

## SCHEDULES

### SCHEDULE 2

#### THE TELECOMMUNICATIONS CODE

##### *Court to fix financial terms where agreement dispensed with*

- 7 (1) The terms and conditions specified by virtue of sub-paragraph (4) of paragraph 5 above in an order under that paragraph dispensing with the need for a person's agreement, shall include—
- (a) such terms with respect to the payment of consideration in respect of the giving of the agreement, or the exercise of the rights to which the order relates, as it appears to the court would have been fair and reasonable if the agreement had been given willingly and subject to the other provisions of the order; and
  - (b) such terms as appear to the court appropriate for ensuring that that person and persons from time to time bound by virtue of paragraph 2(4) above by the rights to which the order relates are adequately compensated (whether by the payment of such consideration or otherwise) for any loss or damage sustained by them in consequence of the exercise of those rights.
- (2) In determining what terms should be specified in an order under paragraph 5 above for requiring an amount to be paid to any person in respect of—
- (a) the provisions of that order conferring any right or providing for any right to bind any person or any interest in land, or
  - (b) the exercise of any right to which the order relates,
- the court shall take into account the prejudicial effect (if any) of the order or, as the case may be, of the exercise of the right on that person's enjoyment of, or on any interest of his in, land other than the land in relation to which the right is conferred.
- (3) In determining what terms should be specified in an order under paragraph 5 above for requiring an amount to be paid to any person, the court shall, in a case where the order is made in consequence of an application made in connection with proceedings under paragraph 21 below, take into account, to such extent as it thinks fit, any period during which that person—
- (a) was entitled to require the removal of any telecommunication apparatus from the land in question, but
  - (b) by virtue of paragraph 21 below, was not entitled to enforce its removal;
- but where the court takes any such period into account, it may also take into account any compensation paid under paragraph 4(4) above.
- (4) The terms specified by virtue of sub-paragraph (1) above in an order under paragraph 5 above may provide—
- (a) for the making of payments from time to time to such persons as may be determined under those terms; and

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

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- (b) for questions arising in consequence of those terms (whether as to the amount of any loss or damage caused by the exercise of a right or otherwise) to be referred to arbitration or to be determined in such other manner as may be specified in the order.
- (5) The court may, if it thinks fit—
  - (a) where the amount of any sum required to be paid by virtue of terms specified in an order under paragraph 5 above has been determined, require the whole or any part of any such sum to be paid into court;
  - (b) pending the determination of the amount of any such sum, order the payment into court of such amount on account as the court thinks fit.
- (6) Where terms specified in an order under paragraph 5 above require the payment of any sum to a person who cannot be found or ascertained, that sum shall be paid into court.