

*Draft Regulations laid before Parliament under section 6(4) of the Digital Economy Act 2017 for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2017 No.0000**

**ELECTRONIC COMMUNICATIONS**

The Communications Act 2003 and the Digital  
Economy Act 2017 (Consequential Amendments  
to Primary Legislation) Regulations 2017

Made - - - - 2017  
Coming into force in accordance with regulation 1(1)  
and (2)

The Secretary of State for Digital, Culture, Media and Sport makes the following Regulations in exercise of the powers conferred by section 406(3) of the Communications Act 2003(1) and section 6(1) to (3) of the Digital Economy Act 2017(2).

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 and come into force, subject to paragraph (2), on the day that section 4 of, and Schedules 1 and 3 to, the Digital Economy Act 2017 come fully into force.

(2) Paragraphs 2 to 7, 9, 29 and 30 of the Schedule come into force immediately after Schedule 3 to the Digital Economy Act 2017 comes fully into force.

(3) These Regulations do not extend to the Channel Islands or the Isle of Man.

(4) Subject to paragraph (3), any amendment by these Regulations of an enactment has the same extent as the enactment specified.

**Amendments**

2. The amendments to Public General Acts, local Acts and Northern Ireland Orders in Council specified in the Schedule have effect.

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(1) 2003 c.21.  
(2) 2017 c.30.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 No. 1285

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Signed by authority of the Secretary of State for Digital, Culture, Media and Sport

Date

*Name*  
Minister of State  
Department for Digital, Culture, Media and  
Sport

SCHEDULE 1

Regulation 2

AMENDMENTS

PART 1

AMENDMENTS TO PUBLIC GENERAL ACTS

**Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947**

1.—(1) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(3) is amended as follows.

(2) In section 3 (power to extinguish certain public rights of way over land acquired), in subsection (4A)(4)—

- (a) for “a telecommunications code system” substitute “an electronic communications code network”;
- (b) for “the system” substitute “the network”.

**Opencast Coal Act 1958**

2.—(1) The Opencast Coal Act 1958(5) is amended as follows.

(2) In section 45 (provisions as to telegraphic lines), in subsection (4), for “103(2)” substitute “108(2)”.

**Highways Act 1980**

3.—(1) The Highways Act 1980(6) is amended as follows.

(2) In section 334 (savings relating to electronic communications apparatus), in subsection (12), for “103(2)” substitute “108(2)”.

**Roads (Scotland) Act 1984**

4.—(1) The Roads (Scotland) Act 1984(7) is amended as follows.

(2) In section 132 (savings for operators of electronic communications code networks), in subsection (4), for “103(2)” substitute “108(2)”.

**Airports Act 1986**

5.—(1) The Airports Act 1986(8) is amended as follows.

(2) In section 62 (electronic communications apparatus), in subsection (6), for “103(2)” substitute “108(2)”.

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(3) 1947 c.42.

(4) Subsection (4A) is inserted by section 109 of, and paragraph 23 of Schedule 4 to, the Telecommunications Act 1984 (c.12).

(5) 1958 c.69.

(6) 1980 c.66.

(7) 1984 c.54.

(8) 1986 c.31.

### **Town and Country Planning Act 1990**

6.—(1) The Town and Country Planning Act 1990<sup>(9)</sup> is amended as follows.

(2) In section 256 (electronic communications apparatus: orders by the Secretary of State), in subsection (5), for “103(2)” substitute “108(2)”.

### **Town and Country Planning (Scotland) Act 1997**

7.—(1) The Town and Country Planning (Scotland) Act 1997<sup>(10)</sup> is amended as follows.

(2) In section 212 (electronic communications apparatus), in subsection (7), for “103(2)” substitute “108(2)”.

### **Communications Act 2003**

8.—(1) The Communications Act 2003 is amended as follows.

(2) In Schedule 17 (minor and consequential amendments), in paragraph 1 (interpretation)—

(a) in sub-paragraph (1), in paragraph (a) of the definition of “electronic communications code network” for “conduit system” substitute “infrastructure system”;

(b) in sub-paragraph (2)—

(i) omit paragraph (a);

(ii) after paragraph (b) insert—

“(c) “infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 of that code.”.

