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**Changes to legislation:** Communications Act 2003, Cross Heading: Saving for agreements with special provision for 1984 Act licence holders is up to date with all changes known to be in force on or before 19 April 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

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## SCHEDULES

### SCHEDULE 18

#### TRANSITIONAL PROVISIONS

##### *Saving for agreements with special provision for 1984 Act licence holders*

- 4 (1) This paragraph applies in a case to which paragraph 3 does not apply and in which a term or condition of an agreement in force immediately before the abolition of licensing provides for rights or obligations of a person (“the contracting party”) under the agreement to be different or to be modified according to whether or not he or another person (whether or not a party to the agreement)—
- (a) is or has become the holder of a licence under section 7 of the 1984 Act; or
  - (b) is or has become the holder of such a licence in a manner or in circumstances described in the agreement.
- (2) In relation to times after the abolition of licensing, that term or condition is to have effect as if the rights and obligations to which the contracting party is entitled or subject under the agreement were, except in a case falling within sub-paragraph (3), those for which the agreement provides in relation to a case in which the person in question—
- (a) is or has become the holder of such a licence; or
  - (b) is or has become the holder of such a licence in that manner or in those circumstances.
- (3) The excepted case is where that person is subject to a direction under this Act by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service.
- (4) In sub-paragraph (3) the reference to a person’s being subject to a direction by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service—
- (a) does not include a reference to his being subject to a direction imposing a prohibition for a fixed period of less than eighteen months or to a direction that will have to be revoked if not confirmed; but
  - (b) except in the case of a direction imposing a prohibition for such a fixed period, does include a reference to his being subject to a direction which would have had to be revoked if not confirmed but which has been confirmed.
- (5) This paragraph does not apply in the case of a term or condition of an agreement if, on an application to the court by one or both of the parties to the agreement, the court directs—
- (a) that this paragraph is not to apply; or
  - (b) that it is to apply with such modifications, or subject to the payment of such compensation, as the court may specify in the direction.

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- (6) In determining whether to give a direction under sub-paragraph (5) or what modifications or compensation to specify in such a direction the court must have regard to the following—
- (a) whether either or both of the parties to the agreement contemplated the abolition of the licensing requirements of the 1984 Act when they entered into the agreement; and
  - (b) the extent (if any) to which the provisions of this paragraph represent what it would have been reasonable for the parties to have agreed had they both known at that time what provision was to be made by this Act and when it was to come into force.
- (7) For the purposes of this paragraph references to a licence under section 7 of the 1984 Act include references to a licence under that section of a particular description.
- (8) In this paragraph “the court” means the High Court or the Court of Session.

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**Commencement Information**

- I1** Sch. 18 para. 4 in force at 25.7.2003 for specified purposes by [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), art. 1(3))
- I2** Sch. 18 para. 4 in force at 29.12.2003 in so far as not already in force by [S.I. 2003/3142](#), [art. 3\(2\)](#) (with [art. 11](#))

**Changes to legislation:**

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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\(1\)](#)