

## SCHEDULE

Section 67

### UNRESPONSIVE OCCUPIERS: CONSEQUENTIAL AMENDMENTS

- 1 The Communications Act 2003 is amended as follows.
- 2 In section 402 (powers of Secretary of State to make orders and regulations), in subsection (2A), before paragraph (a) insert—
- “(za) regulations under paragraph 27ZC(3)(b) of Schedule 3A;  
(zb) regulations under paragraph 27ZF(4) of Schedule 3A;”.
- 3 (1) Schedule 3A (the electronic communications code) is amended as follows.
- (2) In paragraph 10 (persons bound by code rights)—
- (a) in sub-paragraph (1), after “under this Part” insert “, Part 4ZA”;
- (b) in sub-paragraph (4), after “under this Part” insert “, Part 4ZA”.
- (3) In paragraph 12(2) (exercise of code rights), after “this Part” insert “, Part 4ZA”.
- (4) In paragraph 19(a) (power of court to impose agreement), after “see also” insert “Part 4ZA and”.
- (5) In paragraph 21 (test to be applied by the court)—
- (a) in sub-paragraph (1), for “sub-paragraph (5)” substitute “sub-paragraphs (5) and (6)”;
- (b) after sub-paragraph (5) insert—
- “(6) In deciding whether to make an order under paragraph 20 in circumstances where there is, or has been, an agreement under Part 4ZA or Part 4A between the operator and the relevant person in relation to the land to which the code right would relate, the court must take into account any breaches by the operator of its obligations under that agreement.”
- (6) In paragraph 23(2A) (terms of an agreement imposed under paragraph 20), after “an order under” insert “Part 4ZA or”.
- (7) In paragraph 26 (interim code rights)—
- (a) in sub-paragraph (1A), before “a relevant Part 4A agreement” insert “a relevant Part 4ZA agreement or”;
- (b) for sub-paragraph (1B) substitute—
- “(1B) In sub-paragraph (1A)—
- (a) “relevant Part 4ZA agreement” means an agreement imposed by an order under Part 4ZA by which the person—
- (i) confers a Part 4ZA code right on the operator, or
- (ii) otherwise agrees to be bound by a Part 4ZA code right which is exercisable by the operator,
- where the Part 4ZA code right is in respect of the same land as the code right mentioned in sub-paragraph (1), and
- (b) “relevant Part 4A agreement” means an agreement imposed by an order under Part 4A by which the person—

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*Status: This is the original version (as it was originally enacted).*

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- (i) confers a Part 4A code right on the operator, or
    - (ii) otherwise agrees to be bound by a Part 4A code right which is exercisable by the operator,where the Part 4A code right is in respect of the same land as the code right mentioned in sub-paragraph (1).”;
  - (c) in sub-paragraph (8), after “placed on” insert “, under or over”.
- (8) In paragraph 27G (expiry of Part 4A code rights), in sub-paragraph (4)—
- (a) after “placed on” insert “, under or over”;
  - (b) for “have effect” substitute “be conferred on the operator by”.
- (9) In paragraph 37(3) (landowner’s right to require removal of electronic communications apparatus), after paragraph (a) insert—
- “(aza) as mentioned in paragraph 27ZG(1) and (4).”.
- (10) In paragraph 84(1) (compensation where agreement imposed or apparatus removed), after paragraph (a) insert—
- “(aza) the power in paragraph 27ZH(2) (compensation where Part 4ZA order made).”.
- (11) In paragraph 108(1) (general interpretation), after the definition of “Part 4A code right” insert—
- ““Part 4ZA code right” has the meaning given by paragraph 27ZF(3).”.