

SCHEDULES

SCHEDULE 4

Section 109.

MINOR AND CONSEQUENTIAL AMENDMENTS

Interpretation

- 1 (1) In this Schedule and in any enactment amended by this Schedule—
- " the operator " means—
 - (a) in relation to a telecommunications code system the running of which is authorised by a licence under section 7 of this Act, the person to whom the telecommunications code is applied by that licence; and
 - (b) in relation to a telecommunications code system which the Secretary of State or a Northern Ireland department is running or proposing to run, the Secretary of State or, as the case may be, that department;
 - "public telecommunications operator" has the meaning given by section 9(3) of this Act;
 - " telecommunication apparatus" has the same meaning as in Schedule 2 to this Act;
 - " telecommunication system " has the meaning given by subsection (1) of section 4 above (read with subsection (2) of that section);
 - " the telecommunications code " means the code contained in Schedule 2 to this Act;
 - " telecommunications code system " means—
 - (a) a telecommunication system the running of which is authorised by a licence under section 7 of this Act applying the telecommunications code to any person; or
 - (b) a telecommunication system which the Secretary of State or a Northern Ireland department is running or proposing to run and in relation to which the telecommunications code has effect by virtue of section 10(1)(b) of this Act.
- (2) Subsection (11) of section 7 of this Act shall apply for the purposes of this Schedule and any enactment amended by this Schedule as it applies for the purposes of that section and the following provisions of Part II of this Act.

General

- 2 A requirement to do what is necessary to inform designated persons holding office under the Crown concerning matters and things transmitted or in the course of transmission by means of telecommunication services provided by a public telecommunications operator may be laid on the operator for the like purposes and in the like manner as, immediately before the appointed day, a requirement could have been laid on British Telecommunications to do what is necessary to

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inform such persons concerning matters and things transmitted or in the course of transmission by means of such services provided by it.

Enactments relating to statutory undertakers, etc.

- 3 (1) The references to British Telecommunications in the following enactments (under which British Telecommunications is a statutory undertaker and its undertaking a statutory undertaking) shall (without prejudice to the following provisions of this Schedule) cease to have effect, namely—
- (a) section 73(1) of the Control of Pollution Act 1974 ;
 - (b) section 10(4) of the Scottish Development Agency Act 1975 ;
 - (c) section 27(1) of the Welsh Development Agency Act 1975 ;
 - (d) section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976 ;
 - (e) section 34(1) of the Development of Rural Wales Act 1976 ;
 - (f) Article 53(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978 ;
 - (g) section 13(4) of the Electricity (Scotland) Act 1979 ;
 - (h) section 61(2) of the Ancient Monuments and Archaeological Areas Act 1979 ;
 - (i) sections 20(9), 144(6), 169(4), 170(3), 178(5), 181(9), 254(6), and 290 (9) of and paragraph 3(3) of Schedule 6 to the Highways Act 1980;
 - (j) Article 2(2) of the Roads (Northern Ireland) Order 1980 ;
 - (k) section 79(1)(c) of the New Towns Act 1981;
 - (l) section 8(1)(c) of the Acquisition of Land Act 1981 ;
 - (m) section 105(1) of the Civil Aviation Act 1982.
- (2) The following provisions of Schedule 3 to the 1981 Act (being provisions by virtue of which British Telecommunications is for the purposes of certain enactments to be treated as a statutory undertaker, a public utility undertaking or other public body) shall cease to have effect—
- (a) paragraph 10(1) and (5) (miscellaneous);
 - (b) paragraph 23 (the Civil Defence Act 1939) ;
 - (c) paragraph 31 (the War Damaged Sites Act 1949) ;
 - (d) paragraph 39 (Schedule 4 to the Public Health Act 1961);
 - (e) Paragraph 50 (the Local Government and Roads Act (Northern Ireland) 1968);
 - (f) paragraph 52 (the Harbours Act (Northern Ireland) 1970);
 - (g) paragraph 55(2) (the Planning (Northern Ireland) Order 1972);
 - (h) paragraph 66 (the Fair Employment (Northern Ireland) Act 1976);
 - (i) paragraph 73(2) (Schedule 16 to the Local Government, Planning and Land Act 1980) ; and
 - (j) paragraph 74(2) (certain provisions of the Highways Act 1980).

The Telegraph Acts 1863 and 1868

- 4 The references to British Telecommunications in section 45 of the Telegraph Act 1863 and section 20 of the Telegraph Act 1868 (offences by employees of the Post Office or British Telecommunications consisting in delaying, divulging or

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intercepting messages) shall cease to have effect; and in the said section 45, for the words " to a penalty" there shall be substituted the words " on summary conviction to a fine ".

The Foreign Enlistment Act 1870

- 5 In section 30 of the Foreign Enlistment Act 1870 (interpretation), in the definition of " military service " for the words " military telegraphy" there shall be substituted the words " military telecommunications ".

The Electric Lighting Act 1882

- 6 (1) Section 26 of the Electric Lighting Act 1882 (provision for protection of British Telecommunications) shall be amended in accordance with the following provisions of this paragraph.

- (2) For the words from the beginning to " by arbitration " there shall be substituted the following: —

“The undertakers shall not make any alteration of any telecommunication apparatus kept installed for the purposes of a telecommunications code system except in accordance with the telecommunications code.

The undertakers shall not, in the exercise of the powers conferred by this Act, or by any licence, order, or special Act, lay down any electric fine or do any other work for the supply of electricity whereby any telecommunication apparatus kept installed for the purposes of a telecommunications code system is or may be injuriously affected.

Before any such electric fine is laid down or work (other than repairs) is done within ten yards of any such telecommunication apparatus, the undertakers or their agents shall, one month or (in the case of the laying of service lines to consumers' premises) seven clear days before commencing such work, give written notice to the operator of the telecommunications code system in question specifying the course and nature of the work, including the gauge of any electric lines.

The undertakers and their agents shall conform with such reasonable requirements, either general or special, as may from time to time be made by the operator of any telecommunications code system for the purpose of preventing any telecommunication apparatus kept installed for the purposes of that system from being injuriously affected by any work done within ten yards of that apparatus.

Any difference which arises between the operator of a telecommunications code system and the undertakers or their agents with respect to any of the requirements of the preceding provisions of this section shall be determined by arbitration.”.

- (3) For the words " telegraphic communication ", in the first place where they occur, there shall be substituted the words " service provided by the telecommunications code system in question ".
- (4) For the words from " forthwith " to " done " there shall be substituted the words " forthwith served on the operator of the telecommunications code system in question ".
- (5) For the words from " For the purposes of this section a telegraphic line " onwards there shall be substituted the following: —

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“For the purposes of this section telecommunication apparatus shall be deemed to be injuriously affected where the service provided by the telecommunication system for the purposes of which that apparatus is used is in any manner affected.

Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the undertakers for the purposes of any works authorised by this Act.

Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of this section as it applies for the purposes of that code.

The preceding provisions of this section shall not apply in relation to any telecommunication apparatus which is kept installed in a conduit or structure falling within subsection (6)(a) of section 98 of the Telecommunications Act 1984 (by virtue of which telecommunication apparatus may be installed in electricity conduits etc.).”.

The Military Tramways Act 1887

- 7 In section 6 of the Military Tramways Act 1887 (which requires the insertion, in certain cases, in a provisional order made under that Act of provisions for the protection of telegraphs), for the words from " the telegraphs " to the end of the second paragraph there shall be substituted the words " any telecommunication apparatus kept installed for the purposes of a telecommunications code system or the service provided by any such system " ; and references, in any provisional order made under that section, to the telegraphs of British Telecommunications shall have effect with corresponding amendments.

The Electric Lighting Act 1888

- 8 (1) Section 4 of the Electric Lighting Act 1888 (restrictions on placing electric lines etc.) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1), for the words from " of the electric lines " to " telegraphic communication " there shall be substituted the words " of any telecommunication apparatus kept installed for the purposes of a telecommunications code system or of any other telecommunication apparatus lawfully kept installed in any position ".
- (3) In subsection (2)—
- (a) for the words from " telegraphic line " to " may ", in the first place where it occurs, there shall be substituted the words " any telecommunication apparatus kept installed for the purposes of a telecommunications code system or to affect the service provided by any such system, the Secretary of State may "; and
 - (b) for the words from " the telegraphic lines " to " may require " there shall be substituted the words " any telecommunication apparatus kept installed for the purposes of a telecommunications code system and the service provided by any such system as the Secretary of State may by or in pursuance of such notice prescribe; and in default of compliance with such conditions and regulations the Secretary of State may require ".

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- (4) In subsection (6), for the words from " to any electric line " to " telegraphic purposes " there shall be substituted the words " to any electric line, being an electric line kept installed solely for the purposes of a telecommunication system, ".

The Electric Lighting (Clauses) Act 1899

- 9 (1) The Schedule to the Electric Lighting (Clauses) Act 1899 shall be amended in accordance with the following provisions of this paragraph.

- (2) At the end of section 1 of the Schedule (interpretation) there shall be inserted the following:—

“References in this Schedule to telecommunication apparatus shall not include references to any telecommunication apparatus which is kept installed in a conduit or structure falling within subsection (6)(a) of section 98 of the Telecommunications Act 1984 (by virtue of which telecommunication apparatus may be installed in electricity conduits etc.); and, for the purposes of this Schedule, telecommunication apparatus shall be deemed to be injuriously affected where the service provided by the telecommunication system for the purposes of which that apparatus is used is in any manner affected.”.

- (3) The concurrence of British Telecommunications shall cease to be required for the giving of an approval under section 10(c) of the Schedule.

- (4) In section 14 of the Schedule (notice of works with plan to be served on local authority and British Telecommunications)—

- (a) in paragraph (a) of subsection (1)—

(i) for the words from " upon the " to " and the local authority" there shall be substituted the words " upon the local authority and any relevant telecommunications operator "; and

(ii) for the words from " by the " to " desire " there shall be substituted the words " by the local authority or that operator give the authority or that operator any such further information as the authority or that operator desires ";

- (b) in paragraph (b) of that subsection, for the words from the beginning to "discretion" there shall be substituted the words " the local authority or the relevant telecommunications operator may, in the discretion of the authority or that operator ";

- (c) in paragraph (c) of that subsection, for the words from the beginning to " approve ", in the first place where it occurs, there shall be substituted the words " Where the local authority or the relevant telecommunications operator approves " and for the word " disapprove", in the first place where it occurs, there shall be substituted the word " disapproves ";

- (d) in paragraph (d) of that subsection, for the words from the beginning to " fail" there shall be substituted the words " If the local authority or the relevant telecommunications operator fails " and for the words " he or they " there shall be substituted the words " the local authority or that operator ";

- (e) in paragraph (e) of that subsection, for the words from " approved, by " to " authority " there shall be substituted the words " approved by the local authority or the relevant telecommunications operator ";

- (f) in paragraph (f) of that subsection, for the words from " compensation to " to " or they " there shall be substituted the words " compensation to die

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local authority or the relevant telecommunications operator for any loss or damage which the authority or that operator ";

(g) after that subsection there shall be inserted the following subsection: —

“(1A) In the application of this subsection to a street or public bridge references to a relevant telecommunications operator are references to the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed in, under, along or across that street or bridge.”; and

(h) in subsection (4), for the words from " telegraphic line " to " being " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of any telecommunications code system being ".

