

Changes to legislation: Communications Act 2003, Cross Heading: *When can a separate application for restoration of land be made?* is up to date with all changes known to be in force on or before 15 April 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

[^{F1}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 can a separate application for restoration of land be made?

- 43 (1) This paragraph applies if—
- the condition of the land has been affected by the exercise of a code right, and
 - restoration of the land to its condition before the code right was exercised does not involve the removal of electronic communications apparatus from any land.
- (2) The occupier of the land, the owner of the freehold estate in the land or the lessee of the land (“the relevant person”) has the right to require the operator to restore the land if the relevant person is not for the time being bound by the code right.
- (3) The relevant person does not have that right if—
- the land is occupied by a person who—

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- (i) conferred a code right (which is in force) entitling the operator to affect the condition of the land in the same way as the right mentioned in sub-paragraph (1), 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 relevant person.
- (4) In the application of sub-paragraph (3)(b) to Scotland the reference to a covenant enforceable by the relevant person is to be read as a reference to a contractual term which is so enforceable.
- (5) A person who has the right conferred by this paragraph may give a notice to the operator requiring the operator to restore the land to its condition before the code right was exercised.
- (6) The notice must—
- (a) comply with paragraph 89 (notices given by persons other than operators), and
 - (b) specify the period within which the operator must complete the works.
- (7) The period specified under sub-paragraph (6) must be a reasonable one.
- (8) Sub-paragraph (9) applies if, within the period of 28 days beginning with the day on which the notice was given, the landowner and the operator do not reach agreement on any of the following matters—
- (a) that the operator will restore the land to its condition before the code right was exercised;
 - (b) the time at which or period within which the land will be restored.
- (9) The landowner may make an application to the court for—
- (a) an order under paragraph 44(2) (order requiring operator to restore land), or
 - (b) an order under paragraph 44(4) (order enabling landowner to recover cost of restoring land).
- (10) If the court makes an order under paragraph 44(2), but the operator does not comply with the agreement imposed on the operator and the landowner by virtue of paragraph 44(7), the landowner may make an application to the court for an order under paragraph 44(4).
- (11) In the application of sub-paragraph (2) to Scotland the reference to a person who is the owner of the freehold estate in the land is to be read as a reference to a person who is the owner of the land.]

Changes to legislation:

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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\(1\)](#)