

SCHEDULES

SCHEDULE 14

Article 45

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1.—(1) The provisions of this Schedule, unless otherwise agreed in writing between the promoter and the operator, have effect.

(2) In this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communication code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act⁽¹⁾;

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

Commencement Information

11 Sch. 14 para. 1 in force at 22.8.2013, see [art. 1](#)

2. The temporary stopping up or diversion of any street under article 9 (temporary stopping up of streets) does not affect any right of the operator under paragraph 9 of the electronic communications code to maintain any apparatus which, at the time of the stopping up or diversion, is in that street.

Commencement Information

12 Sch. 14 para. 2 in force at 22.8.2013, see [art. 1](#)

3.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised works or their construction, or of any subsidence resulting from any of those works—

⁽¹⁾ See section 106.

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- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
 - (b) there is any interruption in the supply of the service provided by an operator, the promoter must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—
 - (i) make reasonable compensation to an operator for loss sustained by it; and
 - (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.
- (2) Sub-paragraph (1) does not apply to—
- (a) any apparatus in respect of which the relations between the promoter and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
 - (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised works.
- (3) Nothing in sub-paragraph (1) imposes any liability on the promoter with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.
- (4) The operator must give the promoter reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the promoter which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.
- (5) Any difference arising between the promoter and the operator under this Schedule is to be referred to and settled by arbitration under article 51 (arbitration).

Commencement Information

I3 Sch. 14 para. 3 in force at 22.8.2013, see [art. 1](#)

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Changes and effects yet to be applied to :

- Sch. 14 para. 1(2) words inserted by [S.I. 2017/1011 Sch. 1 para. 25\(2\)\(a\)\(iii\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)
- Sch. 14 para. 1(2) words omitted by [S.I. 2017/1011 Sch. 1 para. 25\(2\)\(a\)\(i\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)
- Sch. 14 para. 1(2) words substituted by [S.I. 2017/1011 Sch. 1 para. 25\(2\)\(a\)\(ii\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)
- Sch. 14 para. 2 words substituted by [S.I. 2017/1011 Sch. 1 para. 25\(2\)\(b\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)