### **Land Reform (Scotland) Act 2003**

9.—(1) The Land Reform (Scotland) Act 2003<sup>(11)</sup> is amended as follows.

(2) In Schedule 1 (path orders), in paragraph 12, for “103(2)” substitute “108(2)”.

### **Nature Conservation (Scotland) Act 2004**

10.—(1) The Nature Conservation (Scotland) Act 2004<sup>(12)</sup> is amended as follows.

(2) In section 58(1) (interpretation), for paragraph (b) of the definition of “statutory undertaker” substitute—

“(b) an operator of an electronic communications code network (within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003);”.

### **Crossrail Act 2008**

11.—(1) The Crossrail Act 2008<sup>(13)</sup> is amended as follows.

(2) In Schedule 7 (planning conditions)—

(a) in the table in paragraph 6(4) (development in the area of a unitary authority), in entry 2 in the first column, for “telecommunications masts” substitute “electronic communications masts”;

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<sup>(9)</sup> 1990 c.8.

<sup>(10)</sup> 1997 c.

<sup>(11)</sup> 2003 asp 2.

<sup>(12)</sup> 2004 asp 6.

<sup>(13)</sup> 2008 c.18.

(b) in the table in paragraph 15(4) (district conditions: qualifying authority), in entry 2 in the first column, for “telecommunications masts” substitute “electronic communications masts”.

(3) In Schedule 17 (protective provisions), in Part 4 (protection of electronic communications code networks), in paragraph 3, for “paragraph 9” substitute “Part 8”.

### **Planning Act 2008**

**12.**—(1) The Planning Act 2008(**14**) is amended as follows.

(2) In section 138 (extinguishment of rights etc.), for subsection (4B) substitute—

“(4B) In this section—

“electronic communications apparatus” has the meaning given in paragraph 5 of the electronic communications code;

“electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;

“operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”.

### **High Speed Rail (London-West Midlands) Act 2017**

**13.**—(1) The High Speed Rail (London-West Midlands) Act 2017(**15**) is amended as follows.

(2) In Schedule 33 (protective provisions), in Part 3 (electronic communications code networks)

(a) in paragraph 32(2), in the definition of “electronic communications code”, for “Schedule 2 to the Telecommunications Act 1984” substitute “Schedule 3A to the Communications Act 2003”;

(b) in paragraph 33—

(i) in sub-paragraph (1), for “paragraph 23” substitute “Part 10”;

(ii) in sub-paragraph (2), for “Paragraphs 21 and 23” substitute “Parts 6 and 10”;

(c) in paragraph 34, for “paragraph 9” substitute “Part 8”.

## **PART 2**

### **AMENDMENTS TO LOCAL ACTS**

#### **Surrey Act 1985**

**14.**—(1) The Surrey Act 1985(**16**) is amended as follows.

(2) In section 2(1) (interpretation), in the definition of “statutory undertakers”, for the words from “the operator” to “1984” substitute “the operator of an electronic communications code network (within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003)”.

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**(14)** 2008 c.29. Section 138(4B) is inserted by section 23(4)(b) of the Growth and Infrastructure Act 2013 (c.27).

**(15)** 2017 c.7.

**(16)** 1985 c.iii.

### **Leicestershire Act 1985**

**15.**—(1) The Leicestershire Act 1985(**17**) is amended as follows.

(2) In section 2(1) (interpretation)—

(a) insert in the appropriate places the following definitions—

““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”;

““operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”.

(b) in the definition of “statutory undertakers” for “a telecommunications code system as defined in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984” substitute “an electronic communications code network”.

(3) In section 17 (provision of trees and shrubs), in subsection (4), for the words from “paragraph 23” to “telecommunications apparatus)” substitute “Part 10 of the electronic communications code (which provides a procedure in certain cases where works involve the alteration of electronic communications apparatus)”.

(4) In section 44 (policing and control of pedestrian ways), in subsection (6)—

(a) for “the telecommunications code” substitute “the electronic communications code”;

(b) for “the operator of a telecommunications code system as defined in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984” substitute “the operator of an electronic communications code network”.

