EXPLANATORY MEMORANDUM TO

THE PRODUCT SECURITY AND TELECOMMUNICATIONS INFRASTRUCTURE ACT 2022 (CONFERRAL OF TRIBUNAL JURISDICTION UNDER THE LANDLORD AND TENANT ACT 1954 ETC.) REGULATIONS 2026

2026 No. 569

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Science, Innovation and Technology and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Baroness Lloyd of Effra, Parliamentary Under-Secretary of State for Digital Economy at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

2.2 Rachel Egan and Joanna Rodin, Deputy Directors for Delivery and Build, at the Department for Science, Innovation and Technology confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Andras Sata at the Department for Science, Innovation and Technology can be contacted by email at the following address with any queries regarding the instrument: codepolicyteam@dsit.gov.uk. Alternatively, the department can be contacted by telephone: 07922 572219.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument brings greater consistency to the forum in which disputes relating to agreements involving telecommunications equipment on land are decided in; reducing complexity.

4.2 It gives the First-tier Tribunal (which is the first instance general tribunal dealing with various disputes through its seven chambers) and the Upper Tribunal (a superior court of record and general tribunal; which considers appeals against decisions made in the First-tier Tribunal) in England and Wales, referred collectively in this document as "the Tribunals", the power to deal with certain telecommunications disputes arising under Part 2 of the Landlord and Tenant Act 1954[1] ("the 1954 Act").

[1] https://www.legislation.gov.uk/ukpga/Eliz2/2-3/56/part/II

4.3 It applies to existing agreements[2] involving telecommunications equipment on land, which were entered into before the current Electronic Communications Code[3] (the "Code") came into force on 28 December 2017, and where the main purpose of the agreement is to grant Code rights[4].

4.4 While disputes over newer agreements under the Code are already heard by the Tribunals, disputes concerning these older agreements have remained with the County Court. This instrument allows these older cases to be dealt with by the Tribunals as well, including related compensation claims, thereby aligning the forum for telecommunications-related disputes.

4.5 Until this instrument comes into force, all disputes relating to these older agreements will be heard by the County Court; the same forum which has heard these disputes until now. Once this instrument comes into force, any new disputes will be heard by the Tribunals.

Where does the legislation extend to, and apply?

4.6 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The purpose of this instrument is to address the current split in jurisdiction (that is, which body has the power to make legal decisions and judgments) between agreements entered into before and after the coming into force of the current Code on 28 December 2017. At present, disputes relating to newer Code agreements are determined by the Tribunals, while the disputes relating to older agreements under the 1954 Act are generally determined by the County Court.

5.2 This instrument gives the Tribunals the power to deal with these older cases as well. Aligning the forum in this way provides greater certainty as to the appropriate forum and supports a more consistent and streamlined approach to resolving disputes relating to telecommunications equipment on land.

What was the previous policy, how is this different?

5.3 The Code sets out the rights of telecommunications network operators to build and maintain digital communications infrastructure on, under and over public and private land.

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[2] These existing agreements are called "subsisting agreements", as defined in paragraph 1(4) of Schedule 2 of the Digital Economy Act 2017 c.30 (https://www.legislation.gov.uk/ukpga/2017/30/schedule/2)

[3] Schedule 3A to the Communications Act 2003 c. 21 (https://www.legislation.gov.uk/ukpga/2003/21/schedule/3A)

[4] The specific rights in relation to existing agreements in accordance with paragraph 3 of Schedule 2 to the Digital Economy Act 2017. In relation to new agreements, those rights granted in accordance with paragraph 3 to the Code. They include rights to install and keep electronic communications apparatus on, under or over land and to carry out a range of supplementary activities associated with the use of that apparatus for digital communications purposes. Code rights can only be used for their designated "statutory purpose", which is the provision of the operator's network or infrastructure system.

5.4 The Code was reformed by the Digital Economy Act 2017[5], informed by a report by the Law Commission for England and Wales (Law Com No 336)[6]. The report recommended (in Chapter 9) that the forum for almost all Code disputes should, in England and Wales, be the Lands Chamber of the Upper Tribunal[7], instead of the County Court.

