**STATUTORY NOTICE**

**SEEKING AGREEMENT TO THE CONFERRAL OF INTERIM RIGHTS UNDER THE ELECTRONIC COMMUNICATIONS CODE**

**Paragraph 26(3) of Part 4 of Schedule 3A of The Communications Act 2003**

**IMPORTANT NOTICE**

**If you are willing to enter into a Code Agreement, you should respond within 28 days**

1. This is a statutory notice pursuant to paragraph 26(3) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).[[1]](#footnote-1)
2. This notice has been issued by [*Name of Code operator*] (“**we**” or “**us**”) to you, [*Insert name*], because we would like to [*insert brief description of rights sought, e.g. to install apparatus and carry out related works*] on land occupied by you for the purposes of our [*electronic communications network and/or infrastructure system*]. We are seeking your agreement, on an interim basis, to confer these rights on us.

*[OR - delete appropriate version of paragraph 2]*

2. This notice has been issued by [*Name of Code operator*] (“**we**” or “**us**”) to you, [*Insert name*], because we have certain rights to [*insert brief description of rights already exercisable by operator in relation to the land, e.g. keep apparatus installed on land in relation to which you have an interest]* for the purpose of our [*electronic communications network and/or infrastructure system*]. We are seeking your agreement, on an interim basis, to be bound by these rights.

BACKGROUND

1. We provide an [*electronic communications network and/or infrastructure system*] in the United Kingdom. This is used in order to provide consumers with [*insert a brief description of the retail services which are dependent on this network and/or infrastructure system* (*e.g. fixed voice and broadband services)*].
2. For this purpose, the Office of Communications (OFCOM) has given a direction applying the Code to us. The Code regulates the relationships between us and occupiers of land, thereby facilitating the deployment of electronic communications apparatus.

INTERPRETATION

1. In this notice:
   1. “**Apparatus**” means the electronic communications apparatus described in Annex 1;
   2. “**Land**” means the land at [*Insert address / description of land, etc.*].

DETAILS OF THE AGREEMENT WE ARE SEEKING

1. In this notice, we are seeking your agreement to [*confer on us / be bound by*] the following rights, on the interim basis specified at paragraph 8 below:
   1. [*the right to install the Apparatus on, under or over the Land*];
   2. [*the right to keep installed the Apparatus which is on, under or over the Land*];
   3. [*the right to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land*];
   4. [*the right to carry out any works on the Land for or in connection with the installation of the Apparatus on, under or over the Land [or the installation of electronic communications apparatus elsewhere]*];
   5. [*the right to carry out any works on the Land for or in connection with the maintenance, adjustment, alteration, repair, upgrading or operation of the Apparatus which is on, under or over the Land [or of electronic communications apparatus elsewhere]*];
   6. [*the right to enter the Land to inspect, maintain, adjust, alter, repair, upgrade or operate the Apparatus which is on, under or over the Land [or any electronic communications apparatus elsewhere]*];
   7. [*the right to connect the Apparatus to a power supply*];
   8. [*the right to interfere with or obstruct a means of access to or from the Land (whether or not the Apparatus is on, under or over the Land)*]; and
   9. [*the right to lop or cut back, or require another person to lop or cut back, any tree or other vegetation that interferes or will or may interfere with the Apparatus*].

(together, the “**Code Rights**”).

1. In addition to the Code Rights, we are also seeking in this notice your agreement to the additional terms set out in Annex 2.
2. We would like the Code Rights, and additional terms set out in Annex 2, to be exercisable [*for a period of* *[Insert period (e.g. 3 months)]* / until the *occurrence of [Insert details of a particular event (e.g. until redevelopment of alternative property)]*].

CONSEQUENCES OF NOT REACHING AGREEMENT

1. If either:
   1. you do not, before the end of 28 days beginning with the day on which this notice is given, agree [*to confer / to be bound by*] the Code Rights; or
   2. at any time after this notice is given, you give notice in writing to us that you do not agree [*to confer / to be bound by*] the Code Rights,

we will be entitled to apply to the court for an order under paragraph 26 of the Code. Further detail on these orders is provided in the supplementary information at the back of this notice.

