

SCHEDULES

SCHEDULE 3

Section 4

ELECTRONIC COMMUNICATIONS CODE: CONSEQUENTIAL AMENDMENTS

PART 1

GENERAL PROVISION

Interpretation

- 1 In this Part—
- “the commencement date” means the day on which Schedule 3A to the Communications Act 2003 comes into force;
 - “enactment” includes—
 - (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
 - (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
 - “the existing code” means Schedule 2 to the Telecommunications Act 1984;
 - “the new code” means Schedule 3A to the Communications Act 2003.

References to the code or provisions of the code

- 2 (1) In any enactment passed or made before the commencement date, unless the context requires otherwise—
- (a) a reference to the existing code is to be read as a reference to the new code;
 - (b) a reference to a provision of the existing code listed in column 1 of the table is to be read as a reference to the provision of the new code in the corresponding entry in column 2.
- (2) This paragraph does not affect the amendments made by Part 2 of this Schedule or the power to make amendments by regulations under section 6.
- (3) This paragraph does not affect section 17(2) of the Interpretation Act 1978 (effect of repeal and re-enactment) in relation to any reference to a provision of the existing code not listed in the table.

Status: This is the original version (as it was originally enacted).

Existing code	New code
Paragraph 9	Part 8
Paragraph 21	Part 6
Paragraph 23	Part 10
Paragraph 29	Paragraph 18

References to a conduit system

- 3 In any enactment passed or made before the commencement date, unless the context requires otherwise—
- (a) a reference to a conduit system, where it is defined by reference to the existing code, is to be read as a reference to an infrastructure system as defined by paragraph 7(1) of the new code, and
 - (b) a reference to provision of such a system is to be read in accordance with paragraph 7(2) of the new code (reference to provision includes establishing or maintaining).

PART 2

AMENDMENTS OF PARTICULAR ENACTMENTS

Landlord and Tenant Act 1954 (c. 56)

- 4 In section 43 of the Landlord and Tenant Act 1954 (tenancies to which provisions on security of tenure for business etc tenants do not apply) after subsection (3) insert—
- “(4) This Part does not apply to a tenancy—
- (a) the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), and
 - (b) which is granted after that Schedule comes into force.”

Opencast Coal Act 1958 (c. 69)

- 5 (1) Section 45 of the Opencast Coal Act 1958 (provisions as to telegraphic lines) is amended as follows.
- (2) In subsection (2) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In section (4) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of the electronic communications code”.

Land Drainage (Scotland) Act 1958 (c. 24)

- 6 In section 17 of the Land Drainage Act (Scotland) Act 1958 (application of paragraph 23 of the code) for “Paragraph 23 of the electronic communications code”

substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Pipe-lines Act 1962 (c. 58)

- 7 In section 40(2) of the Pipe-lines Act 1962 (avoidance of interference with lines) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Harbours Act 1964 (c. 40)

- 8 In section 53 of the Harbours Act 1964 (application of paragraph 23 of the code) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Fair Trading Act 1973 (c. 41)

- 9 In section 137(3)(f) of the Fair Trading Act 1973 (general interpretation: services covered) for “paragraph 29 of Schedule 2 to the Telecommunications Act 1984” substitute “paragraph 17 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Highways Act 1980 (c. 66)

- 10 The Highways Act 1980 is amended as follows.
- 11 In section 177(12) (restriction of construction over highways: application of paragraph 23 of code) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- 12 (1) Section 334 (savings relating to electronic communications apparatus) is amended as follows.
- (2) In subsection (8) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (9) for “the said paragraph 23” substitute “Part 10 of the electronic communications code”.
- (4) In subsection (11)—
- (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
- (b) for “that paragraph” substitute “Part 10 of the code”.
- (5) In subsection (12) for “1(2)” substitute “103(2)”.
- (6) In subsection (13) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

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

Roads (Scotland) Act 1984 (c. 54)

