

## SCHEDULES

### SCHEDULE 2

#### THE TELECOMMUNICATIONS CODE

##### *Effect of rights and compensation*

- 4 (1) Anything done by the operator in exercise of a right conferred in relation to any land in accordance with paragraph 2 or 3 above shall be deemed to be done in exercise of a statutory power except as against—
- (a) a person who, being the owner of the freehold estate in that land or a lessee of the land, is not for the time being bound by the right; or
  - (b) a person having the benefit of any covenant or agreement which has been entered into as respects the land under any enactment and which, by virtue of that enactment, binds or will bind persons deriving title or otherwise claiming under the covenantor or, as the case may be, a person who was a party to the agreement.
- (2) Where a right has been conferred in relation to any land in accordance with paragraph 2 or 3 above and anything has been done in exercise of that right, any person who, being the occupier of the land, the owner of the freehold estate in the land or a lessee of the land, is not for the time being bound by the right shall have the right to require the operator to restore the land to its condition before that thing was done.
- (3) Any duty imposed by virtue of sub-paragraph (2) above shall, to the extent that its performance involves the removal of any telecommunication apparatus from any land, be enforceable only in accordance with paragraph 21 below.
- (4) Where—
- (a) on a right in relation to any land being conferred or varied in accordance with paragraph 2 above, there is a depreciation in the value of any relevant interest in the land, and
  - (b) that depreciation is attributable to the fact that paragraph 21 below will apply to the removal from the land, when the owner for the time being of that interest becomes the occupier of the land, of any telecommunication apparatus installed in pursuance of that right,
- the operator shall pay compensation to the person who, at the time the right is conferred or, as the case may be, varied, is the owner of that relevant interest; and the amount of that compensation shall be equal (subject to sub-paragraph (9) below) to the amount of the depreciation.
- (5) In sub-paragraph (4) above "relevant interest", in relation to land subject to a right conferred or varied in accordance with paragraph 2 above, means any interest in respect of which the following two conditions are satisfied at the time the right is conferred or varied, namely—
- (a) the owner of the interest is not the occupier of the land but may become the occupier of the land by virtue of that interest; and

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

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- (b) the owner of the interest becomes bound by the right or variation by virtue only of paragraph 2(3) above.
- (6) Any question as to a person's entitlement to compensation under sub-paragraph (4) above, or as to the amount of any compensation under that sub-paragraph, shall, in default of agreement, be referred to and determined by the Lands Tribunal; and sections 2 and 4 of the Land Compensation Act 1961 (procedure and costs before Lands Tribunal) shall apply, with the necessary modifications, in relation to any such determination.
- (7) A claim to compensation under sub-paragraph (4) above shall be made by giving the operator notice of the claim and specifying in that notice particulars of—
- (a) the land in respect of which the claim is made ;
  - (b) the claimant's interest in the land and, so far as known to the claimant, any other interests in the land ;
  - (c) the right or variation in respect of which the claim is made; and
  - (d) the amount of the compensation claimed ;
- and such a claim shall be capable of being made at any time before the claimant becomes the occupier of the land in question, or at any time in the period of three years beginning with that time.
- (8) For the purposes of assessing any compensation under sub-paragraph (4) above, rules (2) to (4) set out in section 5 of the Land Compensation Act 1961 shall, subject to any necessary modifications, have effect as they have effect for the purposes of assessing compensation for the compulsory acquisition of any interest in land.
- (9) Without prejudice to the powers of the Lands Tribunal in respect of the costs of any proceedings before the Tribunal by virtue of this paragraph, where compensation is payable under sub-paragraph (4) above there shall also be payable, by the operator to the claimant, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of his claim for that compensation.
- (10) Subsections (1) to (3) of section 10 of the Land Compensation Act 1973 (compensation in respect of mortgages, trusts for sale and settled land) shall apply in relation to compensation under sub-paragraph (4) above as they apply in relation to compensation under Part I of that Act.
- (11) In the application of this paragraph to Scotland—
- (a) for any reference to the Lands Tribunal there is substituted a reference to the Lands Tribunal for Scotland and for any reference to costs there is substituted a reference to expenses ;
  - (b) for the reference in sub-paragraph (6) above to sections 2 and 4 of the Land Compensation Act 1961 there is substituted a reference to sections 9 and 11 of the Land Compensation (Scotland) Act 1963 ;
  - (c) for the reference in sub-paragraph (8) above to section 5 of the Land Compensation Act 1961 there is substituted a reference to section 12 of the Land Compensation (Scotland) Act 1963 ;
  - (d) for the reference in sub-paragraph (10) above to subsections (1) to (3) of section 10 of the Land Compensation Act 1973 there is substituted a reference to subsections (1) and (2) of section 10 of the Land Compensation (Scotland) Act 1973.
- (12) In the application of this paragraph to Northern Ireland—

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- (a) for any reference to the Lands Tribunal there is substituted a reference to the Lands Tribunal for Northern Ireland ;
- (b) for the references in sub-paragraphs (6) and (8) above to sections 2, 4 and 5 of the Land Compensation Act 1961 there are substituted references to Articles 4, 5 and 6 of the Land Compensation (Northern Ireland) Order 1982, respectively ;
- (c) for the references in sub-paragraph (10) above to subsections (1) to (3) of section 10 of the Land Compensation Act 1973 and to Part I of that Act there are substituted references to paragraphs (1) to (3) of Article 13 of the Land Acquisition and Compensation (Northern Ireland) Order 1973 and to Part II of that Order, respectively.