



# Telecommunications Act 1984

## 1984 CHAPTER 12

### PART II

#### PROVISION OF TELECOMMUNICATION SERVICES

##### *Licensing etc. of telecommunication systems*

#### **10 The telecommunications code.**

[<sup>F1</sup>(1) Subject to the following provisions of this section, the code (to be known as “the telecommunications code”) which is contained in Schedule 2 to this Act shall have effect—

- (a) where it is applied to a particular person by a licence granted by the Secretary of State under section 7 above authorising that person to run a telecommunication system; and
- (b) where the Secretary of State or a Northern Ireland department is running or is proposing to run a telecommunication system.

(2) The telecommunications code shall not be applied to a person authorised by a licence under section 7 above to run a telecommunication system unless—

- (a) that licence is a licence to which section 8 above applies; or
- (b) it appears to the Secretary of State—
  - (i) that the running of the system will benefit the public; and
  - (ii) that it is not practicable for the system to be run without the application of that code to that person.

(3) Where the telecommunications code is applied to any person by a licence under section 7 above it shall have effect subject to such exceptions and conditions as may be included in the licence for the purpose of qualifying the rights exercisable by that person by virtue of the code.

[<sup>F2</sup>(3A) Where—

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- (a) the telecommunications code expressly or impliedly imposes any limitation on the use to which any telecommunication apparatus installed by a person authorised by a licence under section 7 above may be put, and
  - (b) that person is a party to a relevant agreement,
- that limitation shall not have effect so as to preclude the doing of anything which is done in relation to that apparatus in pursuance of that agreement; and anything which is so done shall be disregarded in determining, for the purposes of the telecommunications code as it applies in relation to that person, the purposes for which the apparatus is used.
- (3B) Subsection (3A) above shall not be construed, in relation to a person who is authorised by a relevant agreement to share the use of any apparatus installed by another party to the agreement, as affecting any requirement on him (whether imposed by any statutory provision or otherwise) to obtain any consent or permission in connection with the installation by him of any apparatus, or the doing by him of any other thing, in pursuance of the agreement.
- (3C) In subsections (3A) and (3B) above “relevant agreement”, in relation to any telecommunication apparatus, means an agreement in writing—
- (a) to which the parties are two or more persons to whom the telecommunications code has been applied by a licence granted under section 7 above; and
  - (b) which relates to the sharing by those persons of the use of that apparatus,
- and in subsection (3B) above “statutory provision” means any provision of an enactment or of an instrument having effect under an enactment.]
- (4) Without prejudice to the generality of subsection (3) above, the exceptions and conditions there mentioned shall include such exceptions and conditions as appear to the Secretary of State to be requisite or expedient for the purpose of securing—
- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved;
  - (b) that there is no greater damage to [<sup>F3</sup>streets][<sup>F3</sup>roads] or interference with traffic than is reasonably necessary;
  - (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code;
- and any condition falling within this subsection may impose on the person to whom the code is applied a requirement to comply with directions given in a manner specified in the condition and by a person so specified or of a description so specified.
- (5) A licence under section 7 above which applies the telecommunications code to any person in relation to any part or locality of the United Kingdom shall include a condition requiring that person to cause copies of—
- (a) the exceptions and conditions subject to which the telecommunications code has effect as so applied; and
  - (b) every direction given in a manner specified in any such condition by a person so specified or of a description so specified,
- to be open for inspection by members of the public free of charge at such premises in that part or locality as are specified in the licence or are of a description so specified.
- (6) Before granting under section 7 above a licence which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, the Secretary of State shall publish a notice—

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- (a) stating that he proposes to apply the code to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which he proposes that the code should have effect as so applied;
  - (b) stating the reasons why he proposes to apply the code to that person in relation to that part or locality and why he proposes that the code as so applied should have effect subject to those exceptions and conditions; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed application of the code to that person in relation to that part or locality and with respect to the proposed exceptions and conditions may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (7) If the Secretary of State, on reconsidering in pursuance of subsection (6) above any proposals specified in a notice under that subsection, grants a licence under section 7 above applying the telecommunications code to any person in relation to any part or locality of the United Kingdom, he shall on granting that licence publish a further notice—
- (a) stating that the code has been applied to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which the code has effect as so applied; and
  - (b) stating the reasons why the code has been applied to that person in relation to that part or locality and why the code as so applied has effect subject to those exceptions and conditions.
- (8) Where the Secretary of State has granted a licence under section 7 above which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, he may—
- (a) with the consent of that person; or
  - (b) if it appears to him requisite or expedient to do so for the purpose mentioned in subsection (4) above,
- modify the exceptions and conditions subject to which the code has effect as so applied.
- (9) Before modifying the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, the Secretary of State shall publish a notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
  - (b) stating the reasons why he proposes to make the modifications; and
  - (c) specifying the time (not being less than 28 days from the date of publication of this notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (10) If the Secretary of State, on reconsidering in pursuance of subsection (9) above any proposals specified in a notice under that subsection, modifies the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, he shall on making the modifications publish a further notice—

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- (a) stating that the modifications have been made and setting out their effect; and
- (b) stating the reasons why the modifications have been made.

(11) A notice under this section shall be published in such manner as the Secretary of State considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.]

**Textual Amendments**

- F1** Ss. 9-11 repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by [Communications Act 2003 \(c. 21\)](#), ss. 147(b), 406, 408, 411, **Sch. 19(1)** (with [Sch. 18](#), [Sch. 19\(1\)](#) Note 1); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), [Sch. 1](#) (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3**, [Sch. 1](#) (with art. 11)
- F2** S. 10(3A)-(3C) inserted (31.12.1997) by S.I. 1997/2930, **reg. 3(8)**
- F3** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 92(2)**

**Modifications etc. (not altering text)**

- C1** S. 10 restricted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 32, 45, **Sch. 7 Pt. VI**. para. 2

**Changes to legislation:**

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