(5) In section 20 of the Schedule (protection for telegraphic and telephonic wires etc.)—

(a) in the first paragraph of subsection (1), for the words " telegraphic, telephonic or electric signalling communication" there shall be substituted the word " telecommunications ";

(b) in subsection (2), for the words from " the work " to " signalling communication" there shall be substituted the words " telecommunications "; and

(c) after subsection (4) there shall be inserted the following subsection: —

“(5) References in this section to the owner of any wire or line used for the purpose of telecommunications shall include references to any person who is running, or is authorised by a licence under section 7 of the Telecommunications Act 1984 to run, any telecommunication system for the purposes of which that wire or fine is kept installed.”

(6) In section 60 of the Schedule (map of area of supply to be made), the references to British Telecommunications shall have effect as references to the operator of any telecommunications code system.

(7) In section 69(1) of the Schedule (remedying of system and works), in paragraph (c), for the words from " any telegraphic " to the end of the paragraph there shall be substituted the words " any telecommunication apparatus kept installed for the purposes of a telecommunications code system ; ".

(8) For section 79 of the Schedule (saving for British Telecommunications) there shall be substituted the following section: —

“79 Nothing in this Schedule shall affect any right or remedy conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or otherwise prejudice the provisions of that code.”.

The Telegraph Act 1899

10 In section 2(1) of the Telegraph Act 1899 (supplemental provision with respect to public telephonic systems by certain local authorities), for the words from " by " to " communication " there shall be substituted the words " to run a public telecommunication system (within the meaning of the Telecommunications Act 1984) ".

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The Cinematograph Act 1909

- 11 (1) In section 1(3) of the Cinematograph Act 1909 (provision against cinematograph exhibition except in licensed premises) for the words from " distributed " to the end there shall be substituted the words " programmes included in a cable programme service which is, or does not require to be, licensed under Part IV of the Telecommunications Act 1984 ".
- (2) This paragraph does not extend to Northern Ireland.

The Official Secrets Act 1911

- 12 (1) For the purposes of section 2 of the Official Secrets Act 1911 any office or employment under a public telecommunications operator shall be deemed to be an office under Her Majesty and a contract with such an operator shall be deemed to be a contract with Her Majesty.
- (2) Any telecommunications station or office belonging to, or occupied by, a public telecommunications operator shall be a prohibited place for the purposes of that Act.

The Electricity (Supply) Act 1919

- 13 In section 22 of the Electricity (Supply) Act 1919 (wayleaves)—
- (a) in subsection (4) (which applies section 14 of the Electric Lighting (Clauses) Act 1899), for the words from " so far " to " shall be " there shall be substituted the words " so far as it relates to the operator of any telecommunications code system, shall be "; and
- (b) for subsection (5) (saving for the Telegraph Acts 1863 to 1916) there shall be substituted the following subsection: —
- “(5) Nothing in this section shall—
- (a) affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; or
- (b) affect any determination under that code or any agreement entered into for the purposes of that code; or
- (c) operate in such manner as to interfere with or involve any additional expense in the exercise of any such rights.”.

The Official Secrets Act 1920

- 14 (1) Section 5 of the Official Secrets Act 1920 shall not apply to a public telecommunications operator.
- (2) In subsection (6) of that section for the words from " in contravention " onwards there shall be substituted the following paragraphs : —
- “(a) in contravention of the exclusive privilege conferred on the Post Office by section 66(1) of the British Telecommunications Act 1981 ; or
- (b) an offence under section 5 of the Telecommunications Act 1984.”.

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The Electricity (Supply) Act 1922

- 15 In section 25(3) of the Electricity (Supply) Act 1922 (protection of British Telecommunications)—
- (a) for the words from " protection " to " shall", in the first place where it occurs, there shall be substituted the words " protection of the operator of a telecommunications code system shall "; and
 - (b) for the words from "affect" onwards there shall be substituted the words " affect any right or remedy conferred by or in accordance with the telecommunications code. ".

The Law of Property Act 1925

- 16 In subsection (4) of section 194 of the Law of Property Act 1925 (under which that section does not apply, among other things, to a telegraphic line of British Telecommunications), for the words from " telegraphic line" onwards there shall be substituted the words " telecommunication apparatus installed for the purposes of a telecommunications code system. ".

The Roads Improvement Act 1925

- 17 (1) For subsection (6) of section 1 of the Roads Improvement Act 1925 (which applies section 7 of the Telegraph Act 1878 to work in connection with the planting of trees etc. in highways) there shall be substituted the following subsections: —
- “(6) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works which may be done in exercise of the powers conferred by this section, to the persons on whom those powers are conferred.
 - (7) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Minister.”.
- (2) For subsection (9) of section 5 of the said Act of 1925 (saving for enactments relating to telegraphs) there shall be substituted the following subsection: —
- “(9) Nothing in this section shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.”.

The Public Health Act 1925

- 18 In section 10 of the Public Health Act 1925 (under which nothing in that Act is to affect works or apparatus of British Telecommunications), for the words from " works " to " or any " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or the execution for those purposes of any works or any ".

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The Bridges Act 1929

- 19 For section 13 of the Bridges Act 1929 (which applies section 7 of the Telegraph Act 1878 to work authorised or required by an order made under that Act) there shall be substituted the following section: —

“**13** (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a bridge owner or highway authority for the purposes of works authorised or required by an order under this Act.

(2) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Secretary of State in any capacity.”.

The Restriction of Ribbon Development Act 1935

- 20 For subsection (2) of section 23 of the Restriction of Ribbon Development Act 1935 (saving in respect of the Telegraph Acts 1863 to 1926) there shall be substituted the following subsection: —

“(2) Nothing in this Act shall affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code.”.

The Civil Defence Act (Northern Ireland) 1939

- 21 For section 71 of the Civil Defence Act (Northern Ireland) 1939 (which applies section 7 of the Telegraph Act 1878 to work authorised or required to be done under that Act) there shall be substituted the following section: —

“**71** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works which may be done in exercise of the powers conferred by this Act, to the persons on whom those powers are conferred.”.

The Water Act 1945

- 22 (1) The Water Act 1945 shall be amended in accordance with the following provisions of this paragraph.

(2) For section 60 (which applies section 7 of the Telegraph Act 1878 to works authorised by an order under the Water Act 1945) there shall be substituted the following section: —

“**60** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works the execution of which is authorised by an order under this Act, to the person authorised by that order to execute those works.”.

(3) In the proviso to section 4 of Schedule 3 (subsidiary works not to interfere with telegraphic lines etc.), for the words from " telegraphic line" onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes

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of a telecommunications code system or with the service provided by any such system. ”.

- (4) Section 5 of Schedule 3 (which confers power on a water undertaker to operate a system of telegraphic communication) shall cease to have effect.
- (5) In section 70 of Schedule 3, for paragraph (a) of the proviso (works under that section not to interfere with telegraphic lines) there shall be substituted the following paragraph: —
- “(a) any telecommunication apparatus kept installed for the purposes of a telecommunications code system, except in accordance with, and subject to the provisions of, the telecommunications code ;”.
- (6) Without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments), references in this paragraph to a provision of the said Schedule 3 shall include references to that Schedule as incorporated or applied by or under any enactment.

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

- 23 In section 3 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which empowers the Secretary of State to extinguish certain public rights of way over land acquired), after subsection (4) there shall be inserted the following subsection: —

“(4A) In subsection (4) above, the reference to apparatus belonging to statutory undertakers shall include a reference to apparatus kept installed for the purposes of a telecommunications code system; and in relation to any such apparatus the references to the undertakers shall have effect as references to the operator of the system.”.

The Electricity Act 1947

- 24 In section 9(3) of the Electricity Act 1947 (which applies section 14 of the Schedule to the Electric Lighting (Clauses) Act 1899), for the words from " relates " to " shall " there shall be substituted the words " relates to the operator of a telecommunications code system shall ".

The Roads Act (Northern Ireland) 1948

- 25 For subsections (1) and (2) of section 41 of the Roads Act (Northern Ireland) 1948, as applied by any statutory provision passed before the coming into operation of the Roads (Northern Ireland) Order 1980, there shall be substituted the following subsections: —

“(1) Subject to subsection (1A), nothing in this Act or in any order made under it shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.

- (1A) Where in pursuance of an order under section 17 any road is stopped up, diverted or abandoned and immediately before that order comes into force there is under, in, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code

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system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into force ; but the Department or any person in whom the site of that road is vested shall be entitled to require the alteration of the apparatus.

- (1B) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of any work authorised to be carried out under this Act.
- (1C) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsection (1A) as it applies for the purposes of that code.
- (2) Paragraph 21 of the telecommunications code (restrictions on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

The Special Roads Act 1949

- 26 (1) For section 20 of the Special Roads Act 1949 (saving for British Telecommunications) there shall be substituted the following section: —

“**20** (1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or applies to any telecommunication apparatus kept installed for the purposes of any such system.

- (2) Where in pursuance of an order under section 3 of this Act any road is stopped up or diverted and immediately before the order comes into force there is under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not become operative ; but any person entitled to land over which the road subsisted shall be entitled to require the alteration of the apparatus.
- (3) Where an order under the said section 3 provides for the alteration of any road, not being a trunk road and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the highway authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.

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- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (2) In relation to an order under section 3 of the said Act of 1949 coming into force before the appointed day, section 20 of that Act shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Coast Protection Act 1949

- 27 In section 47 of the Coast Protection Act 1949, for paragraph (6) (savings for powers or duties of British Telecommunications) there shall be substituted the following paragraph: —
- “(b) affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code ;”.

The National Parks and Access to the Countryside Act 1949

- 28 (1) In the proviso to section 20(2) of the National Parks and Access to the Countryside Act 1949 (byelaws for protection of nature reserves not to interfere with the exercise of functions by statutory undertakers), at the end there shall be inserted the words " or with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system. ".
- (2) In section 60(5)(f) of that Act (under which land covered by works used for the purposes of a statutory undertaking is excepted land for the purposes of Part V of that Act), after the word " undertaking " there shall be inserted the words " or a telecommunications code system ".

The Public Utilities Street Works Act 1950

- 29 (1) The Public Utilities Street Works Act 1950 shall be amended in accordance with the following provisions of this paragraph.
- (2) In sections 3(2)(b), 4(2)(b), 6(1)(b), 10(1)(i), 26(2) and 28(3)(a) and paragraph 5(1)(b) of Schedule 1 and paragraph 1(1) of Schedule 3 (which refer to overhead telegraphic lines), for the words "an overhead telegraphic line ", wherever occurring, there shall be substituted the words " overhead telecommunication apparatus ".
- (3) For paragraph (c) of section 38(3) (under which the references to a service pipe or service line include certain underground telegraphic lines) there shall be substituted the following paragraph:—
- “(c) any telecommunication apparatus placed or intended to be placed underground for the purpose of providing a service by means of a telecommunication system to or from any premises, as distinct from telecommunication apparatus placed or intended to be placed for the general purposes of any such system”.