### **Dartmoor Commons Act 1985**

**16.**—(1) The Dartmoor Commons Act 1985(**18**) is amended as follows.

(2) In section 23 (saving for certain statutory undertakers)—

(a) in subsection (1)—

(i) for paragraph (a) substitute—

“(a) the running of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network;”;

(ii) for “operator of a telecommunications code system” substitute “operator of an electronic communications code network”;

(b) for subsection (2) substitute—

“(2) In this section—

“electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;

“operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003.”.

### **Clwyd County Council Act 1985**

**17.**—(1) The Clwyd County Council Act 1985(**19**) is amended as follows.

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(17) 1985 c. xvii.  
(18) 1985 c. xxxvii  
(19) 1985 c. xliv.

(2) In section 2(1) (interpretation), for paragraph (b) of the definition of “statutory undertakers” substitute—

- “(b) any person in whose case the electronic communications code set out in Schedule 3A to the Communications Act 2003 is applied by a direction under section 106 of that Act;”.

### **Poole Borough Council Act 1986**

**18.**—(1) The Poole Borough Council Act 1986(20) is amended as follows.

(2) In section 5 (grass verges etc.), for subsection (9)(b) substitute—

- “(b) any person in whose case the electronic communications code set out in Schedule 3A to the Communications Act 2003 is applied by a direction under section 106 of that Act.”.

### **Berkshire Act 1986**

**19.**—(1) The Berkshire Act 1986(21) is amended as follows.

(2) In section 2(1) (interpretation)—

- (a) insert in the appropriate places the following definitions—
- ““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”;
- ““operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”;
- (b) in the definition of “statutory undertakers” for “telecommunications operators” substitute “operators of electronic communications code networks”;
- (c) omit the definition of “telecommunications operator”.

### **Mid Glamorgan County Council Act 1987**

**20.**—(1) The Mid Glamorgan County Council Act 1987(22) is amended as follows.

(2) In section 2(1) (interpretation)—

- (a) insert in the appropriate places the following definitions—
- ““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”;
- ““operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”;
- (b) omit the definition of “telecommunications operator”.

(3) In section 17 (prohibition of parking certain vehicles in residential streets), in subsection (13) (b), for “a telecommunications operator” substitute “an operator of an electronic communications code network”.

### **Essex Act 1987**

**21.**—(1) The Essex Act 1987(23) is amended as follows.

(2) In section 2(1) (interpretation) —

- (a) insert in the appropriate places the following definitions—

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(20) 1986 c.i.  
(21) 1986 c.ii.  
(22) 1987 c.vii.  
(23) 1987 c.xx.

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““electronic communications apparatus” has the meaning given in paragraph 5 of the electronic communications code;”;

““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”;

““operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”;

- (b) in the definition of “statutory undertakers” for “telecommunications operators” substitute “operators of electronic communications code networks”;
  - (c) omit the definitions of “telecommunication apparatus” and “telecommunications operator”.
- (3) In section 6 (grass verges etc.)—
- (a) in subsection (4)(c), for “telecommunications operators” substitute “operators of electronic communications code networks”;
  - (b) in subsection (9), for “a telecommunications operator” substitute “an operator of an electronic communications code network”.
- (4) In section 49(1) (provision of public telephones by parish councils), for “a telecommunications operator” substitute “an operator of an electronic communications code network”.
- (5) In section 60 (continuance and maintenance of piers)—
- (a) in subsection (4)(a), for “telecommunication apparatus” substitute “electronic communications apparatus”;
  - (b) in subsection (4)(b)—
    - (i) for “telecommunication apparatus” substitute “electronic communications apparatus”;
    - (ii) for “paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003”.
- (6) In section 84(5) (closure of promenades), for “telecommunications operators” substitute “operators of electronic communications code networks”.

## **Dyfed Act 1987**

**22.**—(1) The Dyfed Act 1987(**24**) is amended as follows.

- (2) In section 2(1) (interpretation)—
- (a) insert in the appropriate places the following definitions—
    - ““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”;
    - ““operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”;
  - (b) in the definition of “statutory undertakers” for “telecommunications operators” substitute “operators of electronic communications code networks”;
  - (c) omit the definition of “telecommunications operator”.

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(24) 1987 c.xxiv.



