

Changes to legislation: Communications Act 2003, Cross Heading: Power for operator to upgrade or share apparatus is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 3A

THE ELECTRONIC COMMUNICATIONS CODE

Textual Amendments

- F1** Sch. 3A inserted (31.7.2017 for the purpose of making regulations under Sch. 3A para. 95, 22.11.2017 but only in relation to Sch. 3A para. 106, 28.12.2017 in so far as not already in force) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 1](#) (with [Sch. 2](#)); [S.I. 2017/765](#), reg. 2(ii)(jj); [S.I. 2017/1136](#), reg. 2; [S.I. 2017/1286](#), reg. 2(b)

Modifications etc. (not altering text)

- C1** Sch. 3A applied by [S.I. 1991/1220 \(N.I. 11\)](#), [art. 104\(5\)](#) (as substituted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Primary Legislation\) Regulations 2017 \(S.I. 2017/1285\)](#), reg. 1(1), [Sch. 1 para. 28\(2\)\(c\)](#))

PART 3

ASSIGNMENT OF CODE RIGHTS, AND UPGRADING AND SHARING OF APPARATUS

Power for operator to upgrade or share apparatus

- 17 (1) An operator (“the main operator”) who has entered into an agreement under Part 2 of this code may, if the conditions in sub-paragraphs (2) and (3) are met—
- (a) upgrade the electronic communications apparatus to which the agreement relates, or
 - (b) share the use of such electronic communications apparatus with another operator.
- (2) The first condition is that any changes as a result of the upgrading or sharing to the electronic communications apparatus to which the agreement relates have no adverse impact, or no more than a minimal adverse impact, on its appearance.
- (3) The second condition is that the upgrading or sharing imposes no additional burden on the other party to the agreement.
- (4) For the purposes of sub-paragraph (3) an additional burden includes anything that—
- (a) has an additional adverse effect on the other party's enjoyment of the land, or
 - (b) causes additional loss, damage or expense to that party.
- (5) Any agreement under Part 2 of this code is void to the extent that—
- (a) it prevents or limits the upgrading or sharing, in a case where the conditions in sub-paragraphs (2) and (3) are met, of the electronic communications apparatus to which the agreement relates, or

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- (b) it makes upgrading or sharing of such apparatus subject to conditions to be met by the operator (including a condition requiring the payment of money).
- (6) References in this paragraph to sharing electronic communications apparatus include carrying out works to the apparatus to enable such sharing to take place.]

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)