- 13 The Roads (Scotland) Act 1984 is amended as follows.
- 14 (1) Section 50 (planting of trees etc by roads authority) is amended as follows.
- (2) In subsection (3) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (4)—
- (a) for “sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
- (b) for “that paragraph” substitute “Part 10 of the code”.
- 15 (1) Section 75 (bridges over and tunnels under navigable waterways) is amended as follows.
- (2) In subsection (9) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (10)—
- (a) for “sub-paragraph (8) of paragraph 23” substitute “paragraph 68”;
- (b) for “that paragraph” substitute “Part 10 of the code”.
- 16 (1) Section 132 (saving for operators of telecommunications code systems) is amended as follows.
- (2) In the heading for “telecommunications code systems” substitute “electronic communications code networks”.
- (3) In subsection (4) for “paragraph 1(2) of the electronic communications code” substitute “paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (4) In subsection (5) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

Housing Act 1985 (c. 68)

- 17 Section 298 of the Housing Act 1985 (telecommunications apparatus) is amended as follows.
- 18 For the heading substitute “Electronic communications apparatus”.
- 19 In subsection (2) for “paragraph 21 of the electronic communications code” substitute “Part 6 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- 20 In subsection (3) for “paragraph 23” substitute “Part 10”.

Food and Environment Protection Act 1985 (c. 48)

- 21 The Food and Environment Protection Act 1985 is amended as follows.

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

- 22 In section 8A (electronic communications apparatus: operations in tidal waters etc) for the words from “paragraph 11” to “1984” substitute “Part 9 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”.
- 23 In section 9(8) (defence to operating without licence under Part 2)—
- (a) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”;
 - (b) omit the words from “In this subsection” to the end.

Airports Act 1986 (c. 31)

- 24 The Airports Act 1986 is amended as follows.
- 25 (1) Section 62 (electronic communications apparatus) is amended as follows.
- (2) In subsection (1) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”.
 - (3) In subsection (4) for “Paragraph 23” substitute “Part 10”.
 - (4) In subsection (5)—
 - (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
 - (b) for “that paragraph” substitute “Part 10 of the code”.
 - (5) In subsection (6) for “1(2)” substitute “103(2)”.
 - (6) In subsection (7) for “Paragraph 21 of the electronic communications code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Landlord and Tenant Act 1987 (c. 31)

- 26 In section 4(2) of the Landlord and Tenant Act 1987 (disposals which are not relevant disposals for purposes of tenants’ right of first refusal) after paragraph (da) insert—
- “(db) the conferral of a code right under Schedule 3A to the Communications Act 2003 (the electronic communications code);”.

Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)

- 27 In paragraph 4 of Schedule 4 to the Road Traffic (Driver Licensing and Information Systems) Act 1989 (application of paragraph 23 of code to licence holders) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Electricity Act 1989 (c. 29)

- 28 In paragraph 1(6) of Schedule 16 to the Electricity Act 1989 (application of paragraph 23) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

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

Town and Country Planning Act 1990 (c. 8)

- 29 (1) Section 256 of the Town and Country Planning Act 1990 (electronic communications apparatus: orders by the Secretary of State) is amended as follows.
- (2) In subsection (5) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (6) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

Water Industry Act 1991 (c. 56)

- 30 In paragraph 4 of Schedule 13 to the Water Industry Act 1991—
- (a) for “paragraph 23” substitute “Part 10”;
- (b) for “Schedule 2 to the Telecommunications Act 1984” substitute “Schedule 3A to the Communications Act 2003”;
- (c) in the heading, for “telecommunication systems” substitute “electronic communications networks”.

Water Resources Act 1991 (c. 57)

- 31 In Schedule 22 to the Water Resources Act 1991 (protection of particular undertakings)—
- (a) in paragraph 5 for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”;
- (b) for the italic heading before paragraph 5 substitute “Protection for electronic communications networks”.

