

*Changes to legislation: There are currently no known outstanding effects for the Telecommunications Infrastructure (Leasehold Property) Act 2021. (See end of Document for details)*

## SCHEDULE

Section 2

### RELATED AMENDMENTS

#### *Communications Act 2003*

1 The Communications Act 2003 is amended as follows.

#### **Commencement Information**

- I1** Sch. para. 1 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)
- I2** Sch. para. 1 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)
- I3** Sch. para. 1 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

2 In section 134 (restrictions in leases and licences), in subsection (8), for the definition of “lease” substitute—

““lease”—

- (a) in relation to England and Wales and Northern Ireland, includes—
  - (i) any head lease, sub-lease or underlease,
  - (ii) any tenancy (including a sub-tenancy), and
  - (iii) any agreement to grant any such lease or tenancy;

- (b) in relation to Scotland, includes any sub-lease and any agreement to grant a sub-lease,

and “lessor” and “lessee” are to be construed accordingly.”

#### **Commencement Information**

- I4** Sch. para. 2 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)
- I5** Sch. para. 2 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)
- I6** Sch. para. 2 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

3 In section 402 (orders and regulations)—

- (a) in subsection (2), for paragraph (aa) substitute—

“(aa) regulations within subsection (2A),”;

- (b) in subsection (2A)—

- (i) for “regulations under paragraph 95 of Schedule 3A which amend, repeal or modify the application of primary legislation,” substitute “any of the following”;

- (ii) at the end insert “—

- (a) regulations under paragraph 27E(4) of Schedule 3A;

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

#### **Commencement Information**

- I7** Sch. para. 3 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)
- I8** Sch. para. 3 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

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**19** Sch. para. 3 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

- 4 (1) Schedule 3A (the electronic communications code) is amended as follows.
- (2) In paragraph 10—
- (a) in sub-paragraph (1), for “in accordance with this Part” substitute “ pursuant to an agreement under this Part or Part 4A ”;
  - (b) in sub-paragraph (4), after “who has” insert “ , pursuant to an agreement under this Part or Part 4A, ”.
- (3) In paragraph 12(2), after “Part” insert “ or Part 4A ”.
- (4) In paragraph 19(a)—
- (a) for “the circumstances” substitute “ certain circumstances ”;
  - (b) at the end insert “ (see also Part 4A) ”.
- (5) In paragraph 20(2)(a), after “code right,” insert “ the land to which it relates ”.
- (6) In paragraph 23, after sub-paragraph (2) insert—
- “(2A) In determining the terms of the agreement the court may take into account, among other things, any breach by the operator of an agreement between the operator and the relevant person which was imposed by an order under Part 4A (whether or not in force).”
- (7) In paragraph 26—
- (a) after sub-paragraph (1) insert—
    - “(1A) But an operator may not make an application under this paragraph if there is a relevant Part 4A agreement in effect between the operator and the person.
    - (1B) In sub-paragraph (1A) “relevant Part 4A agreement” means an agreement imposed by an order under Part 4A by which the person—
      - (a) confers a Part 4A code right on the operator, or
      - (b) otherwise agrees to be bound by a Part 4A code right which is exercisable by the operator,
 where the Part 4A code right is in respect of the same land as the code right mentioned in sub-paragraph (1).”;
  - (b) in sub-paragraph (6), in the words before paragraph (a), after “Paragraphs” insert “ 20(3), 22, ”.
- (8) In paragraph 27(6), in the words before paragraph (a), after “Paragraphs” insert “ 20(3), 22, ”.
- (9) In paragraph 37(3), after paragraph (a) insert—
- “(aa) as mentioned in paragraph 27G(1) and (4) ;”.
- (10) In paragraph 84(1), after paragraph (a) insert—
- “(aa) the power in paragraph 27H(2) (compensation where Part 4A order made);”.
- (11) In paragraph 95(1), after paragraph (a) insert—

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“(aa) in relation to Wales, the First-tier Tribunal, but only in connection with proceedings under Part 4A;”.

