art. 34)

### *The <sup>M85</sup>Roads (Scotland) Act 1970*

### Marginal Citations

**M85** 1970 c. 20.

[<sup>F124</sup>51(1) The Roads (Scotland) Act 1970 shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (6) of section 7 (power to divert waters after consulting local authority and other bodies acting under statutory powers), at the end there shall be inserted the words “; and in subsection (3) above the reference to a body acting under statutory powers includes a reference to the operator of a telecommunications code system (whether or not a body) acting in pursuance of any right conferred by or in accordance with the telecommunications code.”.

(3) For subsection (3) of section 9 (which applies section 7 of the <sup>M86</sup>Telegraph Act 1878 to work authorised by a scheme made by a highway authority) there shall be substituted the following subsections:—

“(3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works authorised by a scheme made by a highway authority under this section, to the person authorised to do the works.

(4) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to a highway authority in relation to a trunk road.”.

(4) In section 50 (interpretation)—

(a) in subsection (1), for the definition of statutory undertakers there shall be substituted the following definition:—

““statutory undertakers” means—

(a) any statutory undertakers as defined in section 275(1) of the Town and Country Planning (Scotland) Act 1972;

(b) the Post Office; and

(c) except in section 39(4) of this Act, the operator of any telecommunications code system;”;

(b) after subsection (2) there shall be inserted the following subsection—

“(2A) Any reference in this Act to apparatus belonging to statutory undertakers shall, in relation to the operator of a telecommunications code system, have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.”.]

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#### Textual Amendments

**F124** Sch. 4 paras. 17, 19, 26 and 51 repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#)

#### Marginal Citations

**M86** 1878 c. 76.

#### *The Harbours Act (Northern Ireland) 1970*

52 For section 37 of the Harbours Act (Northern Ireland) 1970 (which applies sections 6 and 7 of the Telegraph Act 1878 in relation to a harbour order) there shall be substituted the following section:—

“**37** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a person authorised by a harbour order to execute any works, for the purposes of those works.”.

53<sup>F125</sup>

#### Textual Amendments

**F125** Sch. 4 para. 53 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, [Sch. 1 Pt. I](#)

#### *The<sup>M87</sup>Town and Country Planning (Scotland) Act 1972*

#### Marginal Citations

**M87** 1972 c. 52.

<sup>F126</sup>54

#### Textual Amendments

**F126** Sch. 4 para. 54 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), [Sch. 1 Pt. I](#) (with s. 5, [Sch. 3](#))

#### *The<sup>M88</sup>Electricity Supply (Northern Ireland) Order 1972*

#### Marginal Citations

**M88** S.I. 1972/1072 (N.I. 9).

55 (1) [<sup>F127</sup>The Electricity Supply (Northern Ireland) Order 1972 shall be amended in accordance with the following provisions of this paragraph.]

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- (2) <sup>F128</sup> .....
- (3) <sup>F128</sup> .....
- (4) <sup>F128</sup> .....
- (5) <sup>F128</sup> .....
- (6) <sup>F128</sup> .....
- (7) [<sup>F127</sup>In paragraph 3 of Schedule 3 (works in or under roads or bridges), the references to British Telecommunications shall have effect as references to the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed in, under, along or across the road or bridge mentioned in that paragraph.]
- (8) <sup>F128</sup> .....
- (9) <sup>F128</sup> .....
- (10) <sup>F128</sup> .....
- (11) <sup>F128</sup> .....

#### Textual Amendments

**F127** Sch. 4 para. 55(1)(7) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

**F128** Sch. 4 para. 55(2)-(6) (8)-(11) repealed (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(4), **Sch. 14**; S.R. 1992/117, **art. 3(1)**

#### *The <sup>M89</sup>Planning (Northern Ireland) Order 1972*

#### Marginal Citations

**M89** S.I. 1972/1634 (N.I. 17).

- [<sup>F129</sup>56(1) The power to make a development order under Article 13 of the Planning (Northern Ireland) Order 1972 (development orders) shall include power—
- (a) to repeal paragraph 12(3) of Schedule 5 to that Order and sub-paragraph (5) below; and
  - (b) to make any such provision as is mentioned in that Article in relation to cases in which planning permission is required by virtue of that repeal;
- and the power conferred by virtue of this sub-paragraph shall include power to make different provision for different cases.
- (2) In Article 80(2) of that Order (copies of notices to be served on certain persons), at the end there shall be inserted the words “ and on the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed along, across, under or over any such land. ”.

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(3) For Article 81 of that Order (telegraphic lines) there shall be substituted the following Article;—

“81 (1) Where an order is made under Article 79 and immediately before the date on which the order became operative there was, under, in, on, over, along or across the right of way any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not become operative; but the Department shall be entitled to require the alteration of the apparatus.

(2) If the operator of a telecommunications code system removes any telecommunication apparatus in circumstances in which paragraph (1) applies and serves a notice on the Department notifying the Department of the removal, the operator shall be entitled to recover from the Department the expense of providing in substitution for the apparatus and any telecommunication apparatus connected therewith which is rendered useless in consequence of the removal, any telecommunication apparatus in such other place as the operator may require.

(3) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purpose of that code.

(4) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(4) In relation to an order under Article 79 of that Order which becomes operative before the appointed day, Article 81 of that Order shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (3) above.

(5) <sup>F130</sup> .....]

**Textual Amendments**  
**F129** Sch. 4 para. 56 repealed (N.I.) (21. 8. 1991) by S.I. 1991/1220, arts. 1, 133(2), Sch. 6  
**F130** Sch. 4 para. 56(5) repealed by S.I. 1985/366, art. 5

*The <sup>M90</sup>Fair Trading Act 1973*

**Marginal Citations**  
**M90** 1973 c. 41.

57 <sup>F131</sup> .....



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#### Textual Amendments

**F131** Sch. 4 para. 57 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 8, 10)

#### *The<sup>M91</sup> Drainage (Northern Ireland) Order 1973*

#### Marginal Citations

**M91** S.I. 1973/69 (N.I. 1).

58 (1) For paragraph 3 of Schedule 9 to the Drainage (Northern Ireland) Order 1973, there shall be substituted the following paragraph;—

“3 (1) Subject to the provisions of this paragraph, nothing in this Order or any scheme made thereunder shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or authorise the Department to interfere with any telecommunication apparatus kept installed for the purposes of any such system.

(2) Where for the purposes of carrying out any scheme, the Department diverts or closes any public road, or any part of a public road, under, in, on, over, along or across which there is any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if such road or part had not been diverted or closed; but the Department or any person in whom the site of that road, or part of a road, is vested shall be entitled to require the alteration of the apparatus.

(3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of the carrying out of any drainage scheme or of a confirmed scheme under Schedule 7.

(4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this paragraph as it applies for the purposes of the code.

(5) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this paragraph to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(2) Where in any case a public road or part of a public road is diverted or closed as mentioned in sub-paragraph (2) of paragraph 3 of the said Schedule 9 before the appointed day, that paragraph 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 (1) above.

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*The <sup>M92</sup>Water and Sewerage Services (Northern Ireland) Order 1973*

**Marginal Citations**

**M92** S.I. 1973/70 (N.I. 2).

- 59 In article 58 of the Water and Sewerage Services (Northern Ireland) Order 1973 (protection of telegraphic and telephonic wires), in paragraph (1), for the words “telegraphic, telephonic or electric signalling communication” there shall be substituted the word “telecommunications”.

*The <sup>M93</sup>Consumer Credit Act 1974*

**Marginal Citations**

**M93** 1974 c. 39.

- 60 (1) In section 16(6) of the Consumer Credit Act 1974 (power by order to provide exemption from the regulation of consumer hire agreements), for the words after paragraph (b) there shall be substituted the words “or where the owner is a public telecommunications operator specified in the order”.

(2) <sup>F132</sup> .....

**Textual Amendments**

**F132** Sch. 4 para. 60(2) repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 8, 10)

*The <sup>M94</sup>Housing (Scotland) Act 1974*

**Marginal Citations**

**M94** 1974 c. 45.

- 61 (1) After section 36 of the Housing (Scotland) Act 1974, in Part II of that Act (substandard houses), there shall be inserted the following section;—

**“36A Saving for telecommunication apparatus etc.**

- (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.
- (2) Where in pursuance of an order under section 33 of this Act a public right of way over land is extinguished or a street is closed or diverted, and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land or street any telecommunication apparatus kept installed for the purposes of a telecommunications code

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system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.

- (3) The proviso to subsection (4) of the said section 33 shall have effect in relation to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system and to telecommunication apparatus kept installed for the purposes of any such system as it has effect in relation to rights vested in and apparatus belonging to statutory undertakers.
  - (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
  - (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (2) In relation to an order under section 33 of the said Act of 1974 coming into force before the appointed day, paragraph 47 of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

62

F133 .....

**Textual Amendments**

F133 Sch. 4 para. 62 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

*The <sup>M95</sup>Scottish Development Agency Act 1975*

**Marginal Citations**

M95 1975 c. 69.

[<sup>F134</sup>63 For subsection (8) of section 10 of the Scottish Development Agency Act 1975 (saving for Telegraph Acts 1863 to 1916 in respect of powers of entry) there shall be substituted the following subsection:—

“(8) Nothing in this section shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system.”.]

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#### Textual Amendments

**F134** Sch. 4 para. 63 repealed (E.W.S.) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 38(2), **Sch. 5 Pt. I**

64

**F135** .....

#### Textual Amendments

**F135** Sch. 4 para. 64 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**

### *The <sup>M96</sup>Restrictive Trade Practices Act 1976*

#### Marginal Citations

**M96** 1976 c. 34.

65

[<sup>F136</sup>In section 41(1)(a) of the Restrictive Trade Practices Act 1976 (disclosure of information), after the words “the Director,” there shall be inserted the words “ the Director General of Telecommunications, ” and after the words “the <sup>M97</sup>Competition Act 1980” there shall be inserted the words “ or the Telecommunications Act 1984 ”.]

#### Textual Amendments

**F136** Sch. 4 para. 65 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

#### Marginal Citations

**M97** 1980 c. 21.

### *The <sup>M98</sup>Land Drainage Act 1976*

#### Marginal Citations

**M98** 1976 c. 70.

[<sup>F137</sup>66(1) In section 23(4) of the Land Drainage Act 1976 (notice of arrangements to be given to British Telecommunications and to be published), for the words from “give” to “like notice” there shall be substituted the words “ publish a notice of their intention ”.

