

SCHEDULES

SCHEDULE 2

THE TELECOMMUNICATIONS CODE

Agreement required to confer right to execute works etc.

- 2 (1) The agreement in writing of the occupier for the time being of any land shall be required for conferring on the operator a right for the statutory purposes—
- (a) to execute any works on that land for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus; or
 - (b) to keep telecommunication apparatus installed on, under or over that land ; or
 - (c) to enter that land to inspect any apparatus kept installed (whether on, under or over that land or elsewhere) for the purposes of the operator's system.
- (2) A person who is the owner of the freehold estate in any land or is a lessee of any land shall not be bound by a right conferred in accordance with sub-paragraph (1) above by the occupier of that land unless—
- (a) he conferred the right himself as occupier of the land ; or
 - (b) he has agreed in writing to be bound by the right; or
 - (c) he is for the time being treated by virtue of sub-paragraph (3) below as having so agreed ; or
 - (d) he is bound by the right by virtue of sub-paragraph (4) below.
- (3) If a right falling within sub-paragraph (1) above has been conferred by the occupier of any land for purposes connected with the provision, to the occupier from time to time of that land, of any telecommunication services and—
- (a) the person conferring the right is also the owner of the freehold estate in that land or is a lessee of the land under a lease for a term of a year or more, or
 - (b) in a case not falling within paragraph (a) above, a person owning the freehold estate in the land or a lessee of the land under a lease for a term of a year or more has agreed in writing that his interest in the land should be bound by the right,
- then, subject to paragraph 4 below, that right shall (as well as binding the person who conferred it) have effect, at any time when the person who conferred it or a person bound by it under sub-paragraph (2)(b) or (4) of this paragraph is the occupier of the land, as if every person for the time being owning an interest in that land had agreed in writing to the right being conferred for the said purposes and, subject to its being exercised solely for those purposes, to be bound by it.
- (4) In any case where a person owning an interest in land agrees in writing (whether when agreeing to the right as occupier or for the purposes of sub-paragraph (3) (b) above or otherwise) that his interest should be bound by a right falling within sub-paragraph (1) above, that right shall (except in so far as the contrary intention appears) bind the owner from time to time of that interest and also—

Status: This is the original version (as it was originally enacted).

- (a) the owner from time to time of any other interest in the land, being an interest created after the right is conferred and not having priority over the interest to which the agreement relates; and
 - (b) any other person who is at any time in occupation of the land and whose right to occupation of the land derives (by contract or otherwise) from a person who at the time the right to occupation was granted was bound by virtue of this sub-paragraph.
- (5) A right falling within sub-paragraph (1) above shall not be exercisable except in accordance with the terms (whether as to payment or otherwise) subject to which it is conferred ; and, accordingly, every person for the time being bound by such a right shall have the benefit of those terms
- (6) A variation of a right falling within sub-paragraph (1) above or of the terms on which such a right is exercisable shall be capable of binding persons who are not parties to the variation in the same way as, under sub-paragraphs (2), (3) and (4) above, such a right is capable of binding persons who are not parties to the conferring of the right
- (7) It is hereby declared that a right falling within sub-paragraph (1) above is not subject to the provisions of any enactment requiring the registration of interests in, charges on or other obligations affecting land.
- (8) In this paragraph and paragraphs 3 and 4 below—
 - (a) references to the occupier of any land shall have effect—
 - (i) in relation to any footpath or bridleway that crosses and forms part of any agricultural land or any land which is being brought into use for agriculture, as references to the occupier of that land ;
 - (ii) in relation to any street (not being such a footpath or bridleway), as references to the street managers within the meaning of the Public Utilities Street Works Act 1950 (which for this purpose shall be deemed to extend to Northern Ireland); and
 - (iii) in relation to any land (not being a street) which is unoccupied, as references to the person (if any) who for the time being exercises powers of management or control over the land or, if there is no such person, to every person whose interest in the land would be prejudicially affected by the exercise of the right in question ;
 - (b) "lease" includes any leasehold tenancy (whether in the nature of a head lease, sub-lease or underlease) and any agreement to grant such a tenancy but not a mortgage by demise or sub-demise and " lessee" shall be construed accordingly; and
 - (c) references to the owner of a freehold estate shall, in relation to land in Scotland, have effect as references to the person—
 - (i) who is infest proprietor of the land ; or
 - (ii) who has right to the land but whose title thereto is not complete ; or
 - (iii) in the case of land subject to a heritable security constituted by ex facie absolute disposition, who is the debtor in the security, except where the creditor is in possession of the land,other than a person having a right as a superior only.
- (9) Subject to paragraphs 9(2) and 11(2) below, this paragraph shall not require any person to give his agreement to the exercise of any right conferred by any of paragraphs 9 to 12 below.