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- (4) In Schedule 7 (application to London)—
- (a) in paragraph 6, for the words "overhead telegraphic lines" there shall be substituted the words "overhead telecommunication apparatus"; and
 - (b) in paragraph 8(1), for the words "an overhead telegraphic line" there shall be substituted the words "overhead telecommunication apparatus".

The Defamation Act 1952

- 30 In section 16(4) of the Defamation Act 1952 (simultaneous transmission by telegraph of words broadcast by means of wireless telegraphy), for the words "by telegraph as defined by the Telegraph Act 1863" there shall be substituted the words "by means of a telecommunication system otherwise than in a way that involves the broadcasting of those words by means of wireless telegraphy".

The Local Government (Miscellaneous Provisions) Act 1953

- 31 In section 6 of the Local Government (Miscellaneous Provisions) Act 1953 (supplementary provisions as to bus shelters)—
- (a) in subsection (1), for the words from "telegraphic line" to "in obtaining" there shall be substituted the words "telecommunication apparatus kept installed for the purposes of a telecommunications code system and the operator of that system notifies the local authority that he requires to obtain access to the apparatus, the authority shall, unless they temporarily remove the shelter or accommodation for the purpose of affording such access or so much thereof as is necessary for that purpose, be liable to repay to the operator so much of the expenses reasonably incurred by him in obtaining"; and
 - (b) in subsection (2), for the words from "telegraphic line" to "there were" there shall be substituted the words "telecommunication apparatus as is therein mentioned, and as if for any reference therein to the operator of the system in question there were".

The Defamation Act (Northern Ireland) 1955

- 32 In section 14(3) of the Defamation Act (Northern Ireland) 1955 (simultaneous transmission by telegraph of words broadcast by means of wireless telegraphy), for the words "by telegraph as defined by the Telegraph Act 1863" there shall be substituted the words "by means of a telecommunication system otherwise than in a way that involves the broadcasting of those words by means of wireless telegraphy".

The Lough Neagh and Lower Bonn Drainage and Navigation Act (Northern Ireland) 1955

- 33 For subsection (2) of section 17 of the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 (which applies section 7 of the Telegraph Act 1878 in relation to schemes under the said Act of 1955) there shall be substituted the following subsection:—
- “(2) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of any works authorised by a scheme under this Act.”.

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The Electricity Act 1957

- 34 For subsection (8) of section 28 of the Electricity Act 1957 (protection for British Telecommunications in respect of electricity supplied to railways) there shall be substituted the following subsection : —

“(8) Without prejudice to any other enactment providing for the protection of telecommunication apparatus kept installed for the purposes of a telecommunications code system (and subject to the terms of any agreement made under section 98 of the Telecommunications Act 1984 with respect to the keeping of any telecommunication apparatus in a conduit or structure falling within subsection (6)(a) of that section (electricity conduits)), any electricity supplied under this section to any railway undertakers shall be used in such manner as not to cause, or to be likely to cause, any interference (whether by induction or otherwise) with any telecommunication apparatus kept installed for the purposes of any such system, or with the service provided by any such system.”.

The Housing Act 1957

- 35 (1) After section 74 of the Housing Act 1957, in Part III of that Act (clearance and redevelopment), there shall be inserted the following section: —

“**74A Saving for telecommunication apparatus etc.**

- (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.
- (2) Where in pursuance of an order under section 64 of this Act a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation ; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.
- (3) The proviso to subsection (3) of the said section 64 shall have effect in relation to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, and to telecommunication apparatus kept installed for the purposes of any such system, as it has effect in relation to rights vested in and apparatus belonging to statutory undertakers.
- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of

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any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

- (2) In relation to any order under section 64 of the said Act of 1957 coming into force before the appointed day, paragraph 33 of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Land Drainage (Scotland) Act 1958

- 36 (1) For section 17 of the Land Drainage (Scotland) Act 1958 (which applies section 7 of the Telegraph Act 1878 to works under an improvement order) there shall be substituted the following section: —

“17 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the authorised persons under an improvement order for the purposes of works in pursuance of that order.”.

- (2) In the proviso to paragraph 3 of Schedule 2 to that Act (temporary works not to interfere with telegraphic lines etc.), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ".

The Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958

- 37 In section 3 of the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 (supplementary provisions as to bus shelters etc.)—

- (a) in subsection (1), for the words from " telegraphic line " to " in obtaining " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system, and the operator of that system notifies the local authority that he requires to obtain access to that apparatus, the authority shall, unless they temporarily remove the shelter, barriers or posts for the purpose of affording such access, or so much thereof as is necessary for that purpose, be liable to repay the operator of that system so much of the expenses reasonably incurred by him in obtaining "; and
- (b) in subsection (2), for the words from " telegraphic line " to " there were " there shall be substituted the words " telecommunication apparatus as is therein mentioned, and as if for any reference therein to the operator of the system in question there were ".

The Opencast Coal Act 1958

- 38 (1) Section 45 of the Opencast Coal Act 1958 (provisions as to telegraphic lines) shall be amended in accordance with the following provisions of this paragraph.

- (2) In subsection (1) (prohibition on interference with telegraphic lines), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or include any right or power to require any such apparatus to be altered ".

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- (3) For subsection (2) (application of section 7 of the Telegraph Act 1878 to authorised operations) there shall be substituted the following subsection: —

“(2) Where an authorisation has been granted under section 1 of this Act, paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Board for the purposes of any authorised operations.”.

- (4) In subsection (3) (powers in relation to telegraphic lines where public right of way suspended), for the words from " telegraphic line " to " that line " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same rights in respect of that apparatus ".

- (5) For subsection (4) (meaning of " telegraphic line " and " alter ") there shall be substituted the following subsection: —

“(4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsection (1) above as it applies for the purposes of that code.”.

The Flood Prevention (Scotland) Act 1961

- 39 (1) The Flood Prevention (Scotland) Act 1961 shall be amended in accordance with the following provisions of this paragraph.

- (2) In section 3(4) (flood prevention works affecting statutory undertakers to be carried out only with their consent, which shall not be unreasonably refused), for the words " except with the consent in writing of the statutory undertakers" there shall be substituted the words " or any telecommunication apparatus kept installed for the purposes of a telecommunications code system or the running of any such system, except with the consent in writing of the statutory undertakers or, as the case may be, the operator of the system ".

- (3) In the proviso to paragraph 2 of Schedule 1 (temporary works not to interfere with certain telegraphic lines etc.), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ".

- (4) In paragraph 3(1) of Schedule 2 (which specifies the persons on whom certain notices are to be served), for paragraph (e) there shall be substituted the following paragraph: —

“(e) the operator of a telecommunications code system the running of which may be affected by any of the operations or by any alteration in the flow of water caused by the operations”.

The Public Health Act 1961

- 40 In section 29B(3) of the Public Health Act 1961 (which prevents interference with the apparatus or works of statutory undertakers), at the end there shall be inserted the words " or with any telecommunication apparatus kept installed, or works executed, for the purposes of a telecommunications code system. ".

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The Pipe-lines Act 1962

- 41 In section 40 of the Pipe-lines Act 1962 (avoidance of interference with telegraphic lines etc.)—
- (a) in subsection (1), for the words from " telegraphic line" to " such line " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system "; and
 - (b) for subsections (2) and (3) there shall be substituted the following subsection: —
 - “(2) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works in pursuance of a compulsory rights order, to the person authorised to execute those works.”.

The Water Resources Act 1963

- 42 (1) In section 67 of the Water Resources Act 1963 (compulsory powers for carrying out engineering or building operations), after subsection (5) there shall be inserted the following subsection: —
- “(5A) An order under this section shall not authorise the doing of anything to or in relation to any telecommunication apparatus kept installed for the purposes of a telecommunications code system.”.
- (2) For section 130 of that Act (which applies section 7 of the Telegraph Act 1878 to engineering or building operations of a water authority) there shall be substituted the following section: —
- “**130** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a water authority for the purposes of engineering or building operations of the authority.”.

The Harbours Act 1964

- 43 For section 53 of the Harbours Act 1964 (saving for telegraphic lines) there shall be substituted the following section:
- “**53** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works in pursuance of a harbour revision order and works authorised by a harbour empowerment order, to the person authorised to execute those works.”.

The New Towns Act (Northern Ireland) 1965

- 44 (1) In section 25 of the New Towns Act (Northern Ireland) 1965 (extinguishment of public rights of way), after subsection (9) there shall be inserted the following subsections: —
- “(9A) Where in pursuance of an order under this section a public right of way over land is extinguished and, at the beginning of the day on which the

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order comes into operation there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation ; but any person entitled to land over which the right of way existed shall be entitled to require the alteration of the apparatus.

(9B) Where the Department has approved an order under this section in respect of any right of way in circumstances in which subsection (9A) applies in relation to the operator of any telecommunications code system, the Department shall send a copy of the order to the operator.

(9C) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal, or replacement of apparatus) shall apply for the purposes of subsection (9A) as it applies for the purposes of that code.

(9D) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(2) In relation to an order under section 25 of the said Act of 1965 coming into force before the appointed day, paragraph 76(2) of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Housing (Scotland) Act 1966

45 After section 57 of the Housing (Scotland) Act 1966, in Part III of that Act (clearance), there shall be inserted the following section:—

“57A Saving for telecommunication apparatus.

Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.”.

The Countryside (Scotland) Act 1967

46 (1) In section 11(5)(f) of the Countryside (Scotland) Act 1967 (under which land covered by works used for the purposes of a statutory undertaking is excepted land for the purposes of Part II of that Act), after die words " statutory undertaking " there shall be inserted the words " or a telecommunications code system " .

(2) In subsection (7) of section 38 of that Act (saving in respect of telegraphic lines in the case of the closure or diversion of a public path), for the words from " any telegraphic line " to the end of the proviso there shall be substituted the words " any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not come into force ; but any person entitled to land over which the path subsisted shall be entitled to require the

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alteration of the apparatus " ; and after that subsection there shall be inserted the following subsections: —

“(8) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.

(9) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(3) In relation to any such order as is mentioned in the said subsection (7) coming into force before the appointed day, that subsection shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (2) above.

(4) In subsection (6) of section 54 of the said Act of 1967 (bye-laws for the protection of the countryside etc. not to interfere with the exercise of functions by statutory undertakers), at the end there shall be inserted the words " or with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system. ".

The New Towns (Scotland) Act 1968

47 (1) The New Towns (Scotland) Act 1968 shall be amended in accordance with the following provisions of this paragraph.

(2) In section 14(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. ".

(3) In the proviso to section 19(1) (under which the power to override servitudes etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system. ".

(4) For section 24 (which contains provision with respect to telegraphic lines where a public right of way is extinguished under that Act) there shall be substituted the following section: —

“**24** (1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local highway authority, and at the time of the publication of the notice required by subsection (2) of that section any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—

(a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any

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time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;

- (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (b) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
- (d) the operator of the system shall be entitled to recover from the corporation or authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require ;
- (e) where under the foregoing provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(2) Where the Secretary of State makes an order under section 23 of this Act in relation to a right of way in circumstances in which subsection (1) of this section applies in relation to the operator of any telecommunications code system, the Secretary of State shall send a copy of the order to the operator.”.