(2) In section 112(2) of that Act (which specifies the undertakings whose property and works are not to be interfered with by work under that Act), after paragraph (d) there shall be inserted the following paragraph:—

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“(e) any undertaking consisting in the running of a telecommunications code system.”.]

**Textual Amendments**

**F137** Sch. 4 para. 66 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3, Pt.1.**(with Sch. 2, paras. 10, 14(1), 15).

*The <sup>M99</sup>Development of Rural Wales Act 1976*

**Marginal Citations**

**M99** 1976 c. 75.

**F138**<sup>67</sup> .....

**Textual Amendments**

**F138** Sch. 4 para. 67 repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

*The <sup>M100</sup>Gas (Northern Ireland) Order 1977*

**Marginal Citations**

**M100** S.I. 1977/596 (N.I. 7).

**F139**<sup>68</sup> .....

**Textual Amendments**

**F139** Sch. 4 para. 68 repealed (10.6.1996) by S.I. 1996/275 (N.I. 2), art. 71(4), **Sch. 8**; S.R. 1996/216, **art. 2** (with arts. 3, 4)

*The <sup>M101</sup>Rates (Northern Ireland) Order 1977*

**Marginal Citations**

**M101** S.I. 1977/2157 (N.I. 28).

**F140**<sup>69</sup> .....

**Textual Amendments**

**F140** Sch. 4 para. 69 repealed (20.2.1997) by S.I. 1996/3162 (N.I. 25), art. 13, **Sch.**

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70 F141 .....

**Textual Amendments**  
F141 Sch. 4 paras. 13, 15, 24, 34 and 70 repealed by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(3)(4), Sch. 17 para. 35(1), Sch. 18

*The<sup>M102</sup>Land Registration (Scotland) Act 1979*

**Marginal Citations**  
M102 1979 c. 33.

71 In section 28(1) of the Land Registration (Scotland) Act 1979 (interpretation etc.), in the definition of “overriding interest”, after paragraph (e) there shall be inserted the following paragraph:—  
“(ee) the operator having a right conferred in accordance with paragraph 2, 3 or 5 of Schedule 2 to the Telecommunications Act 1984 (agreements for execution of works, obstruction of access, etc.);”.

*The<sup>M103</sup>Estate Agents Act 1979*

**Marginal Citations**  
M103 1979 c. 38.

72 F142 .....

**Textual Amendments**  
F142 Sch. 4 para. 72 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 8, 10)

*The<sup>M104</sup>Competition Act 1980*

**Marginal Citations**  
M104 1980 c. 21.

73 F143 .....

**Textual Amendments**  
F143 Sch. 4 para. 73 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 8, 10)

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### *The <sup>M105</sup>Water (Scotland) Act 1980*

#### **Marginal Citations**

**M105** 1980 c. 45.

- 74 (1) Schedule 4 to the Water (Scotland) Act 1980 (provisions to be incorporated in orders relating to water undertakers) shall be amended in accordance with the following provisions of this paragraph.
- (2) In the proviso to section 4 of the Schedule (subsidiary works not to interfere with telegraphic lines etc), for the words from “telegraphic line” onwards there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ”.
- (3) Section 5 of the Schedule (which confers power on a water undertaking to operate a system of telegraphic communication) shall cease to have effect.
- (4) In section 36 of the Schedule, for paragraph (a) of the proviso (works under that section not to interfere with telegraphic lines) there shall be substituted the following paragraph:—
- “(a) any telecommunication apparatus kept installed for the purposes of a telecommunications code system, except in accordance with, and subject to the provisions of, the telecommunications code; or”.
- (5) Without prejudice to section 20(2) of the <sup>M106</sup>Interpretation Act 1978 (references to enactments), references in this paragraph to the said Schedule 4 shall include references to that Schedule as incorporated or applied by or under any enactment.

#### **Marginal Citations**

**M106** 1978 c. 30.

### *The <sup>M107</sup>Local Government, Planning and Land Act 1980*

#### **Marginal Citations**

**M107** 1980 c. 65.

- 75 (1) Schedule 28 to the Local Government, Planning and Land Act 1980 shall be amended as follows.
- (2) In paragraph 5(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 paragraph 6(2) (under which the power to override easements etc. shall not be used to interfere with rights vested in, or belonging to, statutory undertakers), at the end

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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 paragraph 13 (which contains provision with respect to telegraphic lines where a public right of way is extinguished under that Schedule) there shall be substituted the following paragraph:—

“13 (1) Where an order under paragraph 11 above extinguishing a public right of way is made on the application of an urban development corporation or local highway authority, and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph 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), the operator of the system shall be deemed at the end of that period to have abandoned any part of the 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 preceding provisions of this sub-paragraph 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) As soon as practicable after the making of an order under paragraph 11 above extinguishing a public right of way in circumstances in which sub-paragraph (1) above applies in relation to the operator of any telecommunications code system, the Secretary of State shall give notice to the operator of the making of the order.”.

- (5) Where in any case a notice has been given before the appointed day under paragraph 11(2) of the said Schedule 28 (notice of proposal to extinguish right of way) paragraph 13 of the said Schedule 28 shall have effect in relation to that case,



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notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.

- (6) In paragraph 14 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), for sub-paragraphs (7) and (8) there shall be substituted the following sub-paragraph:—

“(7) Except in a case in which paragraph 13 above has effect—

- (a) the reference in paragraph (a) of sub-paragraph (1) 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 sub-paragraph 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 sub-paragraph, in this paragraph (except the said paragraphs (a) and (b)) and in paragraph 15 below, references to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”

- (7) In paragraph 16 (notice given by statutory undertakers), after sub-paragraph (8) there shall be inserted the following sub-paragraph:—

“(9) In sub-paragraph (1)(a) above, the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system; and for the purposes of this sub-paragraph, in this paragraph references (except in the said sub-paragraph (1)(a)) to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”

*The <sup>M108</sup>Highways Act 1980*

**Marginal Citations**

**M108** 1980 c. 66.

- 76 (1) The Highways Act 1980 shall be amended in accordance with the following provisions of this paragraph.

- (2) In section 35 (creation of walkways by agreement)—

- (a) in subsection (11)(c), for the words from “authorities” to “place” there shall be substituted for words “ authorities and the operators of telecommunications code systems to place ”; and
- (b) in subsection (12), for the words from “authorities” to “place” there shall be substituted the words “ authorities or the operators of telecommunications code systems to place ”.

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- (3) In section 115D (which limits the way in which certain powers may be exercised), at the end there shall be inserted the words
- “; or
- (d) as to prevent the operator of a telecommunications code system having access to any telecommunication apparatus kept installed for the purposes of that system under, in, on or over the highway.”.
- (4) In section 142(5) (under which licences to plant trees may contain conditions for the protection of the apparatus of statutory undertakers), for the words from “and”, in the fourth place where it occurs, onwards there shall be substituted the words “ and the operators of telecommunications code systems ”.
- (5) In subsection (6) of section 144 (powers to erect flagpoles on highways), in the definition of “statutory undertakers”, at the end there shall be inserted the words “ and the operator of a telecommunications code system ”.
- [<sup>F144</sup>(6) In section 156(4) (which authorises works relating to an overhead telegraphic line), for the words “an overhead telegraphic line” there shall be substituted the words “ overhead telecommunication apparatus ”.]
- (7) In section 157(9) (meaning of undertakers), for the words from “means” onwards there shall be substituted the words “ means persons having powers to break up or open highways in Greater London for the purposes of any sewerage system, any water, gas, electricity, tramway or other undertaking or any telecommunications code system ”.
- (8) In section 169(4) (which, among other things, defines “statutory undertakers” for the purposes of provisions relating to scaffolding and building materials in highways), at the end there shall be inserted the words “ and the operator of a telecommunications code system ”.
- (9) In subsection (3) of section 170 (control of mixing of mortar on highways), in the definition of “statutory undertakers”, at the end there shall be inserted the words “ and the operator of a telecommunications code system ”.
- (10) In section 177 (restriction on construction of buildings over highways)—
- (a) in subsection (4) (no interference with the rights of statutory undertakers), for the words from “statutory undertakers” onwards there shall be substituted the words “ statutory undertakers or the operator of a telecommunications code system ”; and
- (b) for subsection (12) (which applies section 7 of the <sup>M109</sup>Telegraph Act 1878 to work authorised or required by a licence under section 177) there shall be substituted the following subsection:—
- “(12) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works authorised or required by a licence under this section to be executed, to the licensee.”.
- (11) In section 178(5) (statutory undertakers for the purposes of the licensing of the placing of rails, beams, etc.), for the words from “and”, in the second place where it occurs, onwards there shall be substituted the words “ the Post Office and the operator of a telecommunications code system are to be deemed to be statutory undertakers ”.

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- [<sup>F144</sup>(12) In section 181 (provisions relating to placing of certain apparatus in highways)—
- (a) in subsection (7) (which relates to licences of the Secretary of State or British Telecommunications), for the words from “licence”, in the third place where it occurs, to “required” there shall be substituted the words “ licence of the Secretary of State is required ”;
  - (b) in subsection (8) (which provides that that section does not apply to the apparatus of statutory undertakers), at the end there shall be inserted the words “ or to any apparatus which the operator of a telecommunications code system places, maintains, repairs or reinstates in or under the highway in question in pursuance of a right conferred by or in accordance with the telecommunications code. ”; and
  - (c) in subsection (9) (meaning of statutory undertakers), for the words from “include” onwards there shall be substituted the words “ except in subsection (8) above, include the operator of a telecommunications code system ”.]
- (13) In section 329 (interpretation), after subsection (4) there shall be inserted the following subsection:—
- “(4A) Any reference in this Act to apparatus belonging to, or used or maintained by the operator of a telecommunications code system shall have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.”.
- (14) For section 334 (savings for British Telecommunications) there shall be substituted the following section:—
- “**334**(1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or applies to any telecommunication apparatus kept installed for the purposes of any such system; but this subsection does not affect the operation of sections 156 to 159 above.
- (2) Where—
- (a) land is conveyed by a highway authority in pursuance of section 256 above, or
  - (b) a highway is stopped up or diverted in pursuance of an order to which this paragraph applies,
- and immediately before the conveyance or, as the case may be, at the beginning of the day on which the order comes into force there is under, in, upon, over, along or across the land conveyed or, as the case may be, the highway stopped up or diverted any telecommunication apparatus kept installed for the purposes of a telecommunications code system, then the provisions of subsection (3) below have effect.
- Paragraph (b) above applies to the following orders, namely an order made or confirmed by the Minister under section 14 or 18 above, a public path extinguishment order and a public path diversion order.
- (3) In the circumstances mentioned in subsection (2) above, the operator of the telecommunications code system has the same power in respect of the telecommunication apparatus as if the conveyance had not been made or,

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as the case may be, the order had not come into force; but the transferee of the land or, as the case may be, any person entitled to land over which the stopped up or diverted highway subsisted shall be entitled to require the alteration of the apparatus.

