

# DIGITAL ECONOMY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Topic 2: Online infringement of copyright*

#### *Section 13: Subscriber appeals*

71. **Section 13** inserts new section 124K in the 2003 Act. Section 124K sets out how the mechanism for subscriber appeals is to work. It requires that the initial obligations code and any technical obligations code provide a route for appeals and sets out grounds for appeal. It also requires that the codes must provide for an appeal to succeed unless the copyright owner or ISP shows, in relation to each relevant CIR, that there has been an infringement of copyright and that this has been correctly linked to the subscriber's internet account. A subscriber appeal must also succeed where the subscriber shows that the infringement was not carried out by the subscriber and that the subscriber had taken reasonable steps to prevent an infringement.
72. Where an appeal is successful, the codes must allow compensation to be paid to the subscriber and also any reasonable costs.
73. In the event of technical measures being introduced, the person hearing subscriber appeals must be able to confirm, overturn or modify the imposition of a technical measure, including in cases where the appeal is unsuccessful but there are exceptional circumstances. The code must also provide for an appeal from the first appeal body's decision to the First-tier Tribunal.
74. Finally, the code must ensure that no technical measure is imposed until the appeals process has been exhausted, or the subscriber has decided not to proceed further with an appeal, or the time limit for appeals has expired.