

Status: Point in time view as at 06/04/2024.

Changes to legislation: Communications Act 2003, PART 2 is up to date with all changes known to be in force on or before 11 June 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)

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 2

CONFERRAL OF CODE RIGHTS AND THEIR EXERCISE

Introductory

- 8 This Part of this code makes provision about—
- (a) the conferral of code rights,
 - (b) the persons who are bound by code rights, and
 - (c) the exercise of code rights.

Who may confer code rights?

- 9 [A code right in respect of land may only be conferred on an operator by an agreement ^{F2}(1)] between the occupier of the land and the operator.

[But in a case where an operator (“the first operator”) has the right to share the use of ^{F3}(2) electronic communications apparatus with another operator (“the second operator”) under or by virtue of an agreement under this Part, sub-paragraph (1) does not prevent the agreement from providing for the first operator to permit the second operator to exercise, in connection with the sharing, a code right conferred on the first operator by the agreement.]

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Textual Amendments

- F2** Sch. 3A para. 9 renumbered as Sch. 3A para. 9(1) (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022](#) (c. 46), [ss. 57\(4\)\(a\), 79\(2\)](#) (with s. 57(7)); S.I. 2023/109, [reg. 2\(a\)](#)
- F3** Sch. 3A para. 9(2) inserted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022](#) (c. 46), [ss. 57\(4\)\(b\), 79\(2\)](#) (with s. 57(7)); S.I. 2023/109, [reg. 2\(a\)](#)

Who else is bound by code rights?

- 10 (1) This paragraph applies if, [^{F4}in accordance with this Part][^{F4}pursuant to an agreement under this Part or Part 4A], a code right is conferred on an operator in respect of land by a person (“O”) who is the occupier of the land when the code right is conferred.
- (2) If O has an interest in the land when the code right is conferred, the code right also binds—
- (a) the successors in title to that interest,
 - (b) a person with an interest in the land that is created after the right is conferred and is derived (directly or indirectly) out of—
 - (i) O's interest, or
 - (ii) the interest of a successor in title to O's interest, and
 - (c) any other person at any time in occupation of the land whose right to occupation was granted by—
 - (i) O, at a time when O was bound by the code right, or
 - (ii) a person within paragraph (a) or (b).
- (3) A successor in title who is bound by a code right by virtue of sub-paragraph (2)(a) is to be treated as a party to the agreement by which O conferred the right.
- (4) The code right also binds any other person with an interest in the land who has [^{F5}, pursuant to an agreement under this Part or Part 4A,] agreed to be bound by it.
- (5) If such a person (“P”) agrees to be bound by the code right, the code right also binds—
- (a) the successors in title to P's interest,
 - (b) a person with an interest in the land that is created after P agrees to be bound and is derived (directly or indirectly) out of—
 - (i) P's interest, or
 - (ii) the interest of a successor in title to P's interest, and
 - (c) any other person at any time in occupation of the land whose right to occupation was granted by—
 - (i) P, at a time when P was bound by the code right, or
 - (ii) a person within paragraph (a) or (b).
- (6) A successor in title who is bound by a code right by virtue of sub-paragraph (5)(a) is to be treated as a party to the agreement by which P agreed to be bound by the right.

Textual Amendments

- F4** Words in [Sch. 3A para. 10\(1\)](#) substituted (15.3.2021 for specified purposes, 26.12.2022 for E.W. in so far as not already in force, 1.7.2023 for S. in so far as not already in force) by [Telecommunications](#)

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- Infrastructure (Leasehold Property) Act 2021 (c. 7), s. 3(3)(b)(4), **Sch. para. 4(2)(a)**; S.I. 2022/1308, reg. 3(c)
- F5** Words in **Sch. 3A para. 10(4)** inserted (15.3.2021 for specified purposes, 26.12.2022 for E.W. in so far as not already in force, 1.7.2023 for S. in so far as not already in force) by **Telecommunications Infrastructure (Leasehold Property) Act 2021 (c. 7), s. 3(3)(b)(4), Sch. para. 4(2)(b)**; S.I. 2022/1308, reg. 3(c)

Requirements for agreements

- 11 (1) An agreement under this Part—
- (a) must be in writing,
 - (b) must be signed by or on behalf of the parties to it,
 - (c) must state for how long the code right is exercisable, and
 - (d) must state the period of notice (if any) required to terminate the agreement.
- (2) Sub-paragraph (1)(a) and (b) also applies to the variation of an agreement under this Part.
- (3) The agreement as varied must still comply with sub-paragraph (1)(c) and (d).

Exercise of code rights

- 12 (1) A code right is exercisable only in accordance with the terms subject to which it is conferred.
- (2) Anything done by an operator in the exercise of a code right conferred under this Part [^{F6}or Part 4A] in relation to any land is to be treated as done in the exercise of a statutory power.
- (3) Sub-paragraph (2) does not apply against a person who—
- (a) is the owner of the freehold estate in the land or the lessee of the land, and
 - (b) is not for the time being bound by the code right.
- (4) Sub-paragraph (2) does not apply against a person who has the benefit of a covenant or agreement entered into as respects the land, if—
- (a) the covenant or agreement was entered into under an enactment, and
 - (b) by virtue of the enactment, it binds or will bind persons who derive title or otherwise claim—
 - (i) under the covenantor, or
 - (ii) under a party to the agreement.
- (5) In the application of sub-paragraph (3) 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.

Textual Amendments

- F6** Words in **Sch. 3A para. 12(2)** inserted (15.3.2021 for specified purposes, 26.12.2022 for E.W. in so far as not already in force, 1.7.2023 for S. in so far as not already in force) by **Telecommunications Infrastructure (Leasehold Property) Act 2021 (c. 7), s. 3(3)(b)(4), Sch. para. 4(3)**; S.I. 2022/1308, reg. 3(c)

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Access to land

- 13 (1) This paragraph applies to an operator by whom any of the following rights is exercisable in relation to land—
- (a) a code right within paragraph (a) to (g) or (i) of [^{F7}paragraph 3(1)];
 - (b) a right under Part 8 (street works rights);
 - (c) a right under Part 9 (tidal water rights);
 - (d) a right under paragraph 74 (power to fly lines).
- (2) The operator may not exercise the right so as to interfere with or obstruct any means of access to or from any other land unless, in accordance with this code, the occupier of the other land has conferred or is otherwise bound by a code right within paragraph (h) of [^{F8}paragraph 3(1)].
- (3) A reference in this code to a means of access to or from land includes a means of access to or from land that is provided for use in emergencies.
- (4) This paragraph does not require a person to whom sub-paragraph (5) applies to agree to the exercise of any code right on land other than the land mentioned in that sub-paragraph.
- (5) This sub-paragraph applies to a person who is the occupier of, or owns an interest in, land which is—
- (a) a street in England and Wales or Northern Ireland,
 - (b) a road in Scotland, or
 - (c) tidal water or lands within the meaning of Part 9 of this code.

Textual Amendments

- F7** Words in Sch. 3A para. 13(1)(a) substituted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), **ss. 57(5)(a)**, 79(2) (with s. 57(7)); S.I. 2023/109, **reg. 2(a)**
- F8** Words in Sch. 3A para. 13(2) substituted (7.2.2023) by [Product Security and Telecommunications Infrastructure 2022 \(c. 46\)](#), **ss. 57(5)(b)**, 79(2) (with s. 57(7)); S.I. 2023/109, **reg. 2(a)**

Code rights and land registration

- 14 Where an enactment requires interests, charges or other obligations affecting land to be registered, the provisions of this code about who is bound by a code right have effect whether or not that right is registered.]

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