- (4) Where in pursuance of an order made by a magistrates' court under section 116 above a highway is stopped up or diverted, the following provisions of this subsection have effect in relation to so much of any telecommunication apparatus kept installed for the purposes of a telecommunications code system as is under, in, upon, over, along or across land which by reason of the stopping up or diversion ceases to be a highway ("the affected apparatus")—
- (a) the power of the operator of the system to remove the affected apparatus is exercisable notwithstanding the making of the order, so however that the said power is not exercisable, as respects the whole or any part of the affected apparatus, after the expiration of a period of 3 months from the date of the sending of the notice referred to in subsection (5) below unless before the expiration of that period the operator of the system has given notice to the authority on whose application the order was made of his intention to remove the affected apparatus or that part of it, as the case may be;
  - (b) the operator of the system may by notice in that behalf to the said authority abandon the affected apparatus or any part of it, and is to be deemed, as respects the affected apparatus or any part of it, to have abandoned it at the expiration of the said period of 3 months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
  - (c) the operator of the system is entitled to recover from the said authority the expense of providing, in substitution for the affected apparatus and any telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the affected apparatus, any telecommunication apparatus in such other place as he may require;
  - (d) where under paragraph (b) above the operator of the system has abandoned the whole or any part of the affected apparatus, it vests in the authority there referred to and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.
- (5) As soon as practicable after the making of an order under section 116 above in circumstances in which subsection (4) above applies in relation to the operator of any telecommunications code system the authority on whose application the order was made shall by notice to the operator inform him of the making of the order.
- (6) Where an order under section 14 or 18 above provides for the alteration of a highway and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the highway authority shall be entitled to require the alteration of the apparatus.

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This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purposes of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

- (7) Where in pursuance of an order under section 14 or 18 above a highway is stopped up or diverted, or an order under either of those sections provides for the alteration of a highway, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system then, without prejudice to subsections (2), (3) and (6) above, the provisions of subsection (8) below have effect.
- (8) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates and of any works authorised by the order, to the Minister or other highway authority by whom the order in question was made.
- (9) Without prejudice to the code in Part II of the Public Utilities Street Works Act 1950 (relations between an authority carrying out road alterations and undertakers whose apparatus is thereby affected) the said paragraph 23 shall apply for the purposes of—
- (a) any work authorised or required by an order under section 93 above to be done by a highway authority or the owners of a bridge,
  - (b) any work which a highway authority is authorised to carry out under section 96 above, and
  - (c) any work authorised or required by a licence under section 176 above to be done by the person to whom the licence is granted,
- to the authority or person authorised or required to carry out the work.
- (10) Where, in pursuance of any order or scheme made or confirmed under this Act, a navigable watercourse is diverted and, immediately before the date on which the order or scheme comes into force, there is under, in, upon, over, along or across the watercourse, or any towing path or other way adjacent to it, any telecommunications code system, the operator of that system has the same powers in respect of that apparatus as if the order or scheme had not come into force; but—
- (a) the highway authority by whom the order or scheme was made, or
  - (b) any person entitled to land on which so much of the watercourse, towing path or way as is diverted in pursuance of the order or scheme was previously situated,
- shall be entitled to require the alteration of the apparatus.
- (11) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Minister.
- (12) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.

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(13) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”

(15) In relation—

- (a) to a conveyance before the appointed day made in pursuance of section 256 of the <sup>M110</sup>Highways Act 1980, and
- (b) to an order coming into force before the appointed day to which subsection (2)(b), (4), (6), (7) or (10) of section 334 of that Act applies immediately before that day,

the said section 334 shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (14) above.

**Textual Amendments**

**F144** Sch. 4 para. 76(6)(12) repealed (1.1.1993 for E.W.S. and otherwise *prosp.*) by [New Roads and Street Works Act 1991 \(c. 22\)](#), ss. 168(2), 170, [Sch.9](#); (E.W.) [S.I. 1992/2984](#), art. 2, [Sch.2](#); (S.) [S.I. 1992/2990](#), art. 2(2), [Sch.2](#)

**Marginal Citations**

**M109** 1878 c. 76.  
**M110** 1980 c. 66.

*The <sup>M111</sup>Roads (Northern Ireland) Order 1980*

**Marginal Citations**

**M111** [S.I. 1980/1085 \(N.I. 11\)](#).

**F145**<sup>77</sup> .....

**Textual Amendments**

**F145** Sch. 4 para. 77 repealed (17.2.1994) by [S.I. 1993/3160 \(N.I. 15\)](#), art. 134(3), [Sch.11](#).

*The <sup>M112</sup>British Telecommunications Act 1981*

**Marginal Citations**

**M112** 1981 c. 38.

**F146**<sup>78</sup> .....

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### Textual Amendments

**F146** Sch. 4 para. 78 repealed (26.3.2001) by 2000 c. 26, s. 127(6), Sch. 9; S.I. 2001/1148, art. 2, Sch. (with art. 34)

### *The <sup>M113</sup>New Towns Act 1981*

### Marginal Citations

**M113** 1981 c. 64.

- 79 (1) The New Towns Act 1981 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 16(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 section 19(2) (under which the power to override easements 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, 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 that 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 apparatus which he has then neither removed nor given notice of his intention to remove;

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- (d) the operator of the system shall be entitled to recover from the corporation or authority the expenses 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 preceding 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 above in circumstances in which subsection (1) above 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 1981 (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), for subsection (8) there shall be substituted 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 7 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) In section 39 (power of development corporation to transfer undertakings), after subsection (6) there shall be inserted the following subsection:—
- “(7) This section 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—



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- (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.”.

*The<sup>M114</sup> Acquisition of Land Act 1981*

**Marginal Citations**

**M114** 1981 c. 67.

- 80 (1) [F147 At the end of section 28 of the Acquisition of Land Act 1981 (acquisition of rights over land by the creation of new rights) there shall be added the following paragraph:—

“(f) section 34(3) of the Telecommunications Act 1984”.]

- (2) In section 32 of that Act (power to extinguish certain rights of way), after subsection (6) (which contains a saving in relation to the apparatus of statutory undertakers) there shall be inserted the following subsection:—

“(6A) In subsection (6) above the reference to apparatus belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system and in relation to any such apparatus—

- (a) the references to the undertakers shall have effect as references to the operator of the system in question; and
- (b) the reference to the appropriate Minister shall have effect as a reference to the Secretary of State.”.

**Textual Amendments**

**F147** Sch. 4 para. 80(1) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with art. 11)

*The<sup>M115</sup> Broadcasting Act 1981*

**Marginal Citations**

**M115** 1981 c. 68.

- [F148] In section 3 of the Broadcasting Act 1981 (powers of the IBA)—

(a) in subsection (1)(c), for the words “British Telecommunications” there shall be substituted the words “ operators of telecommunications code systems ”; and

(b) in subsection (7), for the words “section 15 of the<sup>M116</sup> British Telecommunications Act 1981” there shall be substituted the words “ section 7 of the Telecommunications Act 1984 ”.]

*Status: Point in time view as at 05/07/2004.*

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#### Textual Amendments

**F148** Sch. 4 para. 81 repealed (1.1.1991) by Broadcasting Act 1990 (c.42, SIF 96), ss. 4(6), 87(6), 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, **Sch. 21**; S.I. 1990/2347, **art. 3(1)** (subject to art. 3(2)(3))

#### Marginal Citations

**M116** 1981 c. 38.

### *The <sup>M117</sup>Housing (Northern Ireland) Order 1981*

#### Marginal Citations

**M117** S.I. 1981/156 (N.I.3).

82 (1) After Article 159 of the Housing (Northern Ireland) Order 1981 there shall be inserted the following Article:—

“159A) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Executive for the purposes of any works which it is authorised to execute under Chapter II, III or V of Part III.

(2) Where in pursuance of an order under Article 51 a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.

(3) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of that code.

(4) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(2) In relation to an order under Article 51 of the said Order of 1981 coming into force before the appointed day, paragraph 76(2) of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

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*The <sup>M118</sup>Planning Blight (Compensation) (Northern Ireland) Order 1981*

**Marginal Citations**

**M118** S.I. 1981/608 (N.I. 16).

- 83 In Article 2(2) of the Planning Blight (Compensation) (Northern Ireland) Order 1981, in the definition of “appropriate authority” after the word “body”, there shall be inserted the words “ or person ”.

*The <sup>M119</sup>Civil Aviation Act 1982*

**Marginal Citations**

**M119** 1982 c. 16.

- 84 In section 48(7)(b) of the Civil Aviation Act 1982 (by virtue of which British Telecommunications is deemed to be an electricity undertaker for the purposes of a provision requiring notice to be given of proposals to stop up or divert a highway), for the words “British Telecommunications” there shall be substituted the words “ the operator of a telecommunications code system ”.

*The <sup>M120</sup>Cinematograph (Amendment) Act 1982*

**Marginal Citations**

**M120** 1982 c. 33.

- [<sup>F149</sup>85 In section 1 of the <sup>M121</sup>Cinematograph (Amendment) Act 1982 (extension of Cinematograph Act 1909 to certain other exhibitions of moving pictures), for the words from “distributed” to the end there shall be substituted the words “ programmes included in a cable programme service which is, or does not require to be, licensed under Part IV of the Telecommunications Act 1984 ”.]