5.5 Prior to these Regulations, disputes relating to telecommunications tenancies granting Code rights were determined in different forums depending on the legal basis of the tenancy. Pre-2017 disputes under Part 2 of the 1954 Act were determined by the County Court, while post-2017 Code agreements were determined by the Tribunals. This split in jurisdiction meant that potentially similar disputes could be heard in different forums. By giving jurisdiction to the Tribunals for disputes relating to telecommunications site agreements, including the pre-2017 agreements under the 1954 Act, this instrument aligns these agreements with the post-2017 Code framework, ensuring greater certainty as to the appropriate forum and providing consistency in decision making.

6. Legislative and Legal Context

How has the law changed?

6.1 The Code provides the legal framework for telecoms operators to install and maintain electronic communications equipment on public and private land. Code rights are typically established through agreements between operators and landowners. Where parties cannot agree, disputes were previously resolved in the County Court.

6.2 The Digital Economy Act 2017 and Electronic Communications Code (Jurisdiction) Regulations 2017[8] reformed the Code, including the dispute resolution framework for post-2017 Code agreements in England and Wales. Jurisdiction for these disputes was conferred on (that is, given to) the Tribunals. However, agreements under Part 2 of the 1954 Act continued to be determined by the County Court. This created a split in jurisdiction, whereby similar disputes were being heard in different forums depending on the legal basis of the agreement.

6.3 The Product Security and Telecommunications Infrastructure Act 2022[9] ("the 2022 Act") further reformed the Code framework. In particular, section 65 inserted new section 63(2A) into the 1954 Act, giving the Secretary of State the power to confer, by regulations, jurisdiction for disputes relating to agreements under the 1954 Act on the Tribunals.

6.4 Reforms to the Code in 2017 also changed the valuation regime for telecommunications infrastructure. To reflect the growing importance of digital infrastructure, the valuation regime was updated to disregard the additional value gained by use of the land for telecommunications purposes. This 'no network'

[5] https://www.legislation.gov.uk/ukpga/2017/30/part/2
[6] Law Commission: The Electronic Communications Code (https://assets.publishing.service.gov.uk/media/5a7b9d7ded915d414762188d/1004.pdf)
[7] The Property Chamber of the First-tier Tribunal was not in existence at the time when the recommendation was made. However, the report notes that when such a forum comes into existence there could be scope for moving first-instance cases between the Upper Tribunal and the First-tier Tribunal provided that the expertise is there. The First-tier Tribunal has been handling 'no network' Code cases therefore demonstrating expertise to take on further 'no network' cases under the 1954 Act.
[8] https://www.legislation.gov.uk/uksi/2017/1284
[9] https://www.legislation.gov.uk/ukpga/2022/46/part/2

valuation aligns telecommunications networks' valuation more closely with other utilities like water, electricity and gas.

6.5 A number of pre-2017 telecommunications agreements in England and Wales (whilst effectively Code cases) continued to be valued on a 'market value' basis and any disputes were brought in the County Court.

6.6 Sections 61 to 64 of the 2022 Act applied the 'no network' valuation framework to these agreements. The Product Security and Telecommunications Infrastructure Act 2022 (Commencement No. 4, Saving and Transitional Provisions) Regulations 2025[10], which came into force on 7 April 2026, implemented this change, aligning valuation across all Code-related agreements.

6.7 Section 65 of the 2022 Act also provides the Secretary of State with powers to confer jurisdiction from the County Court to the Tribunals for disputes relating to agreements under the 1954 Act, including disputes under section 34B (as inserted by section 63 of the 2022 Act) concerning compensation.

6.8 This instrument implements that conferral. As a result, all Code rights agreement disputes will now be heard in the Tribunals, providing a single, consistent forum for all code-rights disputes.

6.9 Separate provision is being made by the Ministry of Justice to enable the tribunal to exercise its jurisdiction to hear proceedings under Part 2 of the Landlord and tenant Act 1954 effectively, intended to come into force at the same time as this instrument.

Why was this approach taken to change the law?

6.10 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government undertook a consultation on the changes to the Code, including the treatment of expired agreements and the approach to dispute resolution. While the consultation did not explicitly focus on the jurisdiction-conferral power under section 65 of the 2022 Act, it provided relevant policy context regarding the handling of disputes arising from agreements that fall outside normal Code renewal procedures, such as pre-2017 agreements governed by 1954 Act[11].