- (5) Where in any case a notice has been given before the appointed day under section 23(2) of the said Act of 1968 (notice of proposal to extinguish right of way) section 24 of that Act shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.
- (6) In section 26 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), after subsection (7) there shall be inserted the following subsection: —

“(8) Except in a case in which section 24 above has effect—

- (a) the reference in paragraph (a) of subsection (2) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; and
- (b) the reference in paragraph (b) of that subsection to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system ;

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and for the purposes of this subsection, in this section (except in the said paragraphs (a) and (b)) and in Schedule 5 to this Act and section 27 below, references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

- (7) After section 36 (which, with section 35, makes provision for the transfer etc. of the undertakings of development corporations) there shall be inserted the following section: —

“36A Application of ss. 35 and 36 to operators of certain telecommunication systems.

Sections 35 and 36 of this Act shall have effect as if references to statutory undertakers included references to the operator of any telecommunications code system and as if for this purpose—

- (a) references to a statutory undertaking were references to the running of such a system ; and
- (b) references to the appropriate Minister were references to the Secretary of State for Trade and Industry.”.

The Countryside Act 1968

- 48 (1) In subsections (4) and (12) of section 41 of the Countryside Act 1968 (certain byelaws not to interfere with exercise of certain functions), at the end there shall be inserted the words " or with the running of a telecommunications code system or the exercise of any right conferred by or in accordance with the telecommunications code on the operator of any such system ".
- (2) In paragraph 6 of Schedule 2 to that Act (saving for rights of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system. ".

The Sewerage (Scotland) Act 1968

- 49 In section 22(1) of the Sewerage (Scotland) Act 1968 (Part I of that Act not to authorise interference with carrying on of a statutory undertaking), for the words from " without " onwards there shall be substituted the words " or the running of a telecommunications code system without the consent of the statutory undertakers concerned or, as the case may be, of the operator of that system. ".

The Post Office Act 1969

- 50 In section 7(1) of the Post Office Act 1969 (powers of the Post Office), for paragraph (c) there shall be substituted the following paragraph: —
- “(c) to perform services for any public telecommunications operator or any subsidiary of any such operator ;”.

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The Roads (Scotland) Act 1970

- 51 (1) The Roads (Scotland) Act 1970 shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (6) of section 7 (power to divert waters after consulting local authority and other bodies acting under statutory powers), at the end there shall be inserted the words " ; and in subsection (3) above the reference to a body acting under statutory powers includes a reference to the operator of a telecommunication code system (whether or not a body) acting in pursuance of any right conferred by or in accordance with the telecommunications code. "
- (3) For subsection (3) of section 9 (which applies section 7 of the Telegraph Act 1878 to work authorised by a scheme made by a highway authority) there shall be substituted the following subsections:—
- “(3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of any works authorised by a scheme made by a highway authority under this section, to the person authorised to do the works.
- (4) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to a highway authority in relation to a trunk road.”.
- (4) In section 50 (interpretation)—
- (a) in subsection (1), for the definition of statutory undertakers there shall be substituted the following definition: —
- “‘ statutory undertakers ’ means—
- (a) any statutory undertakers as defined in section 275(1) of the Town and Country Planning (Scotland) Act 1972;
- (b) the Post Office ; and
- (c) except in section 39(4) of this Act, the operator of any telecommunications code system ;”;
- (b) after subsection (2) there shall be inserted the following subsection—
- “(2A) Any reference in this Act to apparatus belonging to statutory undertakers shall, in relation to the operator of a telecommunications code system, have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.”.

The Harbours Act (Northern Ireland) 1970

- 52 For section 37 of the Harbours Act (Northern Ireland) 1970 (which applies sections 6 and 7 of the Telegraph Act 1878 in relation to a harbour order) there shall be substituted the following section: —
- “**37** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a person authorised by a harbour order to execute any works, for the purposes of those works.”.

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The Town and Country Planning Act 1971

- 53 (1) The Town and Country Planning Act 1971 shall be amended in accordance with the following provisions of this paragraph.
- (2) The power to make a development order under section 24 (development orders) shall include power—
- (a) to repeal paragraph 83 of Schedule 24 to the said Act of 1971 and subparagraph (12) below ; and
 - (b) to make any such provision as is mentioned in that section in relation to cases in which planning permission is required by virtue of that repeal;
- and the power conferred by virtue of this subparagraph shall include power to make different provision for different cases.
- (3) In section 118(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. "
- (4) In the proviso to section 127(1) (under which the power to override easements etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system. "
- (5) After section 191 (purchase notice in other cases) there shall be inserted the following section: —

“191A Public telecommunications operator.

In the preceding provisions of this Part of this Act and in Schedule 19 to this Act the references to statutory undertakers shall be deemed to include references to a public telecommunications operator.”.

- (6) In section 192(1)(a) (scope of provisions relating to the effect of planning proposals on the interests of owner-occupiers), for the words from " functions " to " National Coal Board " there shall be substituted the words " of the following functions, that is to say, those of a government department, local authority or statutory undertakers, or of the National Coal Board or the establishment or running by a public telecommunications operator of a telecommunication system " ; and, accordingly, in section 205(1) (definition of " appropriate authority") after the word " body", there shall be inserted the words " or person ".
- (7) For section 220 (provisions as to telegraphic lines) there shall be substituted the following section: —
- “220(1)** Where in pursuance of an order under section 209, 211 or 212 of this Act a highway is stopped up or diverted and immediately before the date on which the order became operative there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order

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had not become operative; but any person entitled to land over which the highway subsisted shall be entitled to require the alteration of the apparatus.

- (2) Where any such order provides for the improvement of a highway, other than a trunk road, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the local highway authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part JH of the Public Utilities Street Works Act 1950.

- (3) Where an order to which this subsection applies is made, and at the time of the publication of the notice required by section 215(1) of or, as the case may be, paragraph 1 of Schedule 20 to this Act any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—

- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished or authorised to be stopped up or diverted and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the authority of his intention to remove the apparatus or that part of it, as the case may be ;
- (b) the operator of the system may by notice given in that behalf to the authority not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (b) of this subsection, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove ;
- (d) the operator of the system shall be entitled to recover from the authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require ;
- (e) where under the preceding provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus that apparatus or that part of it shall vest in the authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

- (4) Subsection (3) of this section applies—

- (a) to any order made by or on the application of a local authority under section 214(1) of this Act extinguishing a public right of way ; and

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- (b) to any order made by a competent authority under section 210 of this Act authorising the stopping up or diverting of a footpath or bridleway ;
and in this subsection ' competent authority ' has the same meaning as in the said section 210.
- (5) As soon as reasonably practicable after the making of any such order as is mentioned in subsection (4) above in circumstances in which subsection (3) above applies in relation to the operator of any telecommunications code system, the person by whom the order was made shall give notice to the operator of the making of the order.
- (6) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (7) Paragraph 21 of the telecommunications code (restriction on removal of telecommunications apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (8) In relation to—
- (a) any order under section 209, 211 or 212 of the said Act of 1971 which became operative before the appointed day, and
- (b) any case where a notice under section 215(1) of or paragraph 1 of Schedule 20 to that Act was published in respect of a proposed order under section 214(1) or 210 of that Act before the appointed day,
- section 220 of that Act shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (7) above.
- (9) In section 230 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), after subsection (6) there shall be inserted the following subsection: —
- “(7) In subsection (1) above—
- (a) the reference in paragraph (a) to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system; and
- (b) the reference in paragraph (b) to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system;
- and for the purposes of this subsection, in this section (except, without prejudice to section 34(4) of the Telecommunications Act 1984, in those paragraphs and the words preceding them) and in sections 231, 237(2) and 238 of this Act references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question

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and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”;

but this sub-paragraph shall not affect the said section 230 as applied by section 13 of the Opencast Coal Act 1958.

- (10) In section 232 (notice given by statutory undertakers), after subsection (6) there shall be inserted the following subsection: —

“(7) In subsection (1)(a) above, the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system ; and, for the purposes of this subsection, in this section references (except in the said subsection (1)(a)) to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

- (11) The references to section 220 of the said Act of 1971 in Part XI of Schedule 24 to that Act (transitional provisions relating to highways) shall have effect as references to that section as it has effect for the purposes of that Part immediately before the coming into force of sub-paragraph (7) above.
- (12) In paragraph 83 of Schedule 24 (saving for powers of British Telecommunications), for the words from " powers " onwards there shall be substituted the words " rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system. ".

The Town and Country Planning (Scotland) Act 1972

- 54 (1) The Town and Country Planning (Scotland) Act 1972 shall be amended in accordance with the following provisions of this paragraph.
- (2) The power to make a development order under section 21 (development orders) shall include power—
- (a) to repeal paragraph 70 of Schedule 22 to the said Act of 1972 and sub-paragraph (13) below; and
 - (b) to make any such provision as is mentioned in that section in relation to cases in which planning permission is required by virtue of that repeal;
- and the power conferred by virtue of this sub-paragraph shall include power to make different provision for different cases.
- (3) In section 108(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. ".
- (4) In the proviso to section 117(1) (under which the power to override servitudes etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred

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by or in accordance with the telecommunications code on the operator of a telecommunications code system. ”.

- (5) After section 180 (purchase notices in other cases) there shall be inserted the following section: —

“180A Public telecommunications operators.

In the preceding provisions of this Part of this Act and in Schedule 17 to this Act the references to statutory undertakers shall be deemed to include references to a public telecommunications operator.”.

- (6) In section 181(1)(a) (scope of provisions relating to the effect of planning proposals on the interests of owner-occupiers), for the words from " functions " to " National Coal Board " there shall be substituted the words " of the following functions, that is to say, those of a government department, local authority or statutory undertakers, or of the National Coal Board or the establishment or running by a public telecommunications operator of a telecommunication system " ; and, accordingly, in section 194(1) (definition of " appropriate authority ") after the word " body ", there shall be inserted the words " or person " .
- (7) In section 202(3) (powers not to be exercised, among other things, to prevent statutory undertakers from having access to their works), at the end there shall be inserted the words “or

- (f) to prevent the operator of any telecommunications code system from having access to any works of his under, in, on, over, along or across the highway.”.

- (8) For section 209 (provision as to telegraphic lines) there shall be substituted the following section: —

“209(1) Where in pursuance of an order under section 198, 198A, 200 or 201 of this Act a highway is stopped up, diverted or changed and immediately before the date on which the order became operative there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not become operative ; but any person entitled to land over which the highway subsisted shall be entitled to require the alteration of the apparatus.

