



Digital Economy Act 2017

2017 CHAPTER 30

PART 2

DIGITAL INFRASTRUCTURE

Electronic communications code

4 The electronic communications code

- (1) In the Telecommunications Act 1984 omit Schedule 2 (the telecommunications code).
- (2) Before Schedule 4 to the Communications Act 2003 insert Schedule 3A set out in Schedule 1 to this Act.
- (3) Section 106 of the Communications Act 2003 (application of the electronic communications code) is amended as follows.
- (4) In subsection (1) for “the code set out in Schedule 2 to the Telecommunications Act 1984 (c 12)” substitute “the code set out in Schedule 3A”.
- (5) Omit subsection (2).
- (6) In subsection (4)(b) for “conduits” substitute “infrastructure”.
- (7) In subsection (5)(c) for “conduit system” in each place substitute “system of infrastructure”.
- (8) In subsection (6) for “16(3)” substitute “85(7)”.
- (9) Omit subsection (7).
- (10) Schedules 2 (transitional provisions) and 3 (consequential amendments) have effect.

Status: This is the original version (as it was originally enacted).

5 Power to make transitional provision in connection with the code

- (1) The Secretary of State may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of section 4 and Schedule 1.
- (2) Regulations under this section may amend Schedule 2.
- (3) A statutory instrument containing regulations under this section—
 - (a) if it includes provision made by virtue of subsection (2), may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament;
 - (b) otherwise, is subject to annulment in pursuance of a resolution of either House of Parliament.

6 Power to make consequential provision etc in connection with the code

- (1) The Secretary of State may by regulations make consequential provision in connection with any provision made by or under section 4 or this section or Schedule 1 or 3.
- (2) Regulations under subsection (1) may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of primary legislation, only if the primary legislation was passed or made before the end of the Session in which this Act is passed).
- (3) Regulations under this section—
 - (a) are to be made by statutory instrument;
 - (b) may make different provision for different purposes;
 - (c) may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (4) A statutory instrument containing regulations under this section (whether alone or with other provisions) which amend, repeal or modify the application of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—
 - “enactment” includes—
 - (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
 - (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
 - “primary legislation” means—
 - (a) an Act of Parliament,
 - (b) a Measure or Act of the National Assembly for Wales,
 - (c) an Act of the Scottish Parliament, or

(d) Northern Ireland legislation.

7 Application of the code: protection of the environment

For section 109(2A) of the Communications Act 2003 (under which regulations that set restrictions and conditions to the application of the electronic communications code are deemed by subsection (2B) to comply with duties under National Parks and other legislation if they comply with the duty to have regard to the need to protect the environment, but only if they expire before 6 April 2018) substitute—

“(2A) Subsection (2B) applies if the Secretary of State has complied with subsection (2)(b) in connection with any particular exercise of the power to make regulations under this section.”