(12) In paragraph 108(1)—

(a) for the definition of “lease” substitute—

““lease”—

(a) in relation to England and Wales and Northern Ireland, includes—

(i) any head lease, sub-lease or underlease,

(ii) any tenancy (including a sub-tenancy), and

(iii) any agreement to grant any such lease or tenancy,

but does not include a mortgage by demise or sub-demise;

(b) in relation to Scotland, includes any sub-lease and any agreement to grant a sub-lease,

and “leased premises” and “lessee” are to be read accordingly;”;

(b) before the definition of “relevant person” insert—

““Part 4A code right” has the meaning given by paragraph 27E(3);”.

#### Commencement Information

**I10** Sch. para. 4 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

**I11** Sch. para. 4 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

**I12** Sch. para. 4 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

#### *Electronic Communications Code (Jurisdiction) Regulations 2017 (S.I. 2017/1284)*

5 The Electronic Communications Code (Jurisdiction) Regulations 2017 are amended as follows.

#### Commencement Information

**I13** Sch. para. 5 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

**I14** Sch. para. 5 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

**I15** Sch. para. 5 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

6 In regulation 2(1) (interpretation), after the definition of “the code” insert—

““Part 4A proceedings” means proceedings under Part 4A of the code;”.

#### Commencement Information

**I16** Sch. para. 6 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

**I17** Sch. para. 6 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

**I18** Sch. para. 6 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

7 (1) Regulation 3 (conferral of jurisdiction on tribunals) is amended as follows.

(2) The existing text becomes paragraph (1).

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- (3) In that paragraph—
- (a) in the words before sub-paragraph (a), after “Subject to” insert “paragraph (2) and”;
  - (b) for sub-paragraphs (a) and (b) (including the final “and”) substitute—
    - “(aa) in relation to England and Wales, the First-tier Tribunal and the Upper Tribunal, and”;
  - (c) omit the words after sub-paragraph (c).
- (4) After that paragraph insert—
- “(2) Functions are exercisable by the First-tier Tribunal under paragraph (1)(aa) only—
- (a) in connection with relevant proceedings in relation to England that have been transferred to the First-tier Tribunal by the Upper Tribunal, and
  - (b) in connection with Part 4A proceedings (whether in relation to England or Wales).
- (3) Any provision of the code which confers a function on the court is, to the extent that the function is exercisable by a tribunal under this regulation, to be read as if the reference to the court included reference to that tribunal.”

#### Commencement Information

**I19** Sch. para. 7 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

**I20** Sch. para. 7 in force at 26.12.2022 for E. W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

**I21** Sch. para. 7 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

- 8 (1) Regulation 4 (jurisdiction for commencement of proceedings) is amended as follows.
- (2) In the heading, for “relevant” substitute “certain”.
  - (3) The existing text becomes paragraph (1).
  - (4) After that paragraph insert—
 

“(2) Part 4A proceedings must be commenced—

    - (a) in relation to England and Wales, in the First-tier Tribunal, or
    - (b) in relation to Scotland, in the sheriff court.”

#### Commencement Information

**I22** Sch. para. 8 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

**I23** Sch. para. 8 in force at 26.12.2022 for E. W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

**I24** Sch. para. 8 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

- 9 The amendments made by paragraphs 5 to 8 do not limit the provision that may be made by regulations under paragraph 95 of the code.

#### Commencement Information

**I25** Sch. para. 9 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)

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- I26** Sch. para. 9 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)  
**I27** Sch. para. 9 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

10 In paragraph 9, “the code” means the electronic communications code set out in Schedule 3A to the Communications Act 2003.

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**Commencement Information**

- I28** Sch. para. 10 in force at 15.3.2021 for specified purposes, see s. 3(3)(b)(4)  
**I29** Sch. para. 10 in force at 26.12.2022 for E.W. in so far as not already in force by S.I. 2022/1308, reg. 3(c)  
**I30** Sch. para. 10 in force at 1.7.2023 for S. in so far as not already in force by S.I. 2022/1308, reg. 3(c)

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