

SCHEDULES

SCHEDULE 2

THE TELECOMMUNICATIONS CODE

Power to require alteration of apparatus

- 20 (1) Where any telecommunication apparatus is kept installed on, under or over any land for the purposes of the operator's system, any person with an interest in that land or adjacent land may (notwithstanding the terms of any agreement binding that person) by notice given to the operator require the alteration of the apparatus on the ground that the alteration is necessary to enable that person to carry out a proposed improvement of the land in which he has an interest.
- (2) Where a notice is given under sub-paragraph (1) above by any person to the operator, the operator shall comply with it unless he gives a counter-notice under this sub-paragraph within the period of 28 days beginning with the giving of the notice.
- (3) Where a counter-notice is given under sub-paragraph (2) above to any person, the operator shall make the required alteration only if the court on an application by that person makes an order requiring the alteration to be made.
- (4) The court shall make an order under this paragraph for an alteration to be made only if, having regard to all the circumstances and the principle that no person should unreasonably be denied access to a telecommunication system, it is satisfied—
- (a) that the alteration is necessary as mentioned in sub-paragraph (1) above; and
 - (b) that the alteration will not substantially interfere with any service provided by the operator's system.
- (5) The court shall not make an order under this paragraph for the alteration of any apparatus unless it is satisfied either—
- (a) that the operator has all such rights as it appears to the court appropriate that he should have for the purpose of making the alteration, or
 - (b) that—
 - (i) he would have all those rights if the court, on an application under paragraph 5 above, dispensed with the need for the agreement of any person, and
 - (ii) it would be appropriate for the court, on such an application, to dispense with the need for that agreement;
- and, accordingly, for the purposes of dispensing with the need for the agreement of any person to the alteration of any apparatus, the court shall have the same powers as it would have if an application had been duly made under paragraph 5 above for an order dispensing with the need for that person's agreement.
- (6) For the purposes of sub-paragraph (5) above, the court shall have power on an application under this paragraph to give the applicant directions for bringing the application to the notice of such other interested persons as it thinks fit.

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

- (7) An order under this paragraph may provide for the alteration to be carried out with such modifications, on such terms and subject to such conditions as the court thinks fit, but the court shall not include any such modifications, terms or conditions in its order without the consent of the applicant, and if such consent is not given may refuse to make an order under this paragraph.
- (8) An order made under this paragraph on the application of any person shall, unless the court otherwise thinks fit, require that person to reimburse the operator in respect of any expenses which the operator incurs in or in connection with the execution of any works in compliance with the order.
- (9) In sub-paragraph (1) above "improvement" includes development and change of use.