

**Changes to legislation:** Communications Act 2003, Paragraph 38 is up to date with all changes known to be in force on or before 15 May 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) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 3A

#### THE ELECTRONIC COMMUNICATIONS CODE

##### Textual Amendments

- F1** Sch. 3A inserted (31.7.2017 for the purpose of making regulations under Sch. 3A para. 95, 22.11.2017 but only in relation to Sch. 3A para. 106, 28.12.2017 in so far as not already in force) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 1](#) (with Sch. 2); S.I. 2017/765, reg. 2(ii)(jj); S.I. 2017/1136, reg. 2; S.I. 2017/1286, reg. 2(b)

##### Modifications etc. (not altering text)

- C1** Sch. 3A applied by S.I. 1991/1220 (N.I. 11), [art. 104\(5\)](#) (as substituted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Primary Legislation\) Regulations 2017 \(S.I. 2017/1285\)](#), reg. 1(1), [Sch. 1 para. 28\(2\)\(c\)](#))

## PART 6

### RIGHTS TO REQUIRE REMOVAL OF ELECTRONIC COMMUNICATIONS APPARATUS

##### Modifications etc. (not altering text)

- C1** Sch. 3A Pt. 6 excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), [Sch. 32 para. 33\(2\)](#) (with Sch. 32 para. 32(1))
- C1** Sch. 3A Pt. 6 excluded by 1996 c. 61, Sch. 15 Pt. 4 para. 2(1) (as amended (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 38\(3\)](#); S.I. 2017/1286, reg. 2(d))
- C1** Sch. 3A Pt. 6 applied by 1985 c. 68, s. 298(2) (as amended (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 19](#); S.I. 2017/1286, reg. 2(d))

*When does a landowner or occupier of neighbouring land have the right to require removal of electronic communications apparatus?*

- 38 (1) A landowner or occupier of any land (“neighbouring land”) has the right to require the removal of electronic communications apparatus kept on, under or over other land in exercise of a right mentioned in paragraph 13(1), if both of the following conditions are met.
- (2) The first condition is that the apparatus interferes with or obstructs a means of access to or from the neighbouring land.
- (3) The second condition is that the landowner or occupier of the neighbouring land is not bound by a code right within [<sup>F2</sup>paragraph 3(1)(h)] entitling an operator to cause the interference or obstruction.

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- (4) A landowner of neighbouring land who is not the occupier of the land does not meet the second condition if—
- (a) the land is occupied by a person who—
    - (i) conferred a code right (which is in force) entitling an operator to cause the interference or obstruction, or
    - (ii) is otherwise bound by such a right, and
  - (b) that code right was not conferred in breach of a covenant enforceable by the landowner.
- (5) In the application of sub-paragraph (4)(b) to Scotland the reference to a covenant enforceable by the landowner is to be read as a reference to a contractual term which is so enforceable.]

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**Textual Amendments**

- F2** Words in Sch. 3A para. 38(3) substituted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), ss. 57(6), 79(2) (with s. 57(7)); S.I. 2023/109, [reg. 2\(a\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

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

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

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)