

# COMMUNICATIONS ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Networks, Services and the Radio Spectrum**

#### **Chapter 1: Electronic Communications Networks and Services**

#### **Section 134: Restrictions in leases and licences**

318. This section replaces section 96 of the Telecommunications Act 1984, which is repealed by Schedule 19. *Subsection (3)* amends any provision, in any lease, licence or other premises-related agreement granted or entered into after the commencement of this section, which prohibits or restricts an occupier's choice of electronic communications services providers to a person who has an interest in the relevant premises or a person selected by a person with an interest in the relevant premises. Where a lease, licence or other premise-related agreement contains a provision imposing such prohibitions or restrictions, that provision is to have effect as if it provided for the election of an alternative electronic communications service provider by the occupier, subject to the prior consent of the lessor, licensor or other party to the agreement, such consent not to be unreasonably withheld.

\*The meaning of lease is given in *subsection (8)* and includes a leasehold tenancy (whether in the nature of a head lease, sub-lease or under lease) and an agreement to grant such a tenancy.

319. *Subsection (4)* amends any provision, in a lease of one year or more granted or entered into after the commencement of this section or more or in a premises-related agreement to which such a lease applies, that imposes any other prohibition or restriction on the lessee relating to an electronic communications matter where such prohibition or restriction relates to anything done inside a building occupied by the lessee or for purposes in connection with the provision of an electronic communications service by a communications provider to the lessee. Where a lease of one year or more or a premises-related agreement to which a lease of one year or more is applied contains a provision imposing such a prohibition or restriction, the provision is to have effect as if the prohibition or restriction applied only where the lessor had not given his consent, such consent not to be unreasonably withheld.

\*For the purposes of this section, an electronic communications matter includes the provision of an electronic communications network, the provision of an electronic communications service, the connection of electronic communications apparatus to an electronic communications network specified in an order for the purposes of this section, the connection of an electronic communications network to another electronic communications network specified in an order for the purposes of this section, and the installation, maintenance, adjustment, repair, alteration or use of electronic communications apparatus for the purposes of providing an electronic communications network or an electronic communications service.

*These notes refer to the Communications Act 2003  
(c.21) which received Royal Assent on 17 July 2003*

320. Under *subsection (6)*, OFCOM have the power by order to exclude certain provisions in leases, licences or other premises-related agreements from the remit of this section. This section only applies to leases, licences or other premises-related agreements entered into before the commencement of this section to the extent that OFCOM makes an order under *subsection (9)* providing for it to do so. The provisions of this section apply without prejudice to the application of the electronic communications code.