

Status: Point in time view as at 31/07/2017.

Changes to legislation: Communications Act 2003, PART 15 is up to date with all changes known to be in force on or before 06 July 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)

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)

PART 15

NOTICES UNDER THE CODE

Introductory

- 87 This Part makes provision—
- (a) about requirements for the form of notices given under this code by operators,
 - (b) about requirements for the form of notices given under this code by persons other than operators, and
 - (c) about procedures for giving notices.

Notices given by operators

- 88 (1) A notice given under this code by an operator must—
- (a) explain the effect of the notice,
 - (b) explain which provisions of this code are relevant to the notice, and
 - (c) explain the steps that may be taken by the recipient in respect of the notice.
- (2) If OFCOM have prescribed the form of a notice which may or must be given by an operator under a provision of this code, a notice given by an operator under that provision must be in that form.
- (3) A notice which does not comply with this paragraph is not a valid notice for the purposes of this code.
- (4) Sub-paragraph (3) does not prevent the person to whom the notice is given from relying on the notice if the person chooses to do so.
- (5) In any proceedings under this code a certificate issued by OFCOM stating that a particular form of notice has been prescribed by them as mentioned in this paragraph is conclusive evidence of that fact.

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Notices given by others

- 89 (1) Sub-paragraph (2) applies to a notice given under paragraph 31(1), 33(1), 39(1) or 40(2) by a person other than an operator.
- (2) If OFCOM have prescribed the form of a notice given under the provision in question by a person other than an operator, the notice must be in that form.
- (3) A notice which does not comply with sub-paragraph (2) is not a valid notice for the purposes of this code.
- (4) Sub-paragraph (3) does not prevent the operator to whom the notice is given from relying on the notice if the operator chooses to do so.
- (5) Sub-paragraph (6) applies to a notice given under any other provision of this code by a person other than an operator if—
- (a) OFCOM have prescribed the form of a notice given under that provision by a person other than an operator,
 - (b) the notice is given in response to a notice given by an operator, and
 - (c) the operator has, in giving the notice, drawn the person's attention to the form prescribed by OFCOM.
- (6) The notice is a valid notice for the purposes of this code, but the person giving the notice must bear any costs incurred by the operator as a result of the notice not being in that form.
- (7) In any proceedings under this code a certificate issued by OFCOM stating that a particular form of notice has been prescribed by them as mentioned in this paragraph is conclusive evidence of that fact.

Prescription of notices by OFCOM

- 90 (1) OFCOM must prescribe the form of a notice to be given under each provision of this code that requires a notice to be given.
- (2) OFCOM may from time to time amend or replace a form prescribed under sub-paragraph (1).
- (3) Before prescribing a form for the purposes of this code, OFCOM must consult operators and such other persons as OFCOM think appropriate.
- (4) Sub-paragraph (3) does not apply to the amendment or replacement of a form prescribed under sub-paragraph (1).

Procedures for giving notice

- 91 (1) A notice given under this code must not be sent by post unless it is sent by a registered post service or by recorded delivery.
- (2) For the purposes, in the case of a notice under this code, of section 394 of this Act (service of notifications and other documents) and section 7 of the Interpretation Act 1978 (references to service by post), the proper address of a person ("P") is—
- (a) if P has given the person giving the notice an address for service under this code, that address, and
 - (b) otherwise, the address given by section 394.

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- (3) Sub-paragraph (4) applies if it is not practicable, for the purposes of giving a notice under this code, to find out after reasonable enquiries the name and address of a person who is the occupier of land for the purposes of this code.
- (4) A notice may be given under this code to the occupier —
 - (a) by addressing it to a person by the description of “occupier” of the land (and describing the land), and
 - (b) by delivering it to a person who is on the land or, if there is no person on the land to whom it can be delivered, by affixing it, or a copy of it, to a conspicuous object on the land.
- (5) Sub-paragraph (6) applies if it is not practicable, for the purposes of giving a notice under this code, to find out after reasonable enquiries the name and address of the owner of an interest in land.
- (6) A notice may be given under this code to the owner—
 - (a) by addressing it to a person by the description of “owner” of the interest (and describing the interest and the land), and
 - (b) by delivering it to a person who is on the land or, if there is no person on the land to whom it can be delivered, by affixing it, or a copy of it, to a conspicuous object on the land.]

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