Electricity (Northern Ireland) Order 1992 (S.I. 1992/231)

- 32 In paragraph 3(2) of Schedule 4 to the Electricity (Northern Ireland) Order 1992 (application of paragraph 23) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Cardiff Bay Barrage Act 1993 (c. 42)

- 33 In paragraph 16 of Schedule 2 to the Cardiff Bay Barrage Act 1993 (application of paragraph 23) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Roads (Northern Ireland) Order 1993 (S.I. 1993/3160)

- 34 (1) Schedule 9 to the Roads (Northern Ireland) Order 1993 (saving provisions) is amended as follows.

- (2) In paragraph 2(2) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In paragraph 2(3) for “Paragraph 21 of the electronic communications code (restrictions on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.
- (4) In paragraph 3 for “Paragraph 23” substitute “Part 10”.

Airports (Northern Ireland) Order 1994 (S.I. 1994/426)

- 35 (1) Article 12 of the Airports (Northern Ireland) Order 1994 (provisions as to electronic communications apparatus) is amended as follows.
- (2) In paragraph (1) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
 - (3) In paragraph (3A) for “Paragraph 23” substitute “Part 10”.
 - (4) In paragraph (4)—
 - (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
 - (b) for “that paragraph” substitute “Part 10 of the code”.
 - (5) In paragraph (5) for “1(2)” substitute “103(2)”.
 - (6) In paragraph (6) for “Paragraph 21 of the electronic communications code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.
 - (7) Omit paragraph (7).

Landlord and Tenant (Covenants) Act 1995 (c. 30)

- 36 In section 5 of the Landlord and Tenant (Covenants) Act 1995 (tenant released from covenants on assignment of tenancy), after subsection (4) insert—
- “(5) This section is subject to paragraph 16(4) of Schedule 3A to the Communications Act 2003 (which places conditions on the release of an operator from liability under an agreement granting code rights under the electronic communications code).”

Gas Act 1995 (c. 45)

- 37 In paragraph 2(7) of Schedule 4 to the Gas Act 1995 (application of paragraph 23 to public gas transporters) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Channel Tunnel Rail Link Act 1996 (c. 61)

- 38 (1) Part 4 of Schedule 15 to the Channel Tunnel Rail Link Act 1996 (protection of telecommunications operators) is amended as follows.

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

- (2) For the heading substitute “Protection of electronic communications code operators”.
- (3) In paragraph 2(1) for “Paragraph 21 of the electronic communications code” substitute “Part 6 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (4) In paragraph 2(2) for “Paragraph 23” substitute “Part 10”.
- (5) In paragraph 3 for “paragraph 9” substitute “Part 8”.
- (6) In paragraph 4(1) for “paragraph 23” substitute “Part 10”.

Gas (Northern Ireland) Order 1996 (S.I. 1996/275)

- 39 (1) Schedule 3 to the Gas (Northern Ireland) Order 1996 (other powers etc of licence holders) is amended as follows.
- (2) In paragraph 1(1) omit the following definitions—
 - (a) “public telecommunications operator”;
 - (b) “telecommunication apparatus” and “electronic communications network”;
 - (c) “telecommunications code”.
 - (3) In paragraph 3(2) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Business Tenancies (Northern Ireland) Order 1996 (SI 1996/725 (NI 5))

- 40 In Article 4(1) of the Business Tenancies (Northern Ireland) Order 1996 (tenancies to which the Order does not apply) after paragraph (k) insert—
- “(l) a tenancy the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), where the tenancy is granted after that Schedule comes into force.”

Town and Country Planning (Scotland) Act 1997 (c. 8)

- 41 (1) Section 212 of the Town and Country Planning (Scotland) Act 1997 (electronic communications apparatus) is amended as follows.
- (2) In subsection (7) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
 - (3) In subsection (8) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Enterprise Act 2002 (c. 40)

- 42 The Enterprise Act 2002 is amended as follows.
- 43 In section 128(5) (mergers: references to supply of services) for the words from “(within” to the end substitute “(within the meaning of paragraph 17 of Schedule 3A

to the Communications Act 2003 (the electronic communications code)) for sharing the use of electronic communications apparatus.