7.2 Given the scope of the 2022 Act and the matters addressed in the consultation, the Government concluded that a separate consultation for this instrument was not required.

8. Applicable Guidance

8.1 DSIT will not be issuing guidance associated with this change. HMCTS provides appeal forms to claimants who wish to lodge an appeal in the First-tier Tribunal[12].

[10] https://www.legislation.gov.uk/uksi/2025/1326/made
[11] https://www.gov.uk/government/consultations/consultation-on-changes-to-the-electronic-communications-code
[12] https://www.gov.uk/government/collections/court-and-tribunal-forms

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the changes delivered by these Regulations were considered as part of the De Minimis Assessment for Part 2 of the 2022 Act, named "Reforms to the Electronic Communications Code"[13].

9.2 The De Minimis Assessment stated that disputes brought in the Courts (as opposed to the Tribunals) can be significantly more time consuming and costly; and is likely to dissuade operators from pursuing legal action, leading to an imbalance in negotiating power.

9.3 It was therefore concluded that to create greater consistency, the jurisdiction for these disputes should be transferred to the Tribunals.

9.4 The De Minimis Assessment considered the Code component of the 2022 Act. It assessed the impacts of this part of the legislation, including those of section 65. Overall, these impacts were not expected to be large – the Equivalent Annual net Direct Cost to Business (EANDCB) was estimated to be £1.0m (in 2020 prices), well below the +/-£5m threshold for a De Minimis Assessment that applied at the time.

9.5 Section 65 of the 2022 Act was one of a range of policy changes designed to reduce legal and administrative costs in negotiations for sites. It was modelled in this manner. While relevant estimates of costs and benefits might have changed in the time since October 2021, officials have no evidence that they have done so significantly. It would not be proportionate to revisit the analysis summarised in the De Minimis Assessment.

Impact on businesses, charities and voluntary bodies

9.6 There is no, or no significant, impact on business, charities or voluntary bodies because the Regulations do not impose new requirements.

9.7 The legislation does impact small or micro businesses.

9.8 The Regulations confer jurisdiction for all relevant disputes from the County Courts to the Tribunals. It would therefore not be possible to exempt small or micro businesses from the effects of the Regulations.

9.9 There is no, or no significant, impact on the public sector because the Regulations transfer jurisdiction for relevant disputes from the County Courts to the Tribunals. Resources are therefore reallocated as opposed to new resource requirements created.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this regulation is regular engagement with stakeholders by the Department. During passage of the 2022 Act, the Government committed to regular engagement with stakeholders affected by it in order to monitor the effect of these Regulations.

10.2 The instrument does not include a statutory review clause. Given that the 2022 Act provided for a secondary legislation-making power specifically to do what these Regulations have done (i.e. to confer jurisdiction for disputes over existing

[13] https://bills.parliament.uk/publications/46572/documents/1826

telecommunications site agreements governed by the 1954 Act from the County Courts to the Tribunals), DSIT considers the monitoring process for the 2022 Act to be the most effective way of monitoring the effect of these Regulations. A dedicated review clause for this instrument was therefore deemed disproportionate.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is complementary to the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2026 and the Tribunal Procedure (First-tier Tribunal) (Property Chamber) (Amendment No. 2) Rules 2026, to be made in July 2026 by the Ministry of Justice, which will:

- make provision for certain telecommunications disputes arising under Part 2 of the Landlord and Tenant Act 1954 in England and Wales to be allocated to the Property Chamber of the First-tier Tribunal and where transferred under the Tribunal Procedure Rules, the Lands Chamber of the Upper Tribunal; and;
- amend the rules of procedure that apply to the Property Chamber of the First-tier Tribunal in respect of Part 2 of the Landlord and Tenant Act 1954 to extend the Tribunal's existing power to make costs orders to proceedings.

11.2 The Ministry of Justice instruments are intended to come into force at the same time as this instrument. The conferral of jurisdiction by this instrument does not depend on these amendments. This instrument makes substantive provision by conferring jurisdiction. Its legal effect, however, does not depend on the other instrument (see paragraphs 6.7 to 6.9 above).

11.3 This instrument is being laid in advance of the Ministry of Justice instruments to provide early clarity to stakeholders as to the forthcoming change in jurisdiction. This is relevant where parties are considering whether to initiate proceedings before or after these Regulations come into force.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").