**Textual Amendments**

**F149** Sch. 4 para. 85 repealed (E.W.S.) by Cinemas Act 1985 (c. 13, SIF 45A), Sch. 3

**Marginal Citations**

**M121** 1909 c. 30.

*Enactments relating to London*

- 86 (1) [<sup>F150</sup>In the <sup>M122</sup>London Overground Wires etc. Act 1933—
- (a) in section 5(3) (service of notices), the words from “and before” onwards shall be omitted;
  - (b) in section 11 (saving for certain regulations), for the words from “the telegraphic” to “made” there shall be substituted the words “ any telecommunication apparatus made ”; and

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- (c) in section 14 (saving)—
- (i) for the words from “telegraphic” to “thereto” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system ”; and
  - (ii) for the words from “power” onwards there shall be substituted the words “ conferred by or in accordance with the telecommunications code on the operator of any such system ”.]
- (2) In section 7(6) of the <sup>M123</sup>London County Council (General Powers) Act 1949 (electrical apparatus not to interfere with telegraphic lines etc.), for the words from “telegraphic line” onwards there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or with any service provided by means of any such apparatus. ”.
- (3) In section 17(4) of the <sup>M124</sup>London County Council (General Powers) Act 1963 (protection for telegraphic lines), for the words from “telegraphic line” to “such line” there shall be substituted the words “ telecommunication apparatus kept installed for the purposes of a telecommunications code system or belonging to or used by the London Electricity Board or with any service provided by means of any such apparatus. ”.
- (4) In section 7(6) of the <sup>M125</sup>Greater London Council (General Powers) Act 1969 (saving for certain powers in relation to telegraphic lines) for the words from “right” onwards there shall be substituted the words “ right exercisable in relation to that street under or in accordance with the telecommunications code by the operator of any telecommunications code system. ”.

#### Textual Amendments

**F150** Sch. 4 para. 86(1) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

#### Marginal Citations

**M122** 1933 c. xliv.  
**M123** 1949 c. lv.  
**M124** 1963 c. xvii.  
**M125** 1969 c. lii.

#### *Enactments relating to call boxes*

- 87 (1) The enactments specified in the following Table (which penalise the use of public telephone boxes for the purpose of making false calls for police assistance, giving false alarms of fire and the like) shall have effect as if—
- (a) for any reference to a call box of British Telecommunications’ telephone service,
  - (b) for any reference to a telephone call box provided by British Telecommunications, and
  - (c) for any reference to a British Telecommunications call box,

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there were substituted a reference to a telephone call box provided by a public telecommunications operator.

Table

- Section 176(2) of the <sup>M126</sup>Redcar Corporation Act 1938.
- Section 211(2) of the <sup>M127</sup>Clacton Urban District Council Act 1938.
- Section 89(2) of the <sup>M128</sup>Tiverton Corporation Act 1939.
- Section 101(2) of the <sup>M129</sup>Christchurch Corporation Act 1940.
- Section 154(2) of the <sup>M130</sup>Preston Corporation Act 1947.
- Section 173(2) of the <sup>M131</sup>Ipswich Corporation Act 1948.
- Section 178(2) of the <sup>M132</sup>Worcester Corporation Act 1951.
- Section 89(2) of the <sup>M133</sup>Nottinghamshire County Council Act 1951.
- Section 85(2) of the <sup>M134</sup>Berkshire County Council Act 1953.
- Section 97(2) of the <sup>M135</sup>Gloucestershire County Council Act 1956.
- Section 96(2) of the <sup>M136</sup>Leicester Corporation Act 1956.
- Section 70(2) of the <sup>M137</sup>Southampton Corporation Act 1960.
- Section 41(2) of the <sup>M138</sup>Hertfordshire County Council Act 1960.
- Section 30(3) of the <sup>M139</sup>Devon County Council Act 1961.
- Section 44(2) of the <sup>M140</sup>Durham County Council Act 1963.
- Section 29(2) of the <sup>M141</sup>Exeter Corporation Act 1966.
- Section 14(2) of the <sup>M142</sup>Huntingdon and Peterborough County Council Act 1970.
- Section 107(2) of the <sup>M143</sup>Teesside Corporation (General Powers) Act 1971.
- Section 63(2) of the <sup>M144</sup>Surrey County Council Act 1971.
- Section 61(2) of the <sup>M145</sup>Torbay Corporation (No. 2) Act 1971.
- Section 66(2) of the <sup>M146</sup>Oxfordshire County Council Act 1971.

- (2) Any enactment contained in a local Act which is not specified in the above Table, but is similar to any enactment so specified, shall have effect subject to the like amendment as is made by sub-paragraph (1) above.

**Marginal Citations**

- M126** 1938 c. liv.
- M127** 1938 c. lxiii.
- M128** 1939 c. lxv.
- M129** 1940 c. xxx.
- M130** 1947 c. xlv.
- M131** 1948 c. xli.
- M132** 1951 c. xlv.
- M133** 1951 c. xlv.
- M134** 1953 c. xli.
- M135** 1956 c. xl.
- M136** 1956 c. xlix.
- M137** 1960 c. xliii.
- M138** 1960 c. xlix.

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**M139** 1961 c. xlv.  
**M140** 1963 c. xxxvii.  
**M141** 1966 c. xv.  
**M142** 1970 c. xxiv.  
**M143** 1971 c. xv.  
**M144** 1971 c. xxxvi.  
**M145** 1971 c. lx.  
**M146** 1971 c. lxiii.

*The London Building Acts and enactments relating to highways, etc.*

- 88 (1) Nothing in—
- (a) the London Building Acts 1930 to 1939 or byelaws thereunder, or
  - (b) a special enactment passed or made before the appointed day (including such an enactment relating to Scotland or Northern Ireland) for purposes similar to those of an enactment contained in Part V or IX of the <sup>M147</sup>Highways Act 1980 [<sup>F151</sup>(except sections 156, 157 and 159)],
- shall affect any rights conferred by or in accordance with the [<sup>F152</sup>electronic communications code] on the [<sup>F153</sup>provider] of a [<sup>F154</sup>electronic communications code network] or apply to any [<sup>F155</sup>electronic communications apparatus] kept installed for the purposes of any such [<sup>F156</sup>network].
- (2) In this paragraph “special enactment” has the same meaning as in the Highways Act 1980.

**Textual Amendments**

- F151** Words in Sch. 4 para. 88(1)(b) repealed (E.W.S.) (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), ss. 168(2), 170, **Sch. 9**; S.I. 1992/2984, art. 2(2), **Sch. 2**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F152** Words in Sch. 4 para. 88 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 1(2)(a)** (with art. 1(2))
- F153** Word in Sch. 4 para. 88 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 1(2)(d)** (with art. 1(2))
- F154** Words in Sch. 4 para. 88 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 1(2)(b)** (with art. 1(2))
- F155** Words in Sch. 4 para. 88 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 1(2)(c)** (with art. 1(2))
- F156** Word in Sch. 4 para. 88 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 1(2)(e)** (with art. 1(2))

**Marginal Citations**

**M147** 1980 c. 66.

*General adaptations of local enactments*

- 89 (1) A provision to which this paragraph applies which refers to the rights and powers of British Telecommunications under a provision of any enactment relating to telegraphs shall have effect with the substitution for that reference of a reference to

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any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.

(2) A provision to which this paragraph applies that operates to afford protection or confer a benefit on British Telecommunications with reference to—

- (a) telegraphic lines of, or used by, British Telecommunications or such telegraphic lines of any description specified in that provision, or
- (b) accommodation for such telegraphic lines or telegraphic lines of any such description, or
- (c) communication by means of such telegraphic lines or telegraphic lines of any such description,

shall be construed in accordance with sub-paragraph (3) below.

(3) That provision shall be construed as if—

- (a) any application (whether or not with modifications) by that provision of section 7 of the <sup>M148</sup>Telegraph Act 1878 (which before being repealed by this Act contained provision broadly corresponding to paragraph 23 of the telecommunications code) in relation to any works carried out by any person were an application (without modification) of the said paragraph to that person for the purposes of those works; and
- (b) subject to that, it in all respects (subject to the like incidents) afforded the like protection to, or conferred the like benefit on, the operator of any telecommunications code system in relation, as the case may be, to—
  - (i) telecommunication apparatus kept installed for the purposes of a telecommunications code system or such apparatus of the description in question, or
  - (ii) accommodation for such apparatus or such apparatus of that description, or
  - (iii) the service provided by any such system.

(4) The provisions to which this paragraph applies are those of a local Act passed in the same Session as this Act, or in a previous Session, those of an order confirmed by an Act so passed and those of a scheme or order made before the passing of this Act under any Act (whether public general or local).

(5) [<sup>F157</sup>This paragraph shall not preclude the making, in relation to any provision to which it applies, of any order under section 109(2) or (3) of this Act which is capable, apart from the provision of this paragraph, of being made in relation to that provision; and this paragraph shall not apply to any provision in relation to which such an order is made, except to the extent provided for in the order.]

(6) In this paragraph “telegraphic line” means any apparatus (howsoever described) which is a telegraphic line within the meaning of the <sup>M149</sup>Telegraph Act 1878.

#### Textual Amendments

**F157** Sch. 4 para. 89(5) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

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#### Marginal Citations

**M148** 1878 c. 76.

**M149** 1878 c. 76.

#### *Saving in respect of offences under section 5*

90

[<sup>F158</sup>Nothing in a local Act passed after but in the same Session as this Act shall authorise the doing of anything which would constitute an offence under section 5 of this Act.]

#### Textual Amendments

**F158** Sch. 4 para. 90 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

## SCHEDULE 5 **U.K.**

Section 109.

### GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I **U.K.**

##### PROVISIONS AND SAVINGS COMING INTO FORCE ON APPOINTED DAY

- <sup>1</sup> [<sup>F159</sup>(1) Subject to the following provisions of this paragraph, a licence granted, or having effect as if granted, by the Secretary of State or British Telecommunications under section 15(1) of the 1981 Act which is effective on the appointed day shall have effect as if granted by the Secretary of State under section 7 of this Act, and the provisions of this Act shall apply accordingly.
- (2) Where immediately before the appointed day British Telecommunications has in its possession particulars of licences granted, or having effect as if granted, by it under section 15(1) of the 1981 Act, British Telecommunications shall, as soon as practicable after that day, send to the Secretary of State—
- (a) in the case of each of those licences which is contained in a single document, that document or a copy of that document or of such parts of it as contain the provisions of the licence; and
  - (b) in the case of each of those licences which is not so contained, a bundle of documents consisting of either the original or a copy of, or of the relevant part of, every document in the possession of British Telecommunications which is capable of being relied on as evidence of, or of any provision of, that licence.
- (3) Where a licence has effect by virtue of sub-paragraph (1) above as if granted by the Secretary of State under section 7 of this Act—



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- (a) sections 7(7) and (8) and 19(2) of this Act shall not apply in relation to that licence;
  - (b) any provision of that licence made, or having effect as if made, by virtue of section 15(4) of the 1981 Act, being a provision under which any amount would fall to be paid after the appointed day to British Telecommunications, shall have effect as if it required that amount to be paid to the Secretary of State;
  - (c) the Secretary of State may revoke that licence at any time before the end of the relevant period and any provision of that licence under or in accordance with which the licence may be revoked by British Telecommunications shall be deemed to be omitted; and
  - (d) the licence shall expire at the end of the relevant period unless before the end of that period it has either been revoked under this paragraph or expired in accordance with its terms.
- (4) Before revoking a licence under this paragraph the Secretary of State shall give notice—
- (a) stating that he proposes to revoke the licence;
  - (b) stating the reason why he proposes to revoke the licence; and
  - (c) specifying the time (not being less than 28 days from the date of the giving of the notice) within which representations or objections with respect to the proposed revocation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under sub-paragraph (4) above shall be given—
- (a) in the case of a licence granted to a particular person, by sending a copy of the notice to that person; and
  - (b) in any other case, by publication of the notice in such manner as the Secretary of State considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (6) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.
- (7) In this paragraph “the relevant period” means the period of two years beginning with the appointed day or such other period beginning with that day as the Secretary of State may by order prescribe for the purposes of this paragraph.]

#### Textual Amendments

**F159** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with art. 11)

<sup>2</sup> <sup>F160</sup>(1) An approval issued under section 16(2) of the 1981 Act by the Secretary of State, by a person or body appointed by him for the purpose or by British Telecommunications which is effective on the appointed day shall have effect as if given by the Secretary

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of State under section 22(1) of this Act; and the provisions of this Act shall apply accordingly.

- (2) A standard approved under section 16(1) of the 1981 Act by the Secretary of State or by a person or body appointed by him for the purpose which is effective on the appointed day shall have effect as if designated by the Secretary of State under section 22(6) of this Act; and the provisions of this Act shall apply accordingly.
- (3) Any fee charged in respect of an approval which, by virtue of sub-paragraph (1) or (2) above, is to have effect as if issued under section 22(1) or (6) of this Act shall be deemed to have been validly charged.
- (4) Where immediately before the appointed day British Telecommunications has in its possession particulars of approvals issued by it under section 16(2) of the 1981 Act, British Telecommunications shall, as soon as practicable after that day, send those particulars to the Secretary of State.
- (5) Neither section 22(11) nor section 23(2) of this Act shall apply in relation to an approval issued by British Telecommunications under section 16(2) of the 1981 Act unless particulars of that approval are sent to the Secretary of State under sub-paragraph (4) above and, in its application in relation to such an approval, the reference in section 22(11)(a) to a copy of the approval shall have effect as a reference to a copy of the particulars so sent to the Secretary of State.
- (6) An acknowledgement by the Secretary of State or a person appointed for the purposes of subsection (2) of section 16 of the 1981 Act that any apparatus conforms to a standard approved under subsection (1) of that section shall be treated for the purposes of this paragraph as an approval issued under the said subsection (2).]

#### Textual Amendments

**F160** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

- <sup>3</sup> [<sup>F161</sup>(1) An order made under section 17 of the 1981 Act which is in force on the appointed day shall have effect as if made under section 28 of this Act; and the provisions of this Act shall apply accordingly.
- (2) An order made under section 18 of the 1981 Act which is in force on the appointed day shall have effect as if made under section 29 of this Act; and the provisions of this Act shall apply accordingly.]

#### Textual Amendments

**F161** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

- <sup>4</sup> [<sup>F162</sup>An order made, or having effect as if made, by the Secretary of State under section 37 of the 1981 Act which is effective on the appointed day shall have effect

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as if made by the Department of Finance and Personnel for Northern Ireland under section 33 of this Act.]

#### Textual Amendments

**F162** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

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[<sup>F163</sup>A compulsory purchase order made under section 38 or 39 of the 1981 Act which is effective on the appointed day shall have effect as if made with the consent of the Director under section 34 or 35 of this Act; and the provisions of the said section 34 or 35 shall apply accordingly.]

#### Textual Amendments

**F163** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

6

[<sup>F164</sup>An application for a vesting order made under section 40 of the 1981 Act which is effective on the appointed day shall have effect, as from that day, as if made with the consent of the Director under section 36 of this Act; and the provisions of the said section 36 shall apply accordingly.]

#### Textual Amendments

**F164** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

7

[<sup>F165</sup>An authorisation given by British Telecommunications under section 41, 42 or 43 of the 1981 Act which is effective on the appointed day shall have effect as if given by the Secretary of State under section 37, 38 or 39 of this Act on the nomination of British Telecommunications; and the provisions of the said section 37, 38 or 39 shall apply accordingly.]

#### Textual Amendments

**F165** Sch. 5 paras. 1-7 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with [art. 11](#))

8 [<sup>F166</sup>(1) An order made under section 89 of the <sup>M150</sup>Post Office Act 1969 which relates to the running of a telecommunication system for the purposes of a cable programme

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service and is effective on the appointed day shall have effect as if made under section 57 of this Act in relation to the provision of that service; and the provisions of the said section 57 shall apply accordingly.]

(2) [<sup>F167</sup>A licence granted under section 89 of the Post Office Act 1969 which relates to the running of a telecommunication system for the purposes of a cable programme service provided by any person and is effective on the appointed day shall have effect as if granted under section 58 of this Act to that person in relation to the provision of that service; and the provisions of Part IV of this Act shall apply accordingly.]

[<sup>F166</sup>(3) Regulations made under section 90 of the Post Office Act 1969 which relate to the grant of licences under section 89 of that Act and are effective on the appointed day shall have effect as if made under section 58 of this Act in relation to the grant of licences under that section; and the provisions of the said section 58 shall apply accordingly.]

(4) [<sup>F167</sup>In this paragraph “cable programme service” has the same meaning as in Part IV of this Act.]

#### Textual Amendments

**F166** Sch. 5 para. 8(1)(3) repealed (1.1.1991) by [Broadcasting Act 1990 \(c.42, SIF 96\)](#), ss. 4(6), 87(6), 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, [Sch. 21](#); S.I. 1990/2347, art. 3(1), [Sch. 2](#) (subject to art. 3(2)(3))

**F167** Sch. 5 para. 8(2)(4) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 406, 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)

#### Marginal Citations

**M150** 1969 c. 48.

9

[<sup>F168</sup>An undertaking given, or having effect as if given, under section 55 of the 1981 Act which is effective on the appointed day shall have effect as if given to British Telecommunications under section 97 of this Act.]

#### Textual Amendments

**F168** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, [art. 3](#), Sch. 1 (with art. 11)

10

[<sup>F169</sup>A direction given, or having effect as if given, under section 6(2) or (4) of the 1981 Act which is effective on the appointed day shall have effect as if given to British Telecommunications under section 94(1) or (2) of this Act.]

#### Textual Amendments

**F169** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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),

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**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)

11

[<sup>F170</sup>Nothing done, on or after the appointed day, under, and in accordance with the terms of, the licence dated 1st March 1966 whereto the parties are Her Majesty, the Crown Estate Commissioners, the Postmaster General and Det Store Nordiske Telegraf-Selskab Aktieselskab (a company incorporated under the law of the Kingdom of Denmark and commonly known in the United Kingdom, and in that licence referred to, as the Great Northern Telegraph Company Limited) shall constitute a contravention of section 5(1) of this Act.]

#### Textual Amendments

**F170** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

12

- [<sup>F171</sup>(1) Where immediately before the appointed day British Telecommunications—
- (a) are providing, or have acceded to an application for the provision of, any services for any persons; or
  - (b) are supplying, or have acceded to an application for the supply of, any apparatus to any persons,
- in pursuance of a scheme made under section 21 of the 1981 Act, British Telecommunications shall be deemed to have contracted with those persons for the provision of the services or the hire of the apparatus as from that day.
- (2) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) above, is deemed to have been made shall be such of the following as are applicable, namely—
    - (a) the terms and conditions contained in the scheme; and
    - (b) where a scheme is made under this paragraph, the terms and conditions contained in the scheme so made.
  - (3) British Telecommunications may make, as respects any of the services provided or apparatus supplied by it, a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1)(a) above, are to be deemed to have been made.
  - (4) Nothing in the 1981 Act shall be taken to limit or restrict the provision which may be made by a scheme under this paragraph.
  - (5) A scheme made under this paragraph may—
    - (a) make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme; and
    - (b) revoke or amend any scheme made under section 21 of the 1981 Act.
  - (6) A scheme made under this paragraph shall be published in the London, Edinburgh and Belfast Gazettes before the appointed day and shall come into operation on that day; and conclusive evidence of a scheme so made may be given in all courts of

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justice and in all legal proceedings whatever by the production of a copy of any of those Gazettes purporting to contain it.

- (7) Terms and conditions incorporated in a contract by virtue of sub-paragraph (2) above shall not be regarded, for the purposes of section 29(1) of the <sup>M151</sup>Unfair Contract Terms Act 1977, as authorised by necessary implication of this paragraph.]

#### Textual Amendments

**F171** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

#### Marginal Citations

**M151** 1977 c. 50.

13

[<sup>F172</sup>Nothing in this Act shall affect the operation of section 22 of the 1981 Act in relation to any contract deemed to have been made before the appointed day.]

#### Textual Amendments

**F172** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

14

[<sup>F173</sup>Nothing in this Act shall affect the operation of section 23 of the 1981 Act in relation to any loss or damage suffered by reason of an act or omission taking place before the appointed day.]

