**STATUTORY NOTICE**

**REGARDING NON-EMERGENCY UNDERTAKER’S WORKS WHICH INTERFERE WITH AN ELECTRONIC COMMUNICATIONS NETWORK**

**Paragraph 67(1) of Part 10 of Schedule 3A of the Communications Act 2003**

1. This is a statutory notice pursuant to paragraph 67(1) of the electronic communications code, set out in Schedule 3A to the Communications Act 2003 (the “**Code**”).[[1]](#footnote-1) **[see note (a)]**
2. The purpose of this notice is to inform you that we, [*Insert name of undertaker*] intend to carry out non-emergency works at [*Insert address, and any other relevant description*] (the “**Land**”). **[see note (b)]**
3. These works will involve, or are likely to involve, an alteration of electronic communications apparatus kept by you, [*Insert name of Code operator*] on, under or over the Land for the purposes of your network.

THE PROPOSED WORKS AND ALTERATIONS

1. We propose to [*Insert details of the proposed non-emergency works, with more detail in an annex if necessary*] (the “**Proposed Works**”). These works will begin on [*Insert date*] at [*the location specified in paragraph 2 above*].
2. The Proposed Works [*will involve / are likely to involve*] the alteration of the electronic communications apparatus specified in the Annex to this notice in the manner specified in that Annex. This alteration would be [*permanent / temporary*].

YOUR OPTIONS

1. You are entitled, within the period of 10 days beginning with the day on which this notice is given (the “**notice period**”), to give us a counter-notice under paragraph 68(2) of the Code. Such a counter-notice can state either:
   1. that you require us to make any alteration of the electronic communications apparatus that is necessary or expedient because of the Proposed Works under your supervision and to your satisfaction; or
   2. that you intend to make any alteration of the electronic communications apparatus that is necessary or expedient because of the Proposed Works.[[2]](#footnote-2)
2. We must not begin the proposed works (including the proposed alteration of your electronic communications apparatus) until the notice period has ended. **[see note (c)]**
3. Further, if you give us a counter-notice within the notice period, paragraphs 68(3) to (6) of the Code will apply.

1. Even if you do not provide us with a counter-notice within the notice period, we are required by paragraph 69 of the Code to pay you the amount of any loss or damage sustained by you in consequence of any alteration being made to your electronic communications apparatus (in carrying out the Proposed Works).

[*Insert date of Notice*]

ANNEX 1

THE APPARATUS AND THE PROPOSED ALTERATION

The electronic communications apparatus

[*Insert details of the electronic communications apparatus to which the alteration will relate*]

The proposed alteration(s)

[*Insert details of the alterations which will, or are likely, to be made to the electronic communications apparatus described above as a result of the Proposed Works*]

*NOTES FOR COMPLETING THIS NOTICE*

*You may wish to obtain independent legal advice before completing this notice.*

1. *This notice should be* ***delivered by hand*** *or sent by* ***registered post*** *or* ***recorded delivery*** *to the operator at:*

* *the address for service that the operator has given to you for the purposes of the Code; or*
* *if no such address has been given to you, at the address given by section 394 of the Communications Act 2003 (available online at* [*www.legislation.gov.uk*](http://www.legislation.gov.uk)*).*

*Please note that you will be guilty of an offence if you make an alteration of electronic communications apparatus in carrying out non-emergency undertaker’s works without giving this notice.*

1. *This notice is only suitable when providing notice of non-emergency undertaker’s works. These works are defined at paragraph 67(5) of the Code as any undertaker’s works (defined at paragraph 66(1) of the Code) which are not emergency works. Emergency undertaker’s works are defined in paragraph 71 of the Code as follows:*

“*undertaker’s works carried out in order to stop anything already occurring, or to prevent anything imminent from occurring, which is likely to cause:*

*(a) danger to persons or property;*

*(b) interference with the exercise of any functions conferred or imposed on the undertaker by or under any enactment; or*

*(c) substantial loss to the undertaker,*

*and any other works which it is reasonable (in all the circumstances) to carry out with those works.”*

1. *Please note that you will be guilty of an offence under paragraph 72 of the Code if you make an alteration of electronic communications apparatus in carrying out non-emergency undertaker’s works before the end of the notice period.*
2. *Paragraph 108(2) of the Code defines “alteration” to include the moving, removal or replacement of apparatus.*

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. Under paragraphs 69(2) and 70(2)(b) of the Code, we would be required to pay you the amount of any loss or damage sustained by you in consequence of the alteration referred to in this notice. Further, if you choose to supervise us when altering the electronic communications apparatus, we are required by paragraph 69(3) of the Code to pay you any expenses incurred by you in, or in connection with, that supervision. Similarly, if you choose to make the alterations yourself, we are required under paragraph 70(2)(a) to pay you any expenses incurred by you in, or in connection with, making the alteration. [↑](#footnote-ref-2)