



Product Security and Telecommunications Infrastructure Act 2022

2022 CHAPTER 46

PART 2

TELECOMMUNICATIONS INFRASTRUCTURE

Renewal of business tenancies conferring code rights

61 Rent under tenancies conferring code rights: England and Wales

- (1) The Landlord and Tenant Act 1954 is amended as follows.
- (2) After section 34 insert—

“34A Rent under new tenancy conferring code rights

- (1) This section applies where—
 - (a) the current tenancy is a subsisting agreement within the meaning of Schedule 2 to the Digital Economy Act 2017, and
 - (b) the primary purpose of the current tenancy is to confer code rights.
- (2) In default of agreement between the landlord and the tenant as mentioned in section 34(1), the rent payable under a new tenancy granted by order of the court under this Part of this Act shall be such amount or amounts determined by the court as represent the market value of the landlord’s agreement to confer the code rights conferred by the new tenancy.
- (3) For this purpose the market value of a landlord’s agreement to confer code rights is, subject to subsection (4), the amount that, at the date the market value is assessed, a willing buyer would pay a willing seller for the agreement—
 - (a) in a transaction at arm’s length,

Status: This is the original version (as it was originally enacted).

- (b) on the basis that the buyer and seller were acting prudently and with full knowledge of the transaction, and
 - (c) on the basis that the transaction was subject to the other provisions of the tenancy granted by order of the court.
- (4) The market value must be assessed on these assumptions—
 - (a) that the rights to which the transaction relates do not relate to the provision or use of an electronic communications network;
 - (b) that paragraphs 16, 17 and 17A of the electronic communications code (assignment, and upgrading and sharing) do not apply to the rights or any apparatus to which those rights could apply;
 - (c) that the rights in all other respects correspond to the code rights;
 - (d) that there is more than one site which the buyer could use for the purpose for which the buyer seeks the rights.
- (5) In this section—
 - references to “code rights” are to be read—
 - (a) in relation to the current tenancy, in accordance with paragraph 3 of Schedule 2 to the Digital Economy Act 2017;
 - (b) in relation to a new tenancy granted by order of the court under this Part of this Act, in accordance with paragraph 3 of the electronic communications code;
 - “the electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;
 - “electronic communications network” has the meaning given by section 32(1) of that Act.”
- (3) In section 24C (amount of interim rent where new tenancy of whole premises granted and landlord not opposed)—
 - (a) in subsection (3), in paragraph (b)—
 - (i) after “section 34” insert “or 34A”;
 - (ii) after “of this Act” insert “(as the case may be)”;
 - (b) in subsection (4)—
 - (i) after “section 34” insert “or 34A”;
 - (ii) after “of this Act” insert “(as the case may be)”;
 - (c) in subsection (7), after “of this Act” insert “, or (as the case may be) subsections (2) to (4) of section 34A of this Act,”.
- (4) In section 24D (amount of interim rent in any other case), in subsection (2), after “of this Act” insert “, or (as the case may be) subsections (2) to (4) of section 34A of this Act,”.
- (5) In section 34 (rent under new tenancy), after subsection (4) insert—
 - “(5) The court’s powers under this section to determine the rent payable under a tenancy granted by order of the court under this Part of this Act do not apply where—
 - (a) the current tenancy is a subsisting agreement within the meaning of Schedule 2 to the Digital Economy Act 2017, and
 - (b) the primary purpose of the current tenancy is to confer code rights (within the meaning of paragraph 3 of that Schedule).

(See instead section 34A.)”