#### Textual Amendments

**F173** Sch. 5 paras. 9-14 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

- [<sup>F174</sup>15 Nothing in this Act shall affect the operation of section 35(2) of the 1981 Act in relation to any order under section 19 of the <sup>M152</sup>Local Government Act 1974 which applies in relation to hereditaments occupied by British Telecommunications and is effective on the appointed day.]

#### Textual Amendments

**F174** Sch. 5 para. 15 repealed (E.W.) by S.I. 1990/776, art. 3(1)(2), **Sch. 1**

#### Marginal Citations

**M152** 1974 c. 7.

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- 16 [F175 Subject to paragraph 4 above and paragraph 26 below, nothing in this Act shall affect the operation of any order made, or having effect as if made, under section 37 of the 1981 Act which is effective on the appointed day.]

#### Textual Amendments

F175 Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

- 17 [F176 Nothing in this Act shall affect the operation of section 53 of the 1981 Act in relation to any sum which became due, or any charge which was levied, before the appointed day.]

#### Textual Amendments

F176 Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

- 18 [F177 Subject to paragraph 49 below, nothing in this Act shall affect the operation of any order under section 19 of the <sup>M153</sup>Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by British Telecommunications and is effective on the appointed day.]

#### Textual Amendments

F177 Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

#### Marginal Citations

M153 1974 c. 7.

- 19 [F178 Subject to paragraph 50 below, nothing in this Act shall affect the operation of any order under section 6 of the <sup>M154</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by British Telecommunications and is effective on the appointed day.]

#### Textual Amendments

F178 Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 406, 408, 411, Sch. 19(1) (with Sch. 18, Sch. 19(1) Note 1); S.I.

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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)

#### Marginal Citations

**M154** 1975 c. 30.

## PART II U.K.

### PROVISIONS AND SAVINGS COMING INTO FORCE ON TRANSFER DATE

20

[<sup>F179</sup>A licence granted under section 7 of this Act to British Telecommunications which is effective on the transfer date shall have effect as if granted to the successor company.]

#### Textual Amendments

**F179** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 19(1)** (with Sch. 18, Sch. 19(1) Notes 1, 4); 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)

21

[<sup>F180</sup>An order made under section 9(1) of this Act which designates any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it designated the corresponding telecommunication system or systems run by the successor company.]

#### Textual Amendments

**F180** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

22

[<sup>F181</sup>An approval given under section 20(1) of this Act which applies for the purposes of a telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.]

#### Textual Amendments

**F181** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

23



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[<sup>F182</sup>An approval given, or having effect as if given, under section 22(1) of this Act, or a standard designated, or having effect as if designated, under section 22(6) of this Act, which (in either case) applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.]

#### Textual Amendments

**F182** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

24

[<sup>F183</sup>An approval given under section 24(1) of this Act which applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.]

#### Textual Amendments

**F183** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

25

[<sup>F184</sup>A recognition given under section 27(1) of this Act which applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.]

#### Textual Amendments

**F184** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

26

[<sup>F185</sup>An order made, or having effect as if made, under section 33 of this Act which applies in relation to hereditaments occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.]

*Status: Point in time view as at 05/07/2004.*

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#### Textual Amendments

**F185** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

27

[<sup>F186</sup>A compulsory purchase order made, or having effect as if made, under section 34 or 35 of this Act which is effective on the transfer date shall have effect as if made by the successor company.]

#### Textual Amendments

**F186** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

28

[<sup>F187</sup>An application for a vesting order made, or having effect as if made, by British Telecommunications under section 36 of this Act which is effective on the transfer date shall have effect as if made by the successor company.]

#### Textual Amendments

**F187** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

29

[<sup>F188</sup>An authorisation given, or having effect as if given, by the Secretary of State under section 37, 38 or 39 of this Act on the nomination of British Telecommunications which is effective on the transfer date shall have effect as if given on the nomination of the successor company.]

#### Textual Amendments

**F188** Sch. 5 paras. 16-29 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

[<sup>F189</sup>30

An order made under section 57 of this Act which relates to a cable programme service provided by British Telecommunications and is effective on the transfer date shall have effect as if it related to the corresponding cable programme service provided by the successor company.]

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#### Textual Amendments

**F189** Sch. 5 para. 30 repealed (1.1.1991) by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, **Sch. 21**; S.I. 1990/2347, **art. 3(1)** (subject to art. 3(2)(3))

31

[<sup>F190</sup>A licence granted under section 58 of this Act to British Telecommunications which is effective on the transfer date shall have effect as if granted to the successor company.]

#### Textual Amendments

**F190** Sch. 5 paras. 31-33 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

32

[<sup>F191</sup>An undertaking given, or having effect as if given, to British Telecommunications under section 97 of this Act which is effective on the transfer date shall have effect as if given to the successor company.]

#### Textual Amendments

**F191** Sch. 5 paras. 31-33 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

33

[<sup>F192</sup>A direction given, or having effect as if given, to British Telecommunications under section 94(1) or (2) of this Act which is effective on the transfer date shall have effect as if given to the successor company.]

#### Textual Amendments

**F192** Sch. 5 paras. 31-33 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

34

(1) For the purposes of authorising the making, in relation to employees of the successor company or any of its subsidiaries, of provision corresponding to that authorised to be made, in relation to employees of British Telecommunications or any of its subsidiaries, by section 84 of the 1981 Act, that section shall have effect as if—

- (a) any reference to the Post Office or to employees of, persons employed by or employment by the Post Office were a reference to British Telecommunications or to employees of, persons employed by or employment by British Telecommunications; and
- (b) any reference to a relevant body or to employees of, persons employed by or employment by a relevant body were a reference to the successor

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company or any subsidiary of the successor company or to employees of, persons employed by or employment by the successor company or any such subsidiary.

- (2) Nothing in sub-paragraph (1) above shall be taken as prejudicing the operation of section 84 of the 1981 Act as originally enacted.

35

[<sup>F193</sup>Where immediately before the transfer date there is in force an agreement which—

- (a) confers or imposes on British Telecommunications any rights or liabilities which vest in the successor company by virtue of section 60 of this Act; and
- (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of British Telecommunications,

the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of British Telecommunications in question.]

#### Textual Amendments

**F193** Sch. 5 para. 35 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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\(3\)](#))); S.I. 2003/3142, [art. 3](#), [Sch. 1](#) (with [art. 11](#))

- 36 (1) Except as otherwise provided by the foregoing provisions of this Part of this Schedule (whether expressly or by necessary implication), any agreement made, transaction effected or other thing done by, to or in relation to British Telecommunications which is in force or effective immediately before the transfer date shall have effect as from that date as if made, effected or done by, to or in relation to the successor company, in all respects as if the successor company were the same person, in law, as British Telecommunications, and accordingly references to British Telecommunications—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
  - (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before any court or other tribunal or authority; and
  - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of British Telecommunications which vests by virtue of section 60 of this Act in the successor company,
- shall be taken as from the transfer date as referring to the successor company.
- (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to the deed of covenant by virtue of which the excepted liabilities subsist.
- 37 (1) It is hereby declared for the avoidance of doubt that—
- (a) the effect of section 60 of this Act in relation to any contract of employment with British Telecommunications in force immediately before the transfer date is merely to modify the contract (as from that date) by substituting the successor company as the employer (and not to terminate the contract or vary it in any other way); and

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(b) that section is effective to vest the rights and liabilities of British Telecommunications under any agreement or arrangement for the payment of pensions, allowances or gratuities in the successor company along with all other rights and liabilities of British Telecommunications;

and accordingly for the purposes of any such agreement or arrangement (as it has effect by virtue of paragraph 36 above in relation to employment with the successor company or with a wholly owned subsidiary of that company) any period of employment with British Telecommunications shall count as employment with the successor company or (as the case may be) with a wholly owned subsidiary of that company.

(2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to the excepted liabilities or to the deed of covenant by virtue of which those liabilities subsist.

38

[<sup>F194</sup>(1) It shall be the duty of British Telecommunications and of the successor company to take, as and when during the transitional period the successor company considers appropriate, all such steps as may be requisite to secure that the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law.

(2) During the transitional period, until the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of British Telecommunications to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.

(3) Nothing in sub-paragraphs (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability.

(4) British Telecommunications shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—

(a) it shall be the duty of the successor company during the transitional period to act on behalf of British Telecommunications (so far as possible) in performing the duty imposed on British Telecommunications by this paragraph; and

(b) any foreign property, rights and liabilities acquired or incurred by British Telecommunications during that period shall immediately become property, rights and liabilities of the successor company.

(5) References in this paragraph to any foreign property, right or liability are references, respectively, to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(6) Any expenses incurred by British Telecommunications under this paragraph shall be met by the successor company.]

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### Textual Amendments

**F194** Sch. 5 paras. 38-42 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

- <sup>39</sup> <sup>[F195]</sup>(1) During the transitional period it shall be the duty of British Telecommunications to discharge the excepted liabilities as they fall to be discharged.
- (2) Subject to sub-paragraph (3) below, the excepted liabilities shall be discharged, and any expenses incurred by British Telecommunications under this paragraph shall be met, out of sums received by British Telecommunications in right of or on the disposal of such debentures of the successor company as the Secretary of State, with the approval of the Treasury, may transfer to British Telecommunications (in this paragraph referred to as “the transferred debentures”).
- (3) British Telecommunications may not dispose of any of the transferred debentures without the consent of the Secretary of State given with the approval of the Treasury.
- (4) Where so much of any sums so received as is held by British Telecommunications on any day exceeds the aggregate for that day of—
- (a) any excepted liability falling to be discharged; and
  - (b) any expenses falling to be met under this paragraph,
- the excess shall be applied by British Telecommunications in such manner as the Secretary of State, with the approval of the Treasury, may direct; and a direction under this sub-paragraph may require the whole or any part of the excess to be paid into the Consolidated Fund.
- (5) Where so much of any sums so received as is held by British Telecommunications on any day falls short of the aggregate for that day of—
- (a) any excepted liability falling to be discharged; and
  - (b) any expenses falling to be met under this paragraph,
- the deficiency shall be made good by the Secretary of State out of money provided by Parliament.
- (6) During the transitional period British Telecommunications shall, as respects its duties under this paragraph, keep proper accounts and proper records in relation thereto and shall, as soon as may be after the end of each financial year—
- (a) prepare a report on the performance by it during that year of those duties; and
  - (b) transmit the report to the Secretary of State who shall consider it and lay copies of it before each House of Parliament.
- (7) British Telecommunications shall be exempt from income tax and corporation tax in respect of—
- (a) income accruing to it in right of the transferred debentures; and
  - (b) chargeable gains accruing to it on the disposal of those debentures;
- and in so far as the exemption conferred by this sub-paragraph calls for repayment of tax, effect shall be given thereto by means of a claim.
- (8) Nothing in section 72(1) of this Act shall be taken—

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- (a) as requiring any payments made or expenses incurred by British Telecommunications under this paragraph to be regarded for corporation tax purposes as made or incurred by the successor company; or
  - (b) as requiring any payments made by the successor company to British Telecommunications in pursuance of the transferred debentures to be disregarded for those purposes.
- (9) Section 82(4) of the 1981 Act (tax provisions) shall have effect during the transitional period as if any reference to persons who are employees of the Post Office included a reference to persons who are employees of the successor company.
- (10) In this paragraph—  
“debenture” includes debenture stock;  
“financial year” means the period beginning on the transfer date and ending with the next following 31st March or each subsequent period of twelve months ending with 31st March.]

