

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Electronic Communications Code (“the code”) is set out in Schedule 3A to the Communications Act 2003. Schedule 3A was inserted by Part 2 of the Digital Economy Act 2017. The code replaces the previous code set out in Schedule 2 to the Telecommunications Act 1984.

The code sets out the basis on which electronic communications operators authorised by Ofcom under section 106 of the Communications Act 2003 may exercise rights to deploy and maintain their electronic communications apparatus on, over and under land. Electronic communications apparatus is defined in paragraph 5 of the code. Under the provisions of the code, “the court” has jurisdiction for most disputes.

Regulation 3 permits functions conferred on the court by the code to be exercised by certain tribunals, and modifies the code accordingly. These regulations do not extend to Northern Ireland. Accordingly, all functions conferred by the code on a county court in Northern Ireland are exercisable in Northern Ireland only by a county court.

Regulation 4 provides that “relevant proceedings” (defined in regulation 2) under the code must be commenced only in the Upper Tribunal or the Lands Tribunal for Scotland.

The First-tier Tribunal can hear relevant proceedings only if the Upper Tribunal transfers a case to it in accordance with rule 5(3)(k)(ii) of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (S.I. 2010/2600).

Regulation 5 gives each of the tribunals listed in regulation 3 power to transfer relevant proceedings to the respective court, if the court would be a more appropriate forum.

The county court (in England and Wales) and the sheriff court (in Scotland) can hear relevant proceedings, brought after the date on which these Regulations come into force, only if a tribunal transfers those proceedings in accordance with the provisions of regulation 5.

An Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Electronic Communications Code (Jurisdiction) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- reg. 2(1) words inserted by [2021 c. 7 Sch. para. 6](#)
- reg. 4 heading word substituted by [2021 c. 7 Sch. para. 8\(2\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 3(1) reg. 3 renumbered as reg. 3(1) by [2021 c. 7 Sch. para. 7\(2\)](#)
- reg. 3(1) words inserted by [2021 c. 7 Sch. para. 7\(3\)\(a\)](#)
- reg. 3(1) words omitted by [2021 c. 7 Sch. para. 7\(3\)\(c\)](#)
- reg. 3(1) words omitted by [S.I. 2023/1220 reg. 2\(2\)\(a\)](#)
- reg. 3(1)(aa) substituted for reg. 3(1)(a)(b) by [2021 c. 7 Sch. para. 7\(3\)\(b\)](#)
- reg. 3(2)(3) inserted by [2021 c. 7 Sch. para. 7\(4\)](#)
- reg. 3(2) omitted by [S.I. 2023/1220 reg. 2\(2\)\(b\)](#)
- reg. 4(1) reg. 4 renumbered as reg. 4(1) by [2021 c. 7 Sch. para. 8\(3\)](#)
- reg. 4(1)(a) omitted by [S.I. 2023/1220 reg. 2\(3\)\(a\)](#)
- reg. 4(1)(b) word inserted by [S.I. 2023/1220 reg. 2\(3\)\(b\)](#)
- reg. 4(2) inserted by [2021 c. 7 Sch. para. 8\(4\)](#)