
The Lands Tribunal for Scotland's Latest Procedural Guidance in the wake of COVID-19

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Following recent measures adopted by the Upper Tribunal Lands Chamber (reported on by DACB Senior Associate, Kai Ricciardiello [here](#)), The Lands Tribunal for Scotland has now issued its own procedural update in light of latest developments.

In contrast to the Upper Tribunal, which is now encouraging parties to attend hearings remotely by telephone or video link, the Lands Tribunal for Scotland has reported that it is not currently set up for video or virtual hearings.

As a result, and in light of the latest developments, the Tribunal has determined that no hearings will be able to go ahead for as long as the present restrictions are in place. Cases will instead be dealt with by way of written submissions where possible. If that will not be possible (for example, if witnesses require to attend to give evidence), it seems that parties will have no choice but to postpone those hearings until after the current circumstances subside.

This is likely to have the greatest impact on operators seeking interim rights for new sites under the new Electronic Communications Code (the "ECC"). In particular, the latest update seems to apply regardless of the urgency of any such application, or the six month statutory deadline for determination of certain ECC applications¹.

As reflected in Ofcom's latest [Code of Practice on the ECC](#), electronic communications services are regarded as essential services. They come even more into focus in extraordinary times like these where ensuring continuity of network coverage and capacity is critically important, especially for key workers across the country. There will undoubtedly be a number of operators that may find they have an urgent need to apply to the Tribunal to obtain Code rights for certain sites under the ECC on that basis.

As far as this urgent need is concerned, operators should hopefully not be too impacted in securing interim rights under Paragraph 26 of the ECC, assuming interim applications can be dealt with by way of written submissions instead. This would at least allow operators to build and operate sites where urgently needed on an temporary basis, pending determination of their permanent rights under Paragraph 20 of the ECC down the line.

If an interim application cannot be dealt with by way of written submissions for some reason, however, operators are likely to find that it will take a lot longer to secure ECC rights via the Tribunal process for as long as the present restrictions are in place.

Either way though, the latest guidance is likely to mean that operators will face some delays in securing rights for new sites under the ECC via the Tribunal process in these unprecedented times.

¹The Electronic Communications and Wireless Telegraphy Regulations 2011

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