#### Textual Amendments

**F195** Sch. 5 paras. 38-42 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

- 40 [F196(1) Notwithstanding the repeal of subsection (12) of section 6 of the 1981 Act, it shall be the duty of British Telecommunications to make a report to the Secretary of State in accordance with that subsection in respect of the last accounting year of British Telecommunications ending before the transfer date.
- (2) Notwithstanding the repeal of section 31 of the 1981 Act, it shall be the duty of British Telecommunications to prepare statements of accounts in accordance with subsections (1)(b) and (c) of that section in respect of the last accounting year of British Telecommunications ending before the transfer date, and that section shall continue to apply during the transitional period in relation to those statements and in relation also to the auditing of accounts kept in accordance with subsection (1)(a) of that section in respect of that accounting year.
- (3) Any expenses incurred by British Telecommunications under this paragraph shall be met by the successor company.]

#### Textual Amendments

**F196** Sch. 5 paras. 38-42 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

- 41 [F197 For the purpose of enabling anything which, on the transfer date, remains to be done under the provisions of sections 10 and 81(1) of and Schedule 2 to the 1981 Act to be done after that date, those provisions shall have effect as if the successor company were the same person, in law, as British Telecommunications.]

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#### Textual Amendments

**F197** Sch. 5 paras. 38-42 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

- 42 <sup>F198</sup>(1) Subject to sub-paragraph (2) below, nothing in this Act shall affect the operation of subsections (2) to (4) of section 28 of the 1981 Act in relation to any loan made to British Telecommunications under that section in respect of which any outstanding liability of British Telecommunications becomes a liability of the successor company on the transfer date.
- (2) No further directions may be given by the Secretary of State under subsection (2) of that section on or after the transfer date, but those applying to any such loan immediately before that date shall apply in relation to payments by the successor company in respect of that loan.]

#### Textual Amendments

**F198** Sch. 5 paras. 38-42 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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)); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

- 43 Nothing in this Act shall affect the operation of any order made under section 33 of the 1981 Act before the transfer date or any duty imposed by subsection (3) of that section to amend any order so made.
- 44 Nothing in this Act shall affect the operation of section 56 of the 1981 Act in relation to any records of British Telecommunications which become records of the successor company on the transfer date or any records kept by British Telecommunications for the purposes of paragraph 39 above.
- 45 Where by virtue of anything done before the transfer date, any enactment amended by Schedule 4 to this Act has effect (whether or not as so amended) in relation to British Telecommunications, then, on and after that date, that enactment shall have effect in relation to the successor company as if that company were the same person, in law, as British Telecommunications.
- 46 (1) Section 6(2) of the <sup>M155</sup>Commonwealth Telegraph Act 1949 shall continue to have effect with the modifications made by section 34(1) of the 1981 Act and, subject to that, shall have effect as if references which include references to British Telecommunications, in paragraph (c) and sub-paragraphs (iv), (v) and (vi) of paragraph (d), included references to the successor company.
- (2) The power to make regulations conferred on the Secretary of State by section 49 of the <sup>M156</sup>Post Office Act 1969 shall include power to make such regulations as appear to him to be requisite for securing that persons to whom that section applies, and persons claiming in right of them, are not adversely affected in the matter of pension rights by reason only that—
- (a) in consequence of the 1981 Act, they ceased to be employed by the Post Office; or



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- (b) in consequence of section 60 of this Act, they cease to be employed by British Telecommunications.

#### Marginal Citations

M155 1949 c. 39.

M156 1969 c. 48.

- 47 [F199(1) Nothing in this Act shall affect the validity of anything done by, or in relation to, British Telecommunications before the transfer date under or by virtue of the M157 Public Utilities Street Works Act 1950; and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to it (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the successor company.
- (2) Any notice or direction given or other thing whatsoever done under the said Act of 1950 by British Telecommunications shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the successor company.]

#### Textual Amendments

F199 Sch. 5 para. 47 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, art. 3, Sch. 1 (with art. 11)

#### Marginal Citations

M157 1950 c. 39.

- 48 (1) Where an asset, or the right to receive an asset, vests in the successor company by virtue of section 60 of this Act, then for the purposes of [F200Part I of the M158 Industry Act 1972 and] Part II of the M159 Industrial Development Act 1982—
- (a) so much of any expenditure incurred by British Telecommunications in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to British Telecommunications shall be treated as having been incurred by the successor company and not by British Telecommunications; and
- (b) where the asset itself vests in the successor company by virtue of section 60 of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in British Telecommunications.
- (2) In this paragraph “regional development grant” means a grant under [F200Part I of the Industry Act 1972 or ] Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.

#### Textual Amendments

F200 Words in Sch. 5 para. 48(1)(2) repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by Communications Act 2003 (c. 21), ss. 406, 408, 411, Sch. 19(1) (with Sch. 18, Sch. 19(1) Note 1); S.I.

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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)

#### Marginal Citations

**M158** 1972 c. 63.

**M159** 1982 c. 52.

49

[<sup>F201</sup>An order under section 19 of the <sup>M160</sup>Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.]

#### Textual Amendments

**F201** Sch. 5 paras. 49-51 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

#### Marginal Citations

**M160** 1974 c. 7.

50

[<sup>F202</sup>An order under section 6 of the <sup>M161</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied in relation to the corresponding lands and heritages occupied by the successor company.]

#### Textual Amendments

**F202** Sch. 5 paras. 49-51 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

#### Marginal Citations

**M161** 1975 c. 30.

<sup>51</sup>  
[<sup>F203</sup>[<sup>F204</sup>(1) Where a distribution is proposed to be declared during the accounting reference period of the successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 274 and 275(7) of the Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company without contravening Part VIII of that Act) shall have effect as if—

- (a) the reference in section 270(2) to the company's accounts, and
- (b) references in section 273 to initial accounts,

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included references to such accounts as, on the assumptions stated in subparagraph (3) below, would have been prepared under Part VII of that Act in respect of the relevant year.]

- (3) The said assumptions are—
- (a) that the relevant year had been a financial year of the successor company;
  - (b) that the vesting effected by section 60 of this Act had been a vesting of all the property, rights and liabilities (other than the excepted liabilities) to which British Telecommunications was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
  - (c) that the value of any asset and the amount of any liability of British Telecommunications vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by British Telecommunications in respect of the accounting year immediately preceding the relevant year;
  - (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
  - (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.
- (4) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by British Telecommunications (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by British Telecommunications had been realised and retained by the successor company.

- (5) The said accounts shall not be regarded as statutory accounts for the purposes of section 66 of this Act.
- (6) In this paragraph—
- “complete accounting year” means an accounting year ending with 31st March;
  - “the relevant year” means the last complete accounting year of British Telecommunications ending before the transfer date;
  - “securities” has the same meaning as in Part V of this Act.]

#### Textual Amendments

**F203** Sch. 5 paras. 49-51 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

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**F204** Sch. 5 para. 51(1) substituted for Sch. 5 para. 51(1)(2) by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

**F205F205** SCHEDULE 6 **U.K.**

**Textual Amendments**

**F205** Sch. 6 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) 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))); [S.I. 2003/3142](#), [art. 3](#), [Sch. 1](#) (with art. 11)

SCHEDULE 7 **U.K.**

Section 109.

REPEALS

**PART I** **U.K.**

REPEALS COMING INTO FORCE ON APPOINTED DAY

Chapter or number	Short title	Extent of repeal
26 & 27 Vict. c. 112.	The Telegraph Act 1863.	The whole Act, except sections 1 and 45.
31 & 32 Vict. c. 110.	The Telegraph Act 1868.	The whole Act, except sections 1 and 20.
41 & 42 Vict. c. 76.	The Telegraph Act 1878.	The whole Act.
47 & 48 Vict. c. 76.	The Post Office (Protection) Act 1884.	The whole Act.
51 & 52 Vict. c. 12.	The Electric Lighting Act 1888.	In section 4(5), the words from “and the expression” onwards.
52 & 53 Vict. c. 34.	The Telegraph (Isle of Man) Act 1889.	The whole Act.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act 1892.	Section 132.
55 & 56 Vict. c. 59.	The Telegraph Act 1892.	The whole Act.
59 & 60 Vict. c. 48.	The Light Railways Act 1896.	Section 25.

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60 & 61 Vict. c. 53.	The Congested Districts (Scotland) Act 1897.	In section 4(1)(f), the words “telegraphic extensions, or” and the word “other”.
62 & 63 Vict. c. 19.	the Electric Lighting (Clauses) Act 1899.	In section 1 of the Schedule, the words from “the expression “telegraphic” to “manner affected”.
		In section 10(c) of the Schedule, the words from “with”, in the second place where it occurs, to (but not including) “and”.
62 & 63 Vict. c. 38.	The Telegraph Act 1899.	In section 2(1), the words “of the Telegraph Acts 1863 to 1897, and”.
		In section 4, the words from “and may” onwards.
8 Edw. 7. c. 33.	The Telegraph (Construction) Act 1908.	The whole Act.
9 Edw. 7. c. 20.	The Telegraph (Arbitration) Act 1909.	The whole Act.
1 & 2 Geo. 5. c. 39.	The Telegraph (Construction) Act 1911.	The whole Act.
6 & 7 Geo. 5. c. 40.	The Telegraph (Construction) Act 1916.	The whole Act.
9 & 10 Geo. 5. c. 100.	The Electricity (Supply) Act 1919.	Section 25.
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	In Schedule 3, in section 1(1), the definition of “telegraphic line” and section 5.
Chapter or number	Short title	Extent of repeal
8 & 9 Geo. 6. c. 43.	The Requisitioned Land and War Works Act 1945.	Part IV.
11 & 12 Geo. 6. c. 17.	The Requisitioned Land and War Works Act 1948.	In the Schedule, paragraph 6.
12, 13 & 14 Geo. 6. c. 11.	The Railway and Canal Commission (Abolition) Act 1949.	Section 2.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	Section 20(1) and (2).
		In section 39(1), the definition of “telegraphic line”.

