

SCHEDULES

SCHEDULE 12

Protective provisions

PART 3

Protection for operators of electronic communications code networks

31.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of 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 communications code;

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

“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

I1 Sch. 12 para. 31 in force at 31.12.2014, see [art. 1](#)

32. Paragraph 23 of Schedule 2 to the Telecommunications Act 1984⁽¹⁾ (which provides a procedure for certain cases where works involve the alteration of electronic communications apparatus), applies in relation to the exercise of the powers of article 25 (statutory undertakers).

Commencement Information

I2 Sch. 12 para. 32 in force at 31.12.2014, see [art. 1](#)

(1) 1984 c.12.

Status: Point in time view as at 31/12/2014.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea One Offshore Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

33.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from that development—

- (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 undertaker 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) Nothing in sub-paragraph (1) imposes any liability on the undertaker 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.

(3) The operator must give the undertaker 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 undertaker 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.

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Commencement Information

I3 Sch. 12 para. 33 in force at 31.12.2014, see [art. 1](#)

34. This Part of this Schedule does not apply to any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act.

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Commencement Information

I4 Sch. 12 para. 34 in force at 31.12.2014, see [art. 1](#)

Status:

Point in time view as at 31/12/2014.

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