

**Changes to legislation:** Communications Act 2003, PART 12 is up to date with all changes known to be in force on or before 23 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

### [<sup>F1</sup>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 12

### RIGHTS TO OBJECT TO CERTAIN APPARATUS

#### *Introductory*

- 76 This Part of this code makes provision conferring rights to object to certain kinds of apparatus, and makes provision about—
- the cases in which and persons by whom a right can be exercised, and
  - the power and procedures of the court if an objection is made.

#### *When and by whom can a right to object be exercised?*

- 77 (1) A right to object under this Part of this code is available where, pursuant to the right in paragraph 62, an operator keeps electronic communications apparatus installed on, under or over tidal water or lands within the meaning of Part 9 of this code.
- (2) In that case a person has a right to object under this Part of this code if the person—
- is an occupier of, or has an interest in, the tidal water or lands,
  - is not bound by a code right enabling the operator to keep the apparatus installed on, under or over the tidal water or lands, and
  - is not a person with the benefit of a Crown interest in the tidal water or lands.
- (3) A right to object under this Part of this code is available where an operator keeps a line installed over land pursuant to the right in [<sup>F2</sup>paragraph 74(2) or (2A)].
- (4) In that case a person has a right to object under this Part of this code if the person—
- is an occupier of, or has an interest in, the land, and

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- (b) is not bound by a code right enabling the operator to keep the apparatus installed over the land.
- (5) A right to object under this Part of this code is available where—
- (a) electronic communications apparatus is kept on or over land for the purposes of an operator's network, and
  - (b) the whole or any part of that apparatus is at a height of three metres or more above the ground.
- (6) In that case a person has a right to object under this Part of this code if—
- (a) the person is an occupier of, or has an interest in, any neighbouring land, and
  - (b) because of the nearness of the neighbouring land to the land on or over which the apparatus is kept—
    - (i) the enjoyment of the neighbouring land is capable of being prejudiced by the apparatus, or
    - (ii) any interest in that land is capable of being prejudiced by the apparatus.
- (7) There is no right to object under this Part of this code in respect of electronic communications apparatus if the apparatus—
- (a) replaces any electronic communications apparatus which is not substantially different from the new apparatus, and
  - (b) is not in a significantly different position.

#### Textual Amendments

**F2** Words in [Sch. 3A para. 77\(3\)](#) substituted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\), ss. 60\(7\), 79\(2\); S.I. 2023/109, reg. 2\(b\)](#)

#### *How may a right to object be exercised?*

- 78 (1) A person with a right to object under this Part (“the objector”) may exercise the right by giving a notice to the operator.
- (2) The right to object that the person has, and the procedure that applies to that right, depends on whether—
- (a) the notice is given before the end of the period of 12 months beginning with the date on which installation of the apparatus was completed (see paragraph 79), or
  - (b) the notice is given after the end of that period (see paragraph 80).

#### *What is the procedure if the objection is made within 12 months of installation?*

- 79 (1) This paragraph applies if the notice is given before the end of the period of 12 months beginning with the date on which installation of the apparatus was completed.
- (2) At any time after the end of the period of two months beginning with the date on which the notice is given, but before the end of the period of four months beginning with that date, the objector may apply to the court to have the objection upheld.
- (3) The court must uphold the objection if the following conditions are met.

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- (4) The first condition is that the apparatus appears materially to prejudice the objector's enjoyment of, or interest in, the land by reference to which the objection is made.
- (5) The second condition is that the court is not satisfied that the only possible alterations of the apparatus will—
  - (a) substantially increase the cost or diminish the quality of the service provided by the operator's network to persons who have, or may in future have, access to it,
  - (b) involve the operator in substantial additional expenditure (disregarding any expenditure caused solely by the fact that any proposed alteration was not adopted originally or, as the case may be, that the apparatus has been unnecessarily installed), or
  - (c) give to any person a case at least as good as the objector has to have an objection under this paragraph upheld.
- (6) If the court upholds an objection under this paragraph it may by order do any of the following—
  - (a) direct the alteration of the apparatus to which the objection relates;
  - (b) authorise the installation (instead of the apparatus to which the objection relates), in a manner and position specified in the order, of any apparatus specified in the order;
  - (c) direct that no objection may be made under this paragraph in respect of any apparatus the installation of which is authorised by the court.
- (7) Where an objector has both given a notice under paragraph 78 and applied for compensation under any of the other provisions of this code—
  - (a) the court may give such directions as it thinks fit for ensuring that no compensation is paid until any proceedings under this paragraph have been disposed of, and
  - (b) if the court makes an order under this paragraph, it may provide in that order for some or all of the compensation otherwise payable under this code to the objector not to be so payable, or, if the case so requires, for some or all of any compensation paid under this code to the objector to be repaid to the operator.
- (8) For the purposes of sub-paragraph (5)(c), the court has the power on an application under this paragraph to give the objector directions for bringing the application to the notice of such other interested persons as it thinks fit.
- (9) This paragraph is subject to paragraph 81.

*What is the procedure if the objection is made later than 12 months after installation?*

- 80
- (1) This paragraph applies if the notice is given after the end of the period of 12 months beginning with the date on which installation of the apparatus was completed.
  - (2) At any time after the end of the period of two months beginning with the date on which the notice is given, but before the end of the period of four months beginning with that date, the objector may apply to the court to have the objection upheld.
  - (3) The court may uphold the objection only if it is satisfied that—
    - (a) the alteration is necessary to enable the objector to carry out a proposed improvement of the land by reference to which the objection is made, and

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- (b) the alteration will not substantially interfere with any service which is or is likely to be provided using the operator's network.
- (4) If the court upholds an objection under this paragraph it may by order direct the alteration of the apparatus to which the objection relates.
- (5) 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.
- (6) But the court must not include any such modifications, terms or conditions in its order without the consent of the objector, and if such consent is not given may refuse to make an order under this paragraph.
- (7) An order made under this paragraph must, unless the court otherwise thinks fit, require the objector 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.
- (8) This paragraph is subject to paragraph 81.
- (9) In this paragraph “improvement” includes development and change of use.

*What limitations are there on the court's powers under paragraph 79 or 80?*

- 81 (1) This paragraph applies where the court is considering making—
- (a) an order under paragraph 79 directing the alteration of any apparatus or authorising the installation of any apparatus, or
  - (b) an order under paragraph 80 directing the alteration of any apparatus.
- (2) The court must not make the order unless it is satisfied—
- (a) that the operator has all such rights as it appears to the court appropriate that the operator should have for the purpose of making the alteration or, as the case may be, installing the apparatus, or
  - (b) that—
    - (i) the operator would have all those rights if the court, on an application under paragraph 20, imposed an agreement on the operator and another person, and
    - (ii) it would be appropriate for the court, on such an application, to impose such an agreement.
- (3) For the purposes of avoiding the need for the agreement of any person to the alteration or installation of any apparatus, the court has the same powers as it would have if an application had been duly made under paragraph 20 for an order imposing such an agreement.
- (4) For the purposes of this paragraph, the court has the power on an application under paragraph 79 or 80 to give the objector directions for bringing the application to the notice of such other interested persons as it thinks fit.]

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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\(1\)](#)