### **Nottingham Park Estate Act 1990**

**23.**—(1) The Nottingham Park Estate Act 1990(**25**) is amended as follows.

(2) In section 14 (stopping up of roads and traffic regulation), in subsection (1), in the definition of “the undertakers”, for the words from “the operator” to “1984” substitute “an operator of an electronic communications code network within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003”.

### **Great Yarmouth Port Authority Act 1990**

**24.**—(1) The Great Yarmouth Port Authority Act 1990(**26**) is amended as follows.

(2) In section 2 (interpretation), in the definition of “statutory undertaker”, for the words from “operator” to “1984” substitute “operator of an electronic communications code network within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003”.

### **Port of Tyne Act 1990**

**25.**—(1) The Port of Tyne Act 1990(**27**) is amended as follows.

(2) In section 2 (interpretation)—

(a) omit the definition of ““operator” and “telecommunications code system””;

(b) for paragraph (d) of the definition of “statutory undertaker” substitute—

“(d) any operator of an electronic communications code network within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”.

### **Colchester Borough Council Act 2001**

**26.**—(1) The Colchester Borough Council Act 2001(**28**) is amended as follows.

(2) In section 2(1) (interpretation), for paragraph (b) of the definition of “statutory undertaker”, substitute—

“(b) any operator of an electronic communications code network (within the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003).”.

### **Greenham and Crookham Commons Act 2002**

**27.**—(1) The Greenham and Crookham Commons Act 2002(**29**) is amended as follows.

(2) In section 38 (saving for certain statutory undertakers)—

(a) in subsection (1)—

(i) for paragraph (a) substitute—

“(a) the running of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network;”;

(ii) for “operator of a telecommunications code system” substitute “operator of an electronic communications code network”;

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(25) 1990 c.xiv.

(26) 1990 c.xxvii.

(27) 1990 c.xxxi.

(28) 2001 c.ii.

(29) 2002 c.i. Section 38 of that Act is not yet in force.

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(b) for subsection (2)(a) substitute—

“(a) “electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;

(aa) “operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;”.

## PART 3

### AMENDMENTS TO NORTHERN IRELAND ORDERS IN COUNCIL

#### Planning (Northern Ireland) Order 1991

**28.**—(1) The Planning (Northern Ireland) Order 1991(30) is amended as follows.

(2) In article 104 (electronic communications apparatus)—

(a) in paragraph (3), for “Paragraph 1(2)” substitute “Paragraph 108(2)”;

(b) in paragraph (4), for “Paragraph 21” substitute “Part 6”;

(c) for paragraph (5) substitute—

“(5) The Communications Act 2003 and the electronic communications code set out in Schedule 3A to that Act apply for the interpretation of this Article and paragraph (2)(c) of Article 103 as it applies for the interpretation of that Act and that code.”.

#### Roads (Northern Ireland) Order 1993

**29.**—(1) The Roads (Northern Ireland) Order 1993(31) is amended as follows.

(2) In Schedule 9 (savings provisions), in paragraph 2(2), for “103(2)” substitute “108(2)”.

#### Airports (Northern Ireland) Order 1994

**30.**—(1) The Airports (Northern Ireland) Order 1994(32) is amended as follows.

(2) In article 12 (provisions as to electronic communications apparatus), in paragraph (5), for “103(2)” substitute “108(2)”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations update references in Public General Acts, local Acts and Northern Ireland Orders in Council to terms which have been superseded by amendments made by the Communications Act 2003 (c.21) and by the Digital Economy Act 2017 (c.30) (“the 2017 Act”). In particular, the 2017

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(30) S.I. 1991/1220 (N.I. 11), amended by paragraph 117 of Schedule 17 to the Communications Act 2003 (c. 21).

(31) S.I. 1993/3160.

(32) S.I. 1994/426.

Act enacts a new electronic communications code and these Regulations largely update references to that code in legislation so that they refer to the equivalent provisions of the newly enacted code.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations. An overall Impact Assessment for the reforms to the electronic communications code introduced by the 2017 Act is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524895/ECC\\_Impact\\_Assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524895/ECC_Impact_Assessment.pdf). Hard copies are available from the Department for Digital, Culture, Media and Sport at 100 Parliament Street, London SW1A 2BQ.