- 44 In section 234(5) (enforcement of consumer legislation: references to supply of services) for the words from “(within” to the end substitute “(within the meaning of paragraph 17 of Schedule 3A to the Communications Act 2003 (the electronic communications code)) for sharing the use of electronic communications apparatus.

Communications Act 2003 (c. 21)

45 The Communications Act 2003 is amended as follows.

- 46 (1) Section 394 (service of notifications and other documents) is amended as follows.

(2) In subsection (2) omit paragraph (d).

(3) After subsection (10) insert—

“(11) In its application to Schedule 3A this section is subject to paragraph 91 of that Schedule.”

- 47 (1) Section 402 (power of Secretary of State to make orders and regulations) is amended as follows.

(2) In subsection (2) after paragraph (a) insert—

“(aa) regulations under paragraph 95 of Schedule 3A which amend, repeal or modify the application of primary legislation.”

(3) After subsection (2) insert—

“(2A) A statutory instrument containing (whether alone or with other provisions) regulations under paragraph 95 of Schedule 3A which amend, repeal or modify the application of primary legislation, may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

(4) After subsection (3) insert—

“(4) In this section “primary legislation” means—

- (a) an Act of Parliament,
- (b) a Measure or Act of the National Assembly for Wales,
- (c) an Act of the Scottish Parliament, or
- (d) Northern Ireland legislation.”

48 Schedule 3 is repealed.

Land Reform (Scotland) Act 2003 (asp 2)

- 49 (1) Schedule 1 to the Land Reform (Scotland) Act 2003 (path orders) is amended as follows.

(2) In paragraph 12 for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

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

- (3) In paragraph 13 for “Paragraph 21 of that code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Housing and Regeneration Act 2008 (c. 17)

- 50 The Housing and Regeneration Act 2008 is amended as follows.
- 51 In section 2(3) (objects of the Homes and Communities Agency: interpretation) in paragraph (a) of the definition of “infrastructure” for “telecommunications” substitute “electronic communications”.
- 52 In section 57(1) (interpretation of Part 1) omit the definition of “conduit system” and insert in the appropriate place—
 ““infrastructure system” has the meaning given by paragraph 7(1) of Schedule 3A to the Communications Act 2003 (the electronic communications code), and a reference to providing such a system is to be read in accordance with paragraph 7(2) of the code (reference to provision includes establishing or maintaining).”
- 53 In the table in section 58 (index of defined expressions in Part 1) omit the entry for “conduit system (and providing such a system)” and insert in the appropriate place—
- | | |
|--|-----------------|
| “Infrastructure system (and providing such a system) | Section 57(1)”. |
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Crossrail Act 2008 (c. 18)

- 54 (1) Part 4 of Schedule 17 to the Crossrail Act 2008 (protective provisions) is amended as follows.
- (2) In paragraph 1(2) for the definition of “electronic communications code” substitute—
 ““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”.
- (3) In paragraph 2(1) for “paragraph 23” substitute “Part 10”.
- (4) In paragraph 2(2) for “Paragraphs 21 and 23” substitute “Parts 6 and 10”.
- (5) In paragraph 3 for “paragraph 9” substitute “Part 8”.
- (6) In paragraph 4(1) for “paragraph 23” substitute “Part 10”.

Marine (Scotland) Act 2010 (asp 5)

- 55 The Marine (Scotland) Act 2010 is amended as follows.
- 56 In section 36(1) (electronic communications apparatus) for the words from “paragraph 11” to “apparatus)” substitute “Part 9 of Schedule 3A to the Communications Act 2003 (the electronic communications code) (works in connection with electronic communications apparatus).
- 57 (1) Section 41 (defence to offences: electronic communications: emergency works) is amended as follows.

- (2) In subsection (1) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) Omit subsection (2).