

## SCHEDULE

Regulation 2

### Amendments to the Electronic Communications Code (Conditions and Restrictions) Regulations 2003

1. In regulation 2(2) (interpretation)—
  - (a) in the definition of “area of special scientific interest”—
    - (i) for “Great Britain” substitute “England and Wales”;
    - (ii) after “Wildlife and Countryside Act 1981” delete “or” and insert—

“in relation to Scotland has the meaning given in Section 3(6) of the Nature Conservation (Scotland) Act 2004(1) and”;

and
    - (iii) for “article 24(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985” substitute “article 28(1) of the Environment (Northern Ireland) Order 2002(2)”;
  - (b) after the definition of “emergency organisation” insert—

““fixed-line broadband” means a service or connection (commonly referred to as being “always on”), via a fixed-line network, providing a bandwidth greater than narrowband;

“fixed-line broadband cabinet” means a cabinet located near a connection point in an electronic communications network that is used to house electronic communications apparatus to facilitate a fixed-line broadband connection to a customer’s premises for the provision of broadband services;

“fixed-line broadband pole” means a pole that is used to attach lines for the purpose of facilitating or delivering a fixed-line broadband service;”;
  - (c) in the definition of “marine nature reserve” after “Wildlife and Countryside Act 1981” insert—

“(including any marine nature reserve designated a marine conservation zone by operation of paragraph 2 of Schedule 2 to the Marine and Coastal Access Act 2009(3))”;
  - (d) after the definition of “marine nature reserve” insert—

““narrowband” means a service or connection providing data speeds up to 128kbit/second;”;
  - (e) after the definition of “OFCOM” insert—

““overhead fixed-line broadband line” means a fixed-line broadband line other than an underground fixed-line broadband line;” and
  - (f) for the definition of “site of special scientific interest” substitute—
    - (a) in England and Wales means an area in respect of which a notification has been given under section 28(1) of the Wildlife and Countryside Act 1981; and
    - (b) in Scotland has the meaning given in Section 3(6) of the Nature Conservation (Scotland) Act 2004;”.

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(1) Section 28 of the Wildlife and Countryside Act 1981 (c.69) was repealed as respects Scotland by the [Nature Conservation \(Scotland\) Act 2004](#), Schedule 7, paragraph 4 (asp 6).

(2) Article 24(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order was repealed by the Environment (Northern Ireland) Order 2002, Schedule 6, Part II (2002 No.3153 (N.I.7)).

(3) Section 36(1) of the Wildlife and Countryside Act 1981 (marine nature reserves) was repealed by the Marine (Scotland) Act 2010 (asp 5), Schedule 4(2), paragraph 5(b) in relation to Scotland, and by the Marine and Coastal Access Act 2009 (c.23), Schedule 22, Part 3 in relation to England and Wales. The repeal has not yet been brought into force in relation to Wales.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

2. In regulation 4 (lines)—
  - (a) in paragraph (1)(d) delete “or”
  - (b) after paragraph (1)(d) insert—
    - “(da) the line is a fixed-line broadband line and is not in any of the protected areas referred to in regulation 8(1)(b); or”.
3. In regulation 5 (installation of electronic communications apparatus)—
  - (a) for paragraph (1)(a) substitute—
    - “the code operator has not previously installed electronic communications apparatus in the area and (subject to paragraph (1A)) is intending to install such apparatus in that area;”;
  - (b) in paragraph (1)(b) delete the full stop and insert– “; or”;
  - (c) after paragraph (1)(b) insert—
    - “(c) the code operator intends to install in that area any fixed-line broadband pole, fixed-line broadband cabinet or overhead fixed-line broadband line which is not a service line.”;
  - (d) after paragraph (1)(c) insert—
    - “(1A) A code operator is not required to give notice in relation to apparatus in paragraph (1)(a) where the apparatus is—
      - (a) an underground line;
      - (b) a service line; or
      - (c) a line permitted to be installed above ground pursuant to Regulation 4(1)(a) to (d) or 4(1)(e).”
  - (e) After paragraph (2) insert—
    - “(2A) The description required in paragraph (2) shall include whether or not the apparatus is fixed-line broadband electronic communications apparatus.”.
4. In paragraph (1) of regulation 6 (conservation areas) after “paragraph (2)” insert “or regulation 6A”.
5. After regulation 6 (conservation areas), insert—
  - “6A.—(1) Electronic communications apparatus installed by a code operator in a conservation area is not required to be installed underground where—
    - (a) the apparatus comprises fixed-line broadband lines, fixed-line broadband cabinets or fixed-line broadband poles; and
    - (b) the code operator has given the planning authority one month’s notice in writing that the code operator intends to install such apparatus in the area in question.
  - (2) Regulation 5(2), 5(2A) and 5(3) apply in respect of a notice given under paragraph (1).
  - (3) A code operator is not required to give notice under paragraph (1) where the electronic communications apparatus is a fixed-line broadband service line.”.
6. In regulation 7 (listed buildings and ancient monuments), in paragraph (1) before “code operator may install” for “A” substitute—
  - “Subject to regulation 7A, a”.
7. After regulation 7 (listed buildings and ancient monuments), insert—

**“7A.—**(1) A code operator may install fixed-line broadband lines, fixed-line broadband cabinets, and fixed-line broadband poles in proximity to, or in the case of a fixed-line broadband service line affixed to, a building shown as grade 1 or category A in the statutory list of buildings only if the code operator gives one month’s notice in writing to the planning authority.

(2) Regulations 5(2), 5(2A) and 5(3) apply in respect of a notice given under paragraph (1).

(3) A code operator is not required to give notice under paragraph (1) where the apparatus is installed pursuant to regulation 7(3).”.

**8.** In regulation 8 (protected areas) after paragraph (5) insert—

**“(6)** This regulation does not apply to fixed-line broadband electronic communications apparatus—

- (a) except in any of the protected areas referred to in regulation 8(1)(b); or
- (b) where the apparatus is installed pursuant to regulation 8(4).”.

**9.** After regulation 8 (protected areas), insert—

**“8A.—**(1) When a code operator intends to install fixed-line broadband lines, fixed-line broadband cabinets or fixed-line broadband poles in—

- (a) a National Park, the Broads, a limestone pavement area or an area of outstanding natural beauty, he must give notice in writing to the planning authority;
- (b) a national scenic area, he must give notice in writing to Scottish Natural Heritage; or
- (c) any land which the National Trust or the National Trust for Scotland has notified the code operator that it owns, or holds any interest in, he must give notice in writing to its relevant regional office.

(2) Regulations 5(2), 5(2A) and 5(3) shall apply in respect of a notice given under paragraph (1) as though references to a planning authority include any other person entitled to receive a notice under paragraph (1).

(3) A code operator is not required to give notice under paragraph (1) where the electronic communications apparatus is a fixed-line broadband service line;

(4) This regulation does not apply in any of the protected areas referred to in regulation 8(1)(b).”.