

**Changes to legislation:** Communications Act 2003, PART 11 is up to date with all changes known to be in force on or before 08 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 11

### OVERHEAD APPARATUS

#### *Introductory*

- 73 This Part of this code—
- (a) confers a power on operators to install and keep certain overhead apparatus, and
  - (b) imposes a duty on operators to affix notices to certain overhead apparatus.

#### *Power to fly lines*

- 74 [<sup>F2</sup>(1) This paragraph applies where an operator (“the main operator”) keeps electronic communications apparatus on or over any land for the purposes of the main operator’s network.]
- (2) The [<sup>F3</sup>main] operator has the right, for the statutory purposes, to install and keep lines which—
- (a) pass over other land adjacent to, or in the vicinity of, the land on or over which the apparatus [<sup>F4</sup>mentioned in sub-paragraph (1)] is kept,
  - (b) are connected to that apparatus, and
  - (c) are not, at any point where they pass over the other land, less than three metres above the ground or within two metres of any building over which they pass.

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[ With the agreement of the main operator, another operator has the right, for the <sup>F5</sup>(2A) statutory purposes, to install and keep lines which—

- (a) pass over other land adjacent to, or in the vicinity of, the land on or over which the apparatus mentioned in sub-paragraph (1) is kept,
- (b) are connected to that apparatus, and
- (c) are not, at any point where they pass over the other land, less than three metres above the ground or within two metres of any building over which they pass.]

(3) [<sup>F6</sup>Sub-paragraphs (2) and (2A) do] not authorise the installation or keeping on or over any land of—

- (a) any electronic communications apparatus used to support, carry or suspend a line installed under [<sup>F7</sup>either of those sub-paragraphs], or
- (b) any line which, as a result of its position, interferes with the carrying on of any business carried on on that land.

[ The main operator has the right to upgrade, or carry out works to, the apparatus <sup>F8</sup>(3A) mentioned in sub-paragraph (1) for the purposes of, or in connection with—

- (a) the exercise by the main operator of the right conferred by sub-paragraph (2), or
- (b) the exercise by another operator of the right conferred by sub-paragraph (2A).

(3B) With the agreement of the main operator, another operator has the right to upgrade, or carry out works to, the apparatus mentioned in sub-paragraph (1) for the purposes of, or in connection with, the exercise by the other operator of the right conferred by sub-paragraph (2A).

(3C) Sub-paragraphs (3A) and (3B) do not authorise an operator to upgrade, or carry out works to, the apparatus mentioned in sub-paragraph (1) if the upgrade or works would—

- (a) have more than a minimal adverse impact on the appearance of the apparatus,
- (b) have more than a minimal adverse impact on the land on or over which the apparatus is kept, or
- (c) cause loss, damage or expense to any person with an interest in the land on or over which the apparatus is kept.

(3D) An operator may not enter the land on or over which the apparatus mentioned in sub-paragraph (1) is kept for the purpose of exercising a right conferred by this paragraph without the agreement of the occupier of the land.]

(4) In this paragraph “business” includes a trade, profession or employment and includes any activity carried on by a body of persons (whether corporate or unincorporate).

#### Textual Amendments

- F2** Sch. 3A para. 74(1) substituted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), [ss. 60\(2\)](#), 79(2); S.I. 2023/109, [reg. 2\(b\)](#)
- F3** Word in Sch. 3A para. 74(2) inserted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), [ss. 60\(3\)\(a\)](#), 79(2); S.I. 2023/109, [reg. 2\(b\)](#)
- F4** Words in Sch. 3A para. 74(2)(a) inserted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), [ss. 60\(3\)\(b\)](#), 79(2); S.I. 2023/109, [reg. 2\(b\)](#)

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- F5** Sch. 3A para. 74(2A) inserted (7.2.2023) by Product Security and Telecommunications Infrastructure 2022 (c. 46), ss. 60(4), 79(2); S.I. 2023/109, reg. 2(b)
- F6** Words in Sch. 3A para. 74(3) substituted (7.2.2023) by Product Security and Telecommunications Infrastructure 2022 (c. 46), ss. 60(5)(a), 79(2); S.I. 2023/109, reg. 2(b)
- F7** Words in Sch. 3A para. 74(3)(a) substituted (7.2.2023) by Product Security and Telecommunications Infrastructure 2022 (c. 46), ss. 60(5)(b), 79(2); S.I. 2023/109, reg. 2(b)
- F8** Sch. 3A para. 74(3A)-(3D) inserted (7.2.2023) by Product Security and Telecommunications Infrastructure 2022 (c. 46), ss. 60(6), 79(2); S.I. 2023/109, reg. 2(b)

*Duty to attach notices to overhead apparatus*

- 75 (1) This paragraph applies where—
- (a) an operator has, for the purposes of the operator's network, installed any electronic communications apparatus, and
  - (b) the whole or part of the apparatus is at a height of three metres or more above the ground.
- (2) The operator must, before the end of the period of three days beginning with the day after that on which the installation is completed, in a secure and durable manner attach a notice—
- (a) to every major item of apparatus installed, or
  - (b) if no major item of apparatus is installed, to the nearest major item of electronic communications apparatus to which the apparatus that is installed is directly or indirectly connected.
- (3) A notice attached under sub-paragraph (2)—
- (a) must be attached in a position where it is reasonably legible, and
  - (b) must give the name of the operator and an address in the United Kingdom at which any notice of objection may be given under paragraph 77(5) in respect of the apparatus in question.
- (4) Any person giving such a notice at that address in respect of that apparatus is to be treated as having given that address for the purposes of paragraph 91(2).
- (5) An operator who breaches the requirements of this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) In any proceedings for an offence under this paragraph it is a defence for the person charged to prove that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.]

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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\(1\)](#)