- (2) Where any such order provides for the improvement of a highway, other than a trunk road, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the local highway authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

- (3) Where an order under section 199 of this Act authorising the stopping up or diversion of any footpath or bridle-way is made by a planning authority or an order under section 203(1)(b) of this Act extinguishing a public right

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of way is made by a planning authority and at the time of the publication of the notice required by section 206(4) of, and Schedule 18 to, this Act any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—

- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the footpath or bridle-way is stopped up or diverted or, as the case may be, the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the authority which made the order of his intention to remove the apparatus or that part of it, as the case may be ;
 - (b) the operator of the system may by notice given in that behalf to the authority which made the order not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
 - (c) subject to paragraph (6) of this subsection, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove ;
 - (d) the operator of the system shall be entitled to recover from the authority which made the order the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require;
 - (e) where under the preceding provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus that apparatus or that part of it shall vest in the authority which made the order and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.
- (4) As soon as reasonably practicable after the making of any such order as is mentioned in subsection (3) above in circumstances in which that subsection applies in relation to the operator of any telecommunications code system, the authority which made the order shall give notice to the operator of the making of the order.
- (5) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (6) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”

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- (9) In relation to—
- (a) any order under section 198, 198A, 200 or 201 of the said Act of 1972 which became operative before the appointed day, and
 - (b) any case where a notice under section 206(4) of, and Schedule 18 to, that Act was published in respect of a proposed order under section 203(1)(6) or 199 of that Act before the appointed day,
- section 209 of that Act shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (8) above.
- (10) In section 219 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), after subsection (6) there shall be inserted the following subsection: —
- “(7) In subsection (1) above—
- (a) the references in paragraph (a) to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; and
 - (b) the reference in paragraph (b) to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system ;
- and for the purposes of this subsection, in this section (except, without prejudice to section 35(4) of the Telecommunications Act 1984, in those paragraphs and the words preceding them) and in sections 220, 226(2) and 227 of this Act references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”;
- but this sub-paragraph shall not affect the said section 219 as applied by section 13 of the Opencast Coal Act 1958.
- (11) In section 221 (notice given by statutory undertakers), after subsection (6) there shall be inserted the following subsection: —
- “(7) In subsection (1)(a) above the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system ; and, for the purposes of this subsection, in this section references (except in the said subsection (1)(a)) to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.
- (12) The references to section 209 of the said Act of 1972 in Part XI of Schedule 22 to that Act (transitional provisions relating to highways) shall have effect as references to that section as it has effect for the purposes of that Part immediately before the coming into force of sub-paragraph (8) above.

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- (13) In paragraph 70 of Schedule 22 (saving for powers of British Telecommunications), for the words from " powers " onwards there shall be substituted the words " rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system. " .

The Electricity Supply (Northern Ireland) Order 1972

- 55 (1) The Electricity Supply (Northern Ireland) Order 1972 shall be amended in accordance with the following provisions of this paragraph.
- (2) In Article 2 (interpretation), after paragraph (3) there shall be inserted the following paragraph: —
- “(3A) For the purposes of this Order telecommunication apparatus shall be deemed to be injuriously affected where the service provided by the telecommunication system for the purposes of which that apparatus is used is in any manner affected.”.
- (3) In Article 32 (restrictions as to lines and other works)—
- (a) in sub-paragraph (b) of paragraph (1), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system ";
- (b) in the words before sub-paragraph (i) of that paragraph, for the words from " or " to " order " there shall be substituted the words " or, as the case may be, the operator of that system may by order ";
- (c) for paragraph (3) there shall be substituted the following paragraph: —
- “(3) Nothing in this Article shall apply to any electric line (being an electric line kept installed solely for the purposes of a telecommunication system), except by way of protection as in this Article provided.”.
- (4) In Article 52 (savings) for paragraphs (4) to (6) there shall be substituted the following paragraphs:—
- “(4) Subject to paragraph (5), nothing in this Order or in any instrument made thereunder shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or authorise the Service to alter or interfere with any telecommunication apparatus kept installed for the purposes of any such system.
- (5) Where for the purposes of carrying out any construction scheme or supply scheme the Service diverts or closes any road or any part of a road under, in, upon, over, along or across which there is kept installed for the purposes of a telecommunications code system any telecommunication apparatus, the operator of that system shall have the same powers in respect of that apparatus as if such road or part had not been diverted or closed.
- (6) The Service, the Department or any person in whom the site of the road or part of the road is vested shall, in connection with the diversion or closure of any road or part of a road as mentioned in paragraph (5), be entitled to

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- require the alteration of any telecommunication apparatus kept installed for the purposes of a telecommunications code system under, in, upon, over, along or across the site of the road or part of the road.
- (7) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Service for the purposes of any works in connection with the carrying out of a construction scheme or special scheme.
- (8) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of this Article as it applies for the purposes of that code.
- (9) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by paragraph (6) to require the alteration, moving or replacement or any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.
- (10) In paragraph (4), the reference to telecommunication apparatus shall not include a reference to any telecommunication apparatus which is kept installed in a conduit or structure falling within subsection (6)(a) of section 98 of the Telecommunications Act 1984 (by virtue of which telecommunication apparatus may be installed in certain conduits etc.).”
- (5) Where in any case a road or part of a road is closed or diverted before the appointed day as mentioned in paragraph (5) of the said Article 52, the said Article 52 shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.
- (6) For Article 53 (protection of British Telecommunications) there shall be substituted the following Article: —
- “53 (1) No alteration shall be made, except in pursuance of the telecommunications code, by the Service to any telecommunication apparatus kept installed for the purposes of a telecommunications code system.
- (2) The Service shall not in the exercise of any power conferred by this Order, lay down any electric line or do any other work for the supply of electricity by which any telecommunication apparatus kept installed for the purposes of a telecommunications code system is or may be injuriously affected.
- (3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Service for the purposes of works authorised by this Order.
- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of this Article as it applies for the purposes of that code.
- (5) In this Article, references to telecommunication apparatus shall not include references to any telecommunication apparatus which is kept installed in a conduit or structure falling within subsection (6)(a) of section 98 of the Telecommunications Act 1984 (by virtue of which telecommunication apparatus may be installed in electricity conduits etc.).”

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- (7) In paragraph 3 of Schedule 3 (works in or under roads or bridges), the references to British Telecommunications shall have effect as references to the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed in, under, along or across the road or bridge mentioned in that paragraph.
- (8) In paragraph 7 of Schedule 3 (protection of telegraphic and telephonic wires)—
- (a) in sub-paragraph (1), for the words " telegraphic, telephonic or electrical signalling communication " there shall be substituted the word " telecommunications "; and
 - (b) in sub-paragraph (3), for the words from "the work of" to " communication or " there shall be substituted the words " telecommunications or the ".
- (9) In paragraph 28 of Schedule 3 (maps), references to British Telecommunications shall have effect as references to the operator of any telecommunications code system.
- (10) In paragraph (b) of sub-paragraph (1) of paragraph 33 of Schedule 3 (remedying of system and works), for the words from " telegraphic line" onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system ; ".
- (11) In paragraph 34 of Schedule 3 (interpretation), at the end there shall be inserted the words " references to telecommunication apparatus shall not include references to any telecommunication apparatus which is kept installed in a conduit or structure falling within subsection (6)(a) of section 98 of the Telecommunications Act 1984 (by virtue of which telecommunication apparatus may be installed in electricity conduits etc.). ".

The Planning (Northern Ireland) Order 1972

- 56 (1) The power to make a development order under Article 13 of the Planning (Northern Ireland) Order 1972 (development orders) shall include power—
- (a) to repeal paragraph 12(3) of Schedule 5 to that Order and sub-paragraph (5) below ; and
 - (b) to make any such provision as is mentioned in that Article in relation to cases in which planning permission is required by virtue of that repeal;
- and the power conferred by virtue of this sub-paragraph shall include power to make different provision for different cases.
- (2) In Article 80(2) of that Order (copies of notices to be served on certain persons), at the end there shall be inserted the words " and on the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed along, across, under or over any such land. ".
- (3) For Article 81 of that Order (telegraphic lines) there shall be substituted the following Article: —
- “81 (1) Where an order is made under Article 79 and immediately before the date on which the order became operative there was, under, in, on, over, along or across the right of way any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order

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had not become operative ; but the Department shall be entitled to require the alteration of the apparatus.

- (2) If the operator of a telecommunications code system removes any telecommunication apparatus in circumstances in which paragraph (1) applies and serves a notice on the Department notifying the Department of the removal, the operator shall be entitled to recover from the Department the expense of providing in substitution for the apparatus and any telecommunication apparatus connected therewith which is rendered useless in consequence of the removal, any telecommunication apparatus in such other place as the operator may require.
- (3) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purpose of that code.
- (4) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (4) In relation to an order under Article 79 of that Order which becomes operative before the appointed day, Article 81 of that Order shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (3) above.
- (5) In paragraph 12(3) of Schedule 5 to that Order (saving for functions of British Telecommunications), for the words from "functions " onwards there shall be substituted the words " rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system. " .

The Fair Trading Act 1973

- 57
- (1) The Director General of Fair Trading shall consult with the Director before publishing under section 124(1) of the 1973 Act (publication of information and advice) any information or advice which the Director has power to publish under section 48(1) of this Act.
 - (2) Section 125(1) of the 1973 Act (annual and other reports) shall not apply to activities of the Commission on which the Director is required to report by section 55(1) of this Act.
 - (3) In section 133(2)(a) of the 1973 Act (exceptions to general restriction on disclosure of information), after the words " the Director ", there shall be inserted the words " the Director General of Telecommunications, " and after the words " the Competition Act 1980 " there shall be inserted the words " or the Telecommunications Act 1984, " .
 - (4) In paragraph 7 of Part I of Schedule 5 to the 1973 Act (which specifies the services in respect of which references under section 14 of that Act are restricted), for the words from " in " onwards there shall be substituted the words " in paragraphs (a) to (d) of section 4(1) of the Telecommunications Act 1984 " .

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The Drainage (Northern Ireland) Order 1973

- 58 (1) For paragraph 3 of Schedule 9 to the Drainage (Northern Ireland) Order 1973, there shall be substituted the following paragraph:—

“3 (1) Subject to the provisions of this paragraph, nothing in this Order or any scheme made thereunder shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or authorise the Department to interfere with any telecommunication apparatus kept installed for the purposes of any such system.

(2) Where for the purposes of carrying out any scheme, the Department diverts or closes any public road, or any part of a public road, under, in, on, over, along or across which there is any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if such road or part had not been diverted or closed ; but the Department or any person in whom the site of that road, or part of a road, is vested shall be entitled to require the alteration of the apparatus.

(3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of the carrying out of any drainage scheme or of a confirmed scheme under Schedule 7.

(4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this paragraph as it applies for the purposes of the code.

(5) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this paragraph to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

- (2) Where in any case a public road or part of a public road is diverted or closed as mentioned in sub-paragraph (2) of paragraph 3 of the said Schedule 9 before the appointed day, that paragraph shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Water and Sewerage Services (Northern Ireland) Order 1973

- 59 In article 58 of the Water and Sewerage Services (Northern Ireland) Order 1973 (protection of telegraphic and telephonic wires), in paragraph (1), for the words " telegraphic, telephonic or electric signalling communication " there shall be substituted the word " telecommunications ".

The Consumer Credit Act 1974

- 60 (1) In section 16(6) of the Consumer Credit Act 1974 (power by order to provide exemption from the regulation of consumer hire agreements), for the words after

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paragraph (b) there shall be substituted the words " or where the owner is a public telecommunications operator specified in the order ".

- (2) In section 174(3)(a) of the said Act of 1974 (exceptions to general restriction on disclosure of information), after the words " the Competition Act 1980" there shall be inserted the words " or the Telecommunications Act 1984 " and after the words "any other Minister ", there shall be inserted *he words " the Director General of Telecommunications, ".

The Housing (Scotland) Act 1974

- 61 (1) After section 36 of the Housing (Scotland) Act 1974, in Part II of that Act (substandard houses), there shall be inserted the following section: —

“36A Saving for telecommunication apparatus etc.