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Chapter or number	Short title	Extent of repeal
		In Schedule 5, the entries relating to the Telegraph Act 1863, the Telegraph Act 1878, the Telegraph (Construction) Act 1911, the Telegraph (Construction) Act 1916, section 5 of Schedule 3 to the Water Act 1945 and the Special Roads Act 1949.
5 & 6 Eliz. 2. c. 48.	The Electricity Act 1957.	In section 28(9), the words from “and “telegraphic line” onwards.
6 & 7 Eliz. 2. c. 30.	The Land Powers (Defence) Act 1958.	Section 20.
10 & 11 Eliz. 2. c. 30.	The Northern Ireland Act 1962.	In Schedule 2, the entries relating to the Telegraph Act 1863 and the Telegraph Act 1878.
1963 c. 33.	The London Government Act 1963.	In Schedule 17, paragraph 3.
1967 c. 76.	The Road Traffic Regulation Act 1967.	Section 28(8).
1969 c. 48.	The Post Office Act 1969.	Section 21. Section 29(1)(c). In section 77, the words “the Post Office (Protection) Act 1884”. Section 83. In section 88(4), in paragraph (a) the words from “except” to “1884” and in paragraph (b) the words “that Act and”. Part IV. In Schedule 4, paragraphs 4(c), 5 to 10, 15 to 19, 26, 28 and 29, 34, 38 to 40, 43, 45, 48, 53, 58, 61 to 64, 68, 72, 74, 83(1), (2) and (4), 85, 86, 95 to 99, 101 and 102. In paragraph 1(1) of Schedule 5, the words “or section 11 of the Post Office (Protection) Act 1884”.
Chapter or number	Short title	Extent of repeal

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1970 c. 40.	The Agriculture Act 1970.	In section 92(1), paragraph (ii) of the proviso.
1973 c. 41.	The Fair Trading Act 1973.	In section 16(1), paragraph (b) and the word “or” immediately preceding it.  In section 50(3)(a), the words “of Part II of Schedule 5 or”.  In section 51(2), the words “or in the first column of Part II of”.  In Schedule 5, Part II.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In paragraph 3 of Part I of Schedule 28, the words “and 132”.
1974 c. 7.	The Local Government Act 1974.	In Schedule 3, paragraph 9.
1974 c. 45.	The Housing (Scotland) Act 1974.	In paragraph 33 of Schedule 3, sub-paragraphs (a) and (b).
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 1, paragraph 9.
1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	In section 44(1), the words “British Telecommunications” and the words “except in sections 1(4)(a), 3(2)(d) and 4(1) of this Act,”.
1976 c. 70.	The Land Drainage Act 1976.	In section 32(2), the words from “and nothing” onwards.
1976 c. 75.	The Development of Rural Wales Act 1976.	In Schedule 3, paragraphs 38(7) and 44(2).
1979 c. 11.	The Electricity (Scotland) Act 1979.	In section 45(1), the definition of “telegraphic line”.
1980 c. 21.	The Competition Act 1980.	In section 19(3), the word “and”.
1980 c. 45.	The Water (Scotland) Act 1980.	In section 28(1), paragraph (a).  In Schedule 4, in section 1(1), the definition of “telegraphic line” and section 5.
1980 c. 66.	The Highways Act 1980.	In section 144(6), in the definition of “statutory undertakers” the word “and”,

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Chapter or number	Short title	Extent of repeal
1981 c. 38.	The British Telecommunications Act 1981.	<p>in the second place where it occurs.</p> <p>In section 156(10)(b), the words ““telegraphic line””.</p> <p>In section 169(4), in the second sentence, the word “and”, in the third place where it occurs.</p> <p>In section 170(3), in the definition of “statutory undertakers” the word “and”, in the first place where it occurs.</p> <p>Section 3.</p>
		<p>In section 6, subsections (2), (4) and (5).</p> <p>Section 9.</p> <p>Sections 11 to 23.</p> <p>Sections 35 to 53.</p> <p>Section 55.</p> <p>Section 58(4).</p> <p>Section 80.</p> <p>In section 85(1), the definition of “outside persons”.</p> <p>In Schedule 3, paragraphs 1 to 8, 10(1), (3) and (5), 11 to 33, 35 to 41, 44 and 45, 47 to 50, 51(2) and (9), 52 to 55, 58 to 60, 64 to 71, 73 to 80, 82 and 83.</p> <p>In Schedule 4, paragraph 20.</p> <p>In Schedule 5, paragraph 2.</p>
1981 c. 64.	The New Towns Act 1981.	<p>Section 23(7).</p> <p>In section 78(1)(d), the words “or British Telecommunications”.</p> <p>In section 79, in subsection (1)(c), the words “or British</p>



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		Telecommunications” and in subsection (3), paragraph (c).
1981 c. 67.	The Acquisition of Land Act 1981.	In section 8(1)(c), the words “or British Telecommunications”.
1982 c. 16.	The Civil Aviation Act 1982.	In section 105(1), in the definition of “statutory undertaker” the words “British Telecommunications”.
	In Schedule 15, paragraph 17(5). <i>Northern Ireland legislation etc.</i>	
S.I. 1972/1072 (N.I. 9).	The Electricity Supply (Northern Ireland) Order 1971.	In Article 2(2), the words from “telegraphic” to “any manner affected”.
S.I. 1972/1634 (N.I. 17).	The Planning (Northern Ireland) Order 1972.	In Article 80(2), the words from “on” in the third place where it occurs to “and” in the third place where it occurs.
S.I. 1973/70 (N.I. 2).	The Water and Sewerage Services (Northern Ireland) Order 1973.	In Article 2(2), the definition of “telegraphic line”.
S.I. 1973/2095.	The Local Government Reorganisation (Consequential Provisions) (Northern Ireland) Order 1973.	In Schedule 1, paragraphs 1 to 3.
S.I. 1977/596 (N.I. 7).	The Gas (Northern Ireland) Order 1977.	In Article 2(2), the definition of “telegraphic line”.
S.I. 1977/2157 (N.I. 28).	The Rates (Northern Ireland) Order 1977.	In Schedule 12, Part XII.
S.I. 1981/154 (N.I. 1).	The Road Traffic (Northern Ireland) Order 1981.	Article 106(6).
Chapter	Short title	Extent of repeal <i>Local enactments</i>
23 & 24 Geo. 5. c. xlv.	The London Overground Wires etc. Act 1933.	In section 2(1), the definition of “telegraphic line”.  In section 5(3), the words from “and before” onwards.
1963 c. xvii.	The London County Council (General Powers) Act 1963.	In section 3(1), the definition of “the Act of 1878”.  Section 17(4)(b).  Section 21(2)(b).

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## PART II U.K.

### REPEALS COMING INTO FORCE ON TRANSFER DATE

Chapter	Short title	Extent of repeal
62 & 63 Vict. c. 19.	The Electric Lighting (Clauses) Act 1899.	In the Schedule, section 62(1) (b).
1981 c. 38.	The British Telecommunications Act 1981.	Section 1(2).  Section 2. Sections 4 and 5. In section 6, subsections (1), (3) and (6) to (13). Sections 7 and 8. Sections 24 to 34. Section 54. Sections 56 and 57. In Schedule 1, paragraph 5. In Schedule 3, paragraphs 9, 42, 46, 57(1), 61, 62, 72 and 81.

## PART III U.K.

### REPEALS COMING INTO FORCE ON DISSOLUTION OF BRITISH TELECOMMUNICATIONS

#### Commencement Information

- II** [Sch. 7 Pt. III](#) in force at 6.9.1994: British Telecommunications was dissolved on 6.9.1994 by [The British Telecommunications \(Dissolution\) Order 1994 \(S.I. 1994/2162\)](#), see [ss. 109\(6\)](#), [110\(4\)](#)

Chapter	Short title	Extent of repeal
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words, “British Telecommunications”.
1981 c. 38.	The British Telecommunications Act 1981.	In section 1, subsection (1) and subsections (3) to (6).  In Schedule 1, paragraphs 1 to 4 and 6 to 16.

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1983 c. 44.	The National Audit Act 1983.	In Schedule 4, the entry relating to British Telecommunications.
1984 c. 12.	The Telecommunications Act 1984.	Section 100.

## PART IV U.K.

### WIRELESS TELEGRAPHY REPEALS

#### Modifications etc. (not altering text)

- C37** Pt. VI (ss. 74-92), ss. 102, 106(4)(5), 110(1), Sch. 3 and Sch. 7 Pt. IV extended (Guernsey) (with modifications) (1.6.1994) by S.I. 1994/1064, art. 3(1), Sch. Pt. I
- C38** Sch. 7 Pt. IV extended (Jersey) (with modifications) (29.12.2003) by The Wireless Telegraphy (Jersey) Order 2003 (S.I. 2003/3196), art. 3(1), Sch. Pt. I (as amended (27.2.2004) by The Broadcasting and Communications (Jersey) Order 2004 (S.I. 2004/308), art. 6(1), Sch. 2 Pt. 1)

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 54.	The Wireless Telegraphy Act 1949.	Section 9(1)(a) and (2).  In section 9(7), the words “the advisory committee and” and the words from “in the case of the committee” to “the tribunal”.  In section 10(1), the words from “after” to “committee”.
1967 c. 72.	The Wireless Telegraphy Act 1967.	In section 9(3), the words from “and accordingly” to the end.  Section 11.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7C, the entry relating to the Wireless Telegraphy Act 1949.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entry relating to the Wireless Telegraphy Act 1949.

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