

Status: Point in time view as at 29/12/2003.

Changes to legislation: Communications Act 2003, Paragraph 11 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

AMENDMENTS OF SCHEDULE 2 TO THE TELECOMMUNICATIONS ACT 1984

Effect of agreements concerning sharing of apparatus

11 After paragraph 28, there shall be inserted—

“Effect of agreements concerning sharing of apparatus

- 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;
- “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);

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“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.”

Commencement Information

- I1** Sch. 3 para. 11 in force at 25.7.2003 for specified purposes by S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))
- I2** Sch. 3 para. 11 in force at 29.12.2003 in so far as not already in force by S.I. 2003/3142, art. 3(2) (with art. 11)

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