- (1) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part of this Act.
- (2) Where in pursuance of an order under section 33 of this Act a public right of way over land is extinguished or a street is closed or diverted, and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land or street any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation ; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.
- (3) The proviso to subsection (4) of the said section 33 shall have effect in relation to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system and to telecommunication apparatus kept installed for the purposes of any such system as it has effect in relation to rights vested in and apparatus belonging to statutory undertakers.
- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (2) In relation to an order under section 33 of the said Act of 1974 coming into force before the appointed day, paragraph 47 of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

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The Finance (No. 2) Act 1975

- 62 In Part I of Schedule 13 to the Finance (No. 2) Act 1975 (operations treated as construction operations for the purposes of provisions relating to sub-contractors in the construction industry), for the words " telegraphic lines (within the meaning of the Telegraph Act 1878)" there shall be substituted the words " telecommunication apparatus ".

The Scottish Development Agency Act 1975

- 63 For subsection (8) of section 10 of the Scottish Development Agency Act 1975 (saving for Telegraph Acts 1863 to 1916 in respect of powers of entry) there shall be substituted the following sub-section : —

“(8) Nothing in this section shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system.”.

The Airports Authority Act 1975

- 64 (1) For section 20 of the Airports Authority Act 1975 (provisions as to telegraphic lines) there shall be substituted the following section: —

“**20** (1) Paragraph 23 of the telecommunications code shall apply for the purposes—

- (a) of any work in pursuance of an order or direction under section 44 or 46 of the Civil Aviation Act 1982, as applied by section 17 of this Act, and
- (b) of anything done with respect to a highway in pursuance of an order under section 48 of that Act (as so applied) to which subsection (2) below applies,

to the person doing that work or, as the case may be, the highway authority ; and in the case of any such order as is mentioned in paragraph (b) above, any person entitled to land over which the highway passes shall be entitled to require the alteration of the telecommunication apparatus in question.

- (2) This subsection applies to an order under the said section 48 where the order provides—

- (a) for the stopping up or diversion of the highway ; or
- (b) unless the highway is a trunk road, for the improvement of the highway;

and immediately before the order comes into operation any telecommunication apparatus is kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the highway.

- (3) Subject to the preceding provisions of this section, the operator of a telecommunications code system shall, in a case falling within subsection (2) (a) above, have the same rights in respect of any apparatus kept installed for the purposes of that system as if the order had not come into operation.

- (4) The said paragraph 23 shall not apply by virtue of subsection (2)(b) above in relation to the alteration of any telecommunication apparatus where the

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alteration is for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

- (5) Sub-paragraph (8) of the said paragraph 23 (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Secretary of State.
 - (6) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of the code.
 - (7) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (2) In relation to any such order as is mentioned in subsection (1)(b) of section 20 of the said Act of 1975 coming into force before the appointed day, that section shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Restrictive Trade Practices Act 1976

- 65 In section 41(1)(a) of the Restrictive Trade Practices Act 1976 (disclosure of information), after the words " the Director," there shall be inserted the words " the Director General of Telecommunications, " and after the words " the Competition Act 1980 " there shall be inserted the words " or the Telecommunications Act 1984 " .

The Land Drainage Act 1976

- 66 (1) In section 23(4) of the Land Drainage Act 1976 (notice of arrangements to be given to British Telecommunications and to be published), for the words from " give " to " like notice " there shall be substituted the words " publish a notice of their intention " .
- (2) In section 112(2) of that Act (which specifies the undertakings whose property and works are not to be interfered with by work under that Act), after paragraph (d) there shall be inserted the following paragraph: —
- “(e) any undertaking consisting in the running of a telecommunications code system.”.

The Development of Rural Wales Act 1976

- 67 (1) Schedule 3 to the Development of Rural Wales Act 1976 shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (2) of paragraph 32 (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. " .

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(3) In the proviso to sub-paragraph (1) of paragraph 35 (under which the power to override easements etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system " .

(4) For paragraph 39 (provisions as to telegraphic lines) there shall be substituted the following paragraph:—

“39 (1) Where an order under paragraph 38 above extinguishing a public right of way is made on the application of the Board or a local highway authority, and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, upon, over, along or across the land over which the right of way subsisted—

- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the Board or local highway authority of his intention to remove the apparatus or that part of it, as the case may be ;
- (b) the operator of the system may by notice given in that behalf to the Board or local highway authority not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (b) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove;
- (d) the operator of the system shall be entitled to recover from the Board or local highway authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first mentioned apparatus, any telecommunication apparatus in such other place as the operator may require;
- (e) where under the foregoing provisions of this sub-paragraph the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the Board or local highway authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(2) Where the Secretary of State makes an order under paragraph 38 above in circumstances in which sub-paragraph (1) above applies in relation to the operator of any telecommunications code system, the Secretary of State shall send a copy of the order to the operator.”

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- (5) Where in any case a notice has been given before the appointed day under paragraph 38(2) of the Schedule (notice of proposal to extinguish right of way), paragraph 39 of the Schedule shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.
- (6) In paragraph 44 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), for sub-paragraph (9) there shall be substituted the following sub-paragraph: —

“(9) Except in a case in which paragraph 39 above has effect—

- (a) the reference in paragraph (a) of sub-paragraph (3) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; and
- (b) the reference in paragraph (b) of that sub-paragraph to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system ;

and for the purposes of this sub-paragraph, in this paragraph (except in the said paragraphs (a) and (b)) and in paragraphs 41 and 45 of this Schedule, references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

The Gas (Northern Ireland) Order 1977

- 68 For paragraph (2) of Article 29 of the Gas (Northern Ireland) Order 1977 (saving in respect of the provisions of the Telegraph Acts 1863 to 1916), there shall be substituted the following paragraph:—

“(2) Nothing in this Order or in any instrument made thereunder shall affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or authorise undertakers to alter or interfere with any telecommunication apparatus kept installed for the purposes of any such system.”.

The Rates (Northern Ireland) Order 1977

- 69 Article 50(1)(a)(iii) of and paragraph 1 of Part III of Schedule 16 to the Rates (Northern Ireland) Order 1977 (rating in Northern Ireland) shall have effect as if, instead of referring to section 37 of the 1981 Act, they referred to section 33 of this Act.

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

The Electricity (Scotland) Act 1979

- 70 (1) In section 12(6) of the Electricity (Scotland) Act 1979 (which applies section 14 of the Schedule to the Electric Lighting (Clauses) Act 1899 so far as it relates to British Telecommunications), for the words from " so " to " apply " there shall be substituted the words " so far as it relates to the operator of a telecommunications code system apply ".
- (2) For paragraph 5 of Schedule 3 to that Act (electricity supply to railways not to interfere with certain telegraphic lines etc.) there shall be substituted the following paragraph: —
- “5 Without prejudice to any other enactment providing for the protection of telecommunication apparatus kept installed for the purposes of a telecommunications code system (and subject to the terms of any agreement made under section 98 of the Telecommunications Act 1984 with respect to the keeping of any telecommunication apparatus in a conduit or structure falling within subsection (6)(a) of that section (electricity conduits)), any electricity supplied under the said section 3 to any railway undertakers shall be used in such manner as not to cause, or to be likely to cause, any interference (whether by induction or otherwise) with any telecommunication apparatus kept installed for the purposes of any such system, or with the service provided by any such system.”

The Land Registration (Scotland) Act 1979

- 71 In section 28(1) of the Land Registration (Scotland) Act 1979 (interpretation etc.), in the definition of " overriding interest", after paragraph (e) there shall be inserted the following paragraph: —
- “(ee) the operator having a right conferred in accordance with paragraph 2, 3 or 5 of Schedule 2 to the Telecommunications Act 1984 (agreements for execution of works, obstruction of access, etc.);”.

The Estate Agents Act 1979

- 72 In section 10(3)(a) of the Estate Agents Act 1979 (exceptions to restriction on disclosure of information), after the words " the Competition Act 1980 " there shall be inserted the words " or the Telecommunications Act 1984 " and after the words " the Director " there shall be inserted the words " the Director General of Telecommunications ".

The Competition Act 1980

- 73 (1) In subsection (2)(a) of section 19 of the 1980 Act (exceptions to restriction on disclosure of information), after the words " the Director " there shall be inserted the words " the Director General of Telecommunications, ".
- (2) In subsection (3) of that section, at the end there shall be inserted the following paragraph: —
- “(g) the Telecommunications Act 1984.”.

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

The Water (Scotland) Act 1980

- 74 (1) Schedule 4 to the Water (Scotland) Act 1980 (provisions to be incorporated in orders relating to water undertakers) shall be amended in accordance with the following provisions of this paragraph.
- (2) In the proviso to section 4 of the Schedule (subsidiary works not to interfere with telegraphic lines etc), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system. ".
- (3) Section 5 of the Schedule (which confers power on a water undertaking to operate a system of telegraphic communication) shall cease to have effect.
- (4) In section 36 of the Schedule, for paragraph (a) of the proviso (works under that section not to interfere with telegraphic lines) there shall be substituted the following paragraph: —
- “(a) any telecommunication apparatus kept installed for the purposes of a telecommunications code system, except in accordance with, and subject to the provisions of, the telecommunications code; or”.
- (5) Without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments), references in this paragraph to the said Schedule 4 shall include references to that Schedule as incorporated or applied by or under any enactment.

The Local Government, Planning and Land Act 1980

- 75 (1) Schedule 28 to the Local Government, Planning and Land Act 1980 shall be amended as follows.
- (2) In paragraph 5(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system ".
- (3) In paragraph 6(2) (under which the power to override easements etc. shall not be used to interfere with rights vested in, or belonging to, statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ".
- (4) For paragraph 13 (which contains provision with respect to telegraphic lines where a public right of way is extinguished under that Schedule) there shall be substituted the following paragraph: —
- “13 (1) Where an order under paragraph 11 above extinguishing a public right of way is made on the application of an urban development corporation or local highway authority, and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at

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any time not later than the end of the period of three months from the date on which the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;

- (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (b), the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
- (d) the operator of the system shall be entitled to recover from the corporation or authority the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require;
- (e) where under the preceding provisions of this subparagraph the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(2) As soon as practicable after the making of an order under paragraph 11 above extinguishing a public right of way in circumstances in which sub-paragraph (1) above applies in relation to the operator of any telecommunications code system, the Secretary of State shall give notice to the operator of the making of the order.”.

(5) Where in any case a notice has been given before the appointed day under paragraph 11(2) of the said Schedule 28 (notice of proposal to extinguish right of way) paragraph 13 of the said Schedule 28 shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.