1. We consider that the agreement sought in this notice is [*not*] a matter of urgency and therefore [*do not*] intend to apply for such an order prior to the end of the 28-day period referred to above.[[2]](#footnote-2)

YOUR OPTIONS

1. In response to this notice, you may:
   1. agree [*to confer the Code Rights on us / to be bound by the Code Rights*] on the interim basis requested in this notice;
   2. give notice to us that you do not agree [*to confer / to be bound by*] the Code Rights on the interim basis requested in this notice; or
   3. do nothing.
2. In deciding how to respond to this notice, you may wish to seek independent legal advice.
3. If you agree [*to confer the Code Rights on us / to be bound by the Code Rights*] on the interim basis requested in this notice, [we will send you an agreement reflecting the terms set out in this notice and ask you to sign it.] [we ask you to sign the agreement attached at Annex 2.] You would be entitled to seek independent legal advice in relation to this agreement.
4. Alternatively, and as explained at paragraph 9 above, if you do nothing or give notice to us that you do not agree [*to confer / to be bound by*] the Code rights on the interim basis requested in this notice, we will be entitled to apply to the court for an order under paragraph 26 of the Code.
5. Please submit any notification pursuant to paragraph 11a. or b. to us in writing as soon as possible and, in any event, before the end of 28 days beginning with the day on which this notice is given.
6. To be effective, such notification must be **delivered by hand** or sent by **registered post** or **recorded delivery** to the following address:

[*Insert address details*]

1. If you have any questions about this notice, please do not hesitate to contact us via telephone (*Insert number*) or e-mail (*insert email address*).

[*INSERT DATE OF NOTICE*]

ANNEX 1

THE APPARATUS

[*Insert a description of the electronic communications apparatus to which the notice relates*]

ANNEX 2

ADDITIONAL TERMS OF AGREEMENT SOUGHT

[*Insert description of the additional contractual terms sought or attach a draft agreement*]

*SUPPLEMENTARY INFORMATION FOR THE RECIPIENT OF THIS NOTICE*

Orders under paragraph 26(3) of the Code

1. An order under paragraph 26 of the Code is an order which imposes on us and you an agreement. The effect of such an agreement would be [*to confer the Code Rights on us / provide for the Code Rights to bind you*], on an *interim* basis.
2. Paragraphs 23 and 24 of the Code contain further detail about the terms of the agreement that the court may impose. And paragraph 22 of the Code states that such an agreement takes effect for all purposes of the Code as an agreement under Part 2 of the Code between the operator and the relevant person.

1. The court may only make an order if:
   1. you have agreed with us to the making of the order and the terms of the agreement imposed by it; **or**
   2. it thinks that there is a good arguable case that **both** of the following conditions are met:
      1. the prejudice caused to you by the order is capable of being adequately compensated by money; and
      2. the public benefit likely to result from the making of the order (having regard to the public interest in access to a choice of high quality electronic communications services) outweighs the prejudice to you.
2. The court may **not** make such an order if it thinks that you intend to redevelop all or part of the land to which the Code Rights would relate, or any neighbouring land, and could not reasonably do so if the order were made.
3. The court also has the power to order us to pay you compensation for any loss or damage that you have sustained or will sustain as a result of the exercise of the Code Rights. Paragraphs 25 and Part 14 of the Code contain further detail about this.

1. A copy of the Communications Act 2003 is available online at [www.legislation.gov.uk](http://www.legislation.gov.uk). [↑](#footnote-ref-1)
2. In limited circumstances, where the court agrees that it is a matter of urgency for an order to be made under paragraph 26(5) of the Code, it may make such an order even though the 28-day period referred to at paragraph 9a. above has not elapsed (and paragraph 9b. does not apply). [↑](#footnote-ref-2)