(6) In paragraph 14 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), for sub-paragraphs (7) and (8) there shall be substituted the following sub-paragraph: —

“(7) Except in a case in which paragraph 13 above has effect—

- (a) the reference in paragraph (a) of sub-paragraph (1) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system; and

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- (b) the reference in paragraph (b) of that sub-paragraph to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system;

and for the purposes of this sub-paragraph, in this paragraph (except the said paragraphs (a) and (b)) and in paragraph 15 below, references to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

- (7) In paragraph 16 (notice given by statutory undertakers), after sub-paragraph (8) there shall be inserted the following sub-paragraph : —

“(9) In sub-paragraph (1)(a) above, the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system; and for the purposes of this sub-paragraph, in this paragraph references (except in the said sub-paragraph (1)(a)) to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

The Highways Act 1980

- 76 (1) The Highways Act 1980 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 35 (creation of walkways by agreement)—
 - (a) in subsection (1)(c), for the words from "authorities" to " place" there shall be substituted the words " authorities and the operators of telecommunications code systems to place "; and
 - (b) in subsection (12), for the words from " authorities" to " place " there shall be substituted the words " authorities or the operators of telecommunications code systems to place ".
- (3) In section 115D (which limits the way in which certain powers may be exercised), at the end there shall be inserted the words “; or
 - (d) as to prevent the operator of a telecommunications code system having access to any telecommunication apparatus kept installed for the purposes of that system under, in, on or over the highway.”.
- (4) In section 142(5) (under which licences to plant trees may contain conditions for the protection of the apparatus of statutory undertakers), for the words from " and ", in the fourth place where it occurs, onwards there shall be substituted the words " and the operators of telecommunications code systems ".
- (5) In subsection (6) of section 144 (powers to erect flagpoles on highways), in the definition of " statutory undertakers", at the end there shall be inserted the words " and the operator of a telecommunications code system ".

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- (6) In section 156(4) (which authorises works relating to an overhead telegraphic line), for the words "an overhead telegraphic line " there shall be substituted the words "overhead telecommunication apparatus ".
- (7) In section 157(9) (meaning of undertakers), for the words from " means" onwards there shall be substituted the words " means persons having powers to break up or open highways in Greater London for the purposes of any sewerage system, any water, gas, electricity, tramway or other undertaking or any telecommunications code system ".
- (8) In section 169(4) (which, among other things, defines " statutory undertakers " for the purposes of provisions relating to scaffolding and building materials in highways), at the end there shall be inserted the words " and the operator of a telecommunications code system ".
- (9) In subsection (3) of section 170 (control of mixing of mortar on highways), in the definition of " statutory undertakers ", at the end there shall be inserted the words " and the operator of a telecommunications code system ".
- (10) In section 177 (restriction on construction of buildings over highways)—
- (a) in subsection (4) (no interference with the rights of statutory undertakers), for the words from " statutory undertakers " onwards there shall be substituted the words " statutory undertakers or the operator of a telecommunications code system "; and
 - (b) for subsection (12) (which applies section 7 of the Telegraph Act 1878 to work authorised or required by a licence under section 177) there shall be substituted the following subsection : —

“(12) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of works authorised or required by a licence under this section to be executed, to the licensee.”.
- (11) In section 178(5) (statutory undertakers for the purposes of the licensing of the placing of rails, beams, etc.), for the words from " and ", in the second place where it occurs, onwards there shall be substituted the words " the Post Office and the operator of a telecommunications code system are to be deemed to be statutory undertakers ".
- (12) In section 181 (provisions relating to placing of certain apparatus in highways)—
- (a) in subsection (7) (which relates to licences of the Secretary of State or British Telecommunications), for the words from " licence", in the third place where it occurs, to " required " there shall be substituted the words " licence of the Secretary of State is required ";
 - (b) in subsection (8) (which provides that that section does not apply to the apparatus of statutory undertakers), at the end there shall be inserted the words " or to any apparatus which the operator of a telecommunications code system places, maintains, repairs or reinstates in or under the highway in question in pursuance of a right conferred by or in accordance with the telecommunications code. "; and
 - (c) in subsection (9) (meaning of statutory undertakers), for the words from " include " onwards there shall be substituted the words " except in subsection (8) above, include the operator of a telecommunications code system ".

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(13) In section 329 (interpretation), after subsection (4) there shall be inserted the following subsection:—

“(4A) Any reference in this Act to apparatus belonging to, or used or maintained by the operator of a telecommunications code system shall have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.”.

(14) For section 334 (savings for British Telecommunications) there shall be substituted the following section: —

“**334**(1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or applies to any telecommunication apparatus kept installed for the purposes of any such system ; but this subsection does not affect the operation of sections 156 to 159 above.

(2) Where

- (a) land is conveyed by a highway authority in pursuance of section 256 above, or
- (b) a highway is stopped up or diverted in pursuance of an order to which this paragraph applies,

and immediately before the conveyance or, as the case may be, at the beginning of the day on which the order comes into force there is under, in, upon, over, along or across the land conveyed or, as the case may be, the highway stopped up or diverted any telecommunication apparatus kept installed for the purposes of a telecommunications code system, then the provisions of subsection (3) below have effect.

Paragraph (b) above applies to the following orders, namely an order made or confirmed by the Minister under section 14 or 18 above, a public path extinguishment order and a public path diversion order.

(3) In the circumstances mentioned in subsection (2) above, the operator of the telecommunications code system has the same power in respect of the telecommunication apparatus as if the conveyance had not been made or, as the case may be, the order had not come into force; but the transferee of the land or, as the case may be, any person entitled to land over which the stopped up or diverted highway subsisted shall be entitled to require the alteration of the apparatus.

(4) Where in pursuance of an order made by a magistrates' court under section 116 above a highway is stopped up or diverted, the following provisions of this subsection have effect in relation to so much of any telecommunication apparatus kept installed for the purposes of a telecommunications code system as is under, in, upon, over, along or across land which by reason of the stopping up or diversion ceases to be a highway (' the affected apparatus ')—

- (a) the power of the operator of the system to remove the affected apparatus is exercisable notwithstanding the making of the order, so however that the said power is not exercisable, as respects the whole or any part of the affected apparatus, after the expiration of a period

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- of 3 months from the date of the sending of the notice referred to in subsection (5) below unless before the expiration of that period the operator of the system has given notice to the authority on whose application the order was made of his intention to remove the affected apparatus or that part of it, as the case may be ;
- (b) the operator of the system may by notice in that behalf to the said authority abandon the affected apparatus or any part of it, and is to be deemed, as respects the affected apparatus or any part of it, to have abandoned it at the expiration of the said period of 3 months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
 - (c) the operator of the system is entitled to recover from the said authority the expense of providing, in substitution for the affected apparatus and any telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the affected apparatus, any telecommunication apparatus in such other place as he may require ;
 - (d) where under paragraph (b) above the operator of the system has abandoned the whole or any part of the affected apparatus, it vests in the authority there referred to and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.
- (5) As soon as practicable after the making of an order under section 116 above in circumstances in which subsection (4) above applies in relation to the operator of any telecommunications code system the authority on whose application the order was made shall by notice to the operator inform him of the making of the order.
- (6) Where an order under section 14 or 18 above provides for the alteration of a highway and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the highway authority shall be entitled to require the alteration of the apparatus.
- This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purposes of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.
- (7) Where in pursuance of an order under section 14 or 18 above a highway is stopped up or diverted, or an order under either of those sections provides for the alteration of a highway, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telecommunication apparatus kept installed for the purposes of a telecommunications code system then, without prejudice to subsections (2), (3) and (6) above, the provisions of subsection (8) below have effect
- (8) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply, for the purposes of the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates and of any works authorised by the order, to the Minister or other highway authority by whom the order in question was made.

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- (9) Without prejudice to the code in Part II of the Public Utilities Street Works Act 1950 (relations between an authority carrying out road alterations and undertakers whose apparatus is thereby affected) the said paragraph 23 shall apply for the purposes of—
- (a) any work authorised or required by an order under section 93 above to be done by a highway authority or the owners of a bridge,
 - (b) any work which a highway authority is authorised to carry out under section 96 above, and
 - (c) any work authorised or required by a licence under section 176 above to be done by the person to whom the licence is granted,
- to the authority or person authorised or required to carry out the work.
- (10) Where, in pursuance of any order or scheme made or confirmed under this Act, a navigable watercourse is diverted and, immediately before the date on which the order or scheme comes into force, there is under, in, upon, over, along or across the watercourse, or any towing path or other way adjacent to it any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system has the same powers in respect of that apparatus as if the order or scheme had not come into force ; but—
- (a) the highway authority by whom the order or scheme was made, or
 - (b) any person entitled to land on which so much of the watercourse, towing path or way as is diverted in pursuance of the order or scheme was previously situated,
- shall be entitled to require the alteration of the apparatus.
- (11) Sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Minister.
- (12) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (13) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.
- (15) In relation—
- (a) to a conveyance before the appointed day made in pursuance of section 256 of the Highways Act 1980, and
 - (b) to an order coming into force before the appointed day to which subsection (2)(6), (4), (6), (7) or (10) of section 334 of that Act applies immediately before that day,
- the said section 334 shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (14) above.

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The Roads (Northern Ireland) Order 1980

- 77 (1) The Roads (Northern Ireland) Order 1980 shall be amended in accordance with the following provisions of this paragraph.
- (2) In Article 11(3)(c) (which relates to statutory provisions in relation to bridges for the benefit or protection of statutory undertakers), after the words " statutory undertakers " there shall be inserted the words " or the operator of a telecommunications code system ".
- (3) In Article 15(1) (overriding effect of paragraphs 1 to 4 of Schedule 7), for the word " 4 " there shall be substituted the words " 4A ".
- (4) In Article 42(2) (exemptions from requirement of consent), at the end there shall be inserted the words "or
- (d) it is done in relation to a road which is not a special road by the operator of a telecommunications code system in pursuance of any right conferred by or in accordance with the telecommunications code."
- (5) In Article 45(4) (restriction on placing rails etc, not to apply to works or apparatus belonging to a statutory undertaker), at the end there shall be inserted the words " or to any works executed or apparatus kept installed for the purposes of a telecommunications code system. ".
- (6) For paragraphs 1 to 4 of Schedule 7 (savings for British Telecommunications) there shall be substituted the following paragraphs : —
- “1 Subject to paragraph 2, nothing in this Order or in any order made under it shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.
- 2 Where in pursuance of an order under Article 40 any road is stopped up, diverted or abandoned and, immediately before that order comes into force there is under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into force ; but the Department or any person in whom the site of the road is vested shall be entitled to require the alteration of the apparatus.
- 3 Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Department for the purposes of any work authorised to be carried out under this Order.
- 4 Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of paragraph 2 as it applies for the purposes of the code.
- 4A Paragraph 21 of the telecommunications code (restrictions on removal of apparatus) shall apply in relation to any entitlement conferred by paragraph 2 to require the alteration, moving or replacement of any apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

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- (7) In relation to an order under Article 40 of the said Order of 1980 which comes into force before the appointed day, paragraphs 2 to 4 of the said Schedule 7 shall have effect, notwithstanding any repeal made by this Act, as they have effect immediately before the coming into force of sub-paragraph (6) above.

The British Telecommunications Act 1981

- 78 (1) In section 63(3) of the 1981 Act (activities requiring consultation with the Secretary of State)—
- (a) immediately before the definition of " the relevant period " there shall be inserted the following definition: —
- “ outside persons ' means persons other than the Post Office, wholly owned subsidiaries of the Post Office, public telecommunications operators and subsidiaries of such operators ;” ; and
- (b) in the definition of " the relevant purpose ", for the words " British Telecommunications or a subsidiary of British Telecommunications " there shall be substituted the words " a public telecommunications operator or a subsidiary of such an operator " .
- (2) In section 85(1) of that Act (general interpretation) the definition of " outside persons " shall cease to have effect.

The New Towns Act 1981

- 79 (1) The New Towns Act 1981 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 16(2) (under which provisions as to extinguishment of rights over land do not apply in relation to rights and apparatus of statutory undertakers), at the end there shall be inserted the words " or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system. " .
- (3) In section 19(2) (under which the power to override easements etc. shall not be used to interfere with rights vested in or belonging to statutory undertakers), at the end there shall be inserted the words " or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system. " .
- (4) For section 24 (which contains provision with respect to telegraphic lines where a public right of way is extinguished under that Act) there shall be substituted the following section: —
- “**24** (1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local highway authority, and at the time of the publication of the notice required by subsection (2) of that section any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished and shall be exercisable

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in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;

- (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of that period of three months abandon the telecommunication apparatus or any part of it;
- (c) subject to paragraph (6) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
- (d) the operator of the system shall be entitled to recover from the corporation or authority the expenses of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require ;
- (e) where under the preceding provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system. .

(2) Where the Secretary of State makes an order under section 23 above in circumstances in which subsection (1) above applies in relation to the operator of any telecommunications code system, the Secretary of State shall send a copy of the order to the operator.”.

(5) Where in any case a notice has been given before the appointed day under section 23(2) of the said Act of 1981 (notice of proposal to extinguish right of way), section 24 of that Act shall have effect in relation to that case, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (4) above.

(6) In section 26 (extinguishment of rights of way and rights as to apparatus of statutory undertakers), for subsection (8) there shall be substituted the following subsection: —

“(8) Except in a case in which section 24 above has effect—

- (a) the reference in paragraph (a) of subsection (2) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system ; and
- (b) the reference in paragraph (b) of that subsection to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system ;

and for the purposes of this subsection, in this section (except in the said paragraphs (a) and (b)) and in Schedule 7 to this Act and section 27 below, references to statutory undertakers shall have effect as references to the

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operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.”.

- (7) In section 39 (power of development corporation to transfer undertakings), after subsection (6) there shall be inserted the following subsection: —

“(7) This section shall have effect as if references to statutory undertakers included references to the operator of any telecommunications code system and as if for this purpose—

- (a) references to a statutory undertaking were references to the running of such a system ; and
- (b) references to the appropriate Minister were references to the Secretary of State for Trade and Industry.”.

The Acquisition of Land Act 1981

- 80 (1) At the end of section 28 of the Acquisition of Land Act 1981 (acquisition of rights over land by the creation of new rights) there shall be added the following paragraph: —

“(f) section 34(3) of the Telecommunications Act 1984”.

- (2) In section 32 of that Act (power to extinguish certain rights of way), after subsection (6) (which contains a saving in relation to the apparatus of statutory undertakers) there shall be inserted the following subsection: —

“(6A) In subsection (6) above the reference to apparatus belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system and in relation to any such apparatus—

- (a) the references to the undertakers shall have effect as references to the operator of the system in question ; and
- (b) the reference to the appropriate Minister shall have effect as a reference to the Secretary of State.”.

The Broadcasting Act 1981

- 81 In section 3 of the Broadcasting Act 1981 (powers of the IBA)—

- (a) in subsection (1) (c), for the words " British Telecommunications " there shall be substituted the words " operators of telecommunications code systems "; and
- (b) in subsection (7), for the words " section 15 of the British Telecommunications Act 1981 " there shall be substituted the words " section 7 of the Telecommunications Act 1984 ".

The Housing (Northern Ireland) Order 1981

- 82 (1) After Article 159 of the Housing (Northern Ireland) Order 1981 there shall be inserted the following Article: —

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

“159A) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Executive for the purposes of any works which it is authorised to execute under Chapter II, III or V of Part III.

(2) Where in pursuance of an order under Article 51 a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.

(3) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of that code.

(4) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.”.

(2) In relation to an order under Article 51 of the said Order of 1981 coming into force before the appointed day, paragraph 76(2) of Schedule 3 to the 1981 Act (which made provision corresponding to sub-paragraph (1) above in relation to British Telecommunications) shall have effect, notwithstanding any repeal made by this Act, as it has effect immediately before the coming into force of sub-paragraph (1) above.

The Planning Blight (Compensation) (Northern Ireland) Order 1981

83 In Article 2(2) of the Planning Blight (Compensation) (Northern Ireland) Order 1981, in the definition of " appropriate authority " after the word " body ", there shall be inserted the words " or person " .

The Civil Aviation Act 1982

84 In section 48(7)(b) of the Civil Aviation Act 1982 (by virtue of which British Telecommunications is deemed to be an electricity undertaker for the purposes of a provision requiring notice to be given of proposals to stop up or divert a highway), for the words " British Telecommunications " there shall be substituted the words " the operator of a telecommunications code system " .

The Cinematograph (Amendment) Act 1982

85 In section 1 of the Cinematograph (Amendment) Act 1982 (extension of Cinematograph Act 1909 to certain other exhibitions of moving pictures), for the the words from " distributed " to the end there shall be substituted the words " programmes included in a cable programme service which is, or does not require to be, licensed under Part IV of the Telecommunications Act 1984 " .

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

Enactments relating to London

- 86 (1) In the London Overground Wires etc. Act 1933—
- (a) in section 5(3) (service of notices), the words from " and before " onwards shall be omitted ;
 - (b) in section 11 (saving for certain regulations), for the words from "the telegraphic" to "made" there shall be substituted the words " any telecommunication apparatus made "; and
 - (c) in section 14 (saving)—
 - (i) for the words from " telegraphic" to " thereto " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system "; and
 - (ii) for the words from " power " onwards there shall be substituted the words " conferred by or in accordance with the telecommunications code on the operator of any such system ".
- (2) In section 7(6) of the London County Council (General Powers) Act 1949 (electrical apparatus not to interfere with telegraphic lines etc.), for the words from " telegraphic line " onwards there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or with any service provided by means of any such apparatus. ".
- (3) In section 17(4) of the London County Council (General Powers) Act 1963 (protection for telegraphic lines), for the words from " telegraphic line " to " such line " there shall be substituted the words " telecommunication apparatus kept installed for the purposes of a telecommunications code system or belonging to or used by the London Electricity Board or with any service provided by means of any such apparatus. ".
- (4) In section 7(6) of the Greater London Council (General Powers) Act 1969 (saving for certain powers in relation to telegraphic lines) for the words from " right" onwards there shall be substituted the words " right exercisable in relation to that street under or in accordance with the telecommunications code by the operator of any telecommunications code system. ".

Enactments relating to call boxes

- 87 (1) The enactments specified in the following Table (which penalise the use of public telephone boxes for the purpose of making false calls for police assistance, giving false alarms of fire and the like) shall have effect as if—
- (a) for any reference to a call box of British Telecommunications' telephone service,
 - (b) for any reference to a telephone call box provided by British Telecommunications, and
 - (c) for any reference to a British Telecommunications call box, there were substituted a reference to a telephone call box provided by a public telecommunications operator.

TABLE

Section 176(2) of the Redcar Corporation Act 1938.

Section 211(2) of the Clacton Urban District Council Act 1938.

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Section 89(2) of the Tiverton Corporation Act 1939.
 Section 101(2) of the Christchurch Corporation Act 1940.
 Section 154(2) of the Preston Corporation Act 1947.
 Section 173(2) of the Ipswich Corporation Act 1948.
 Section 178(2) of the Worcester Corporation Act 1951.
 Section 89(2) of the Nottinghamshire County Council Act 1951.
 Section 85(2) of the Berkshire County Council Act 1953.
 Section 97(2) of the Gloucestershire County Council Act 1956.
 Section 96(2) of the Leicester Corporation Act 1956.
 Section 70(2) of the Southampton Corporation Act 1960.
 Section 41(2) of the Hertfordshire County Council Act 1960.
 Section 30(3) of the Devon County Council Act 1961.
 Section 44(2) of the Durham County Council Act 1963.
 Section 29(2) of the Exeter Corporation Act 1966.
 Section 14(2) of the Huntingdon and Peterborough Comity Council Act 1970.
 Section 107(2) of the Teesside Corporation (General Powers) Act 1971.
 Section 63(2) of the Surrey County Council Act 1971.
 Section 61(2) of the Torbay Corporation (No. 2) Act 1971.
 Section 66(2) of the Oxfordshire County Council Act 1971.

- (2) Any enactment contained in a local Act which is not specified in the above Table, but is similar to any enactment so specified, shall have effect subject to the like amendment as is made by sub-paragraph (1) above.

The London Building Acts and enactments relating to highways, etc.

- 88 (1) Nothing in—
- (a) the London Building Acts 1930 to 1939 or byelaws thereunder, or
 - (b) a special enactment passed or made before the appointed day (including such an enactment relating to Scotland or Northern Ireland) for purposes similar to those of an enactment contained in Part V or IX of the Highways Act 1980 (except sections 156, 157 and 159),
- shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or apply to any telecommunication apparatus kept installed for the purposes of any such system.
- (2) In this paragraph " special enactment" has the same meaning as in the Highways Act 1980.

General adaptations of local enactments

- 89 (1) A provision to which this paragraph applies which refers to the rights and powers of British Telecommunications under a provision of any enactment relating to

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telegraphs shall have effect with the substitution for that reference of a reference to any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.

- (2) A provision to which this paragraph applies that operates to afford protection or confer a benefit on British Telecommunications with reference to—
- (a) telegraphic lines of, or used by, British Telecommunications or such telegraphic lines of any description specified in that provision, or
 - (b) accommodation for such telegraphic lines or telegraphic lines of any such description, or
 - (c) communication by means of such telegraphic lines or telegraphic lines of any such description,
- shall be construed in accordance with sub-paragraph (3) below.
- (3) That provision shall be construed as if—
- (a) any application (whether or not with modifications) by that provision of section 7 of the Telegraph Act 1878 (which before being repealed by this Act contained provision broadly corresponding to paragraph 23 of the telecommunications code) in relation to any works carried out by any person were an application (without modification) of the said paragraph to that person for the purposes of those works; and
 - (b) subject to that, it in all respects (subject to the like incidents) afforded the like protection to, or conferred the like benefit on, the operator of any telecommunications code system in relation, as the case may be, to—
 - (i) telecommunication apparatus kept installed for the purposes of a telecommunications code system or such apparatus of the description in question, or
 - (ii) accommodation for such apparatus or such apparatus of that description, or
 - (iii) the service provided by any such system.
- (4) The provisions to which this paragraph applies are those of a local Act passed in the same Session as this Act, or in a previous Session, those of an order confirmed by an Act so passed and those of a scheme or order made before the passing of this Act under any Act (whether public general or local).
- (5) This paragraph shall not preclude the making, in relation to any provision to which it applies, of any order under section 109(2) or (3) of this Act which is capable, apart from the provisions of this paragraph, of being made in relation to that provision ; and this paragraph shall not apply to any provision in relation to which such an order is made, except to the extent provided for in the order.
- (6) In this paragraph " telegraphic line" means any apparatus (howsoever described) which is a telegraphic line within the meaning of the Telegraph Act 1878.

Saving in respect of offences under section 5

- 90 Nothing in a local Act passed after but in the same Session as this Act shall authorise the doing of anything which would constitute an offence under section 5 of this Act.