
STATUTORY INSTRUMENTS

2016 No. 700

The Communications (Access to Infrastructure) Regulations 2016

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Communications (Access to Infrastructure) Regulations 2016 and come into force on 31st July 2016.

Interpretation

2. In these Regulations—

“the 2003 Act” means the Communications Act 2003(1);

“access point” means a physical point, located inside or outside a building and accessible to network providers, where connection is made available to in-building physical infrastructure intended to host elements or enable delivery of high-speed electronic communications networks;

“civil works” means building or civil engineering works which involve the construction, maintenance, repair or replacement of physical infrastructure, and for which—

- (a) a permit has been granted;
- (b) an application for a permit has been made; or
- (c) such an application is envisaged within the next six months,

but the term does not include works to which the roads coordination duty applies;

“electronic communications network” has the meaning given in section 32(1) of the 2003 Act(2);

“electronic communications service” has the meaning given in section 32(2) of the 2003 Act;

“end-user” has the meaning given in section 151(1) of the 2003 Act;

“the Framework Directive” means [Directive 2002/21/EC](#)(3) of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, as amended from time to time;

“high-speed” means capable of delivering access to broadband services at speeds of at least 30 megabits per second;

(1) [2003 c. 21](#).

(2) Section 32 was amended by [S.I. 2011/1210](#).

(3) [OJ L 108, 24.4.2002, p 33](#). Amended by Regulation [\(EC\) No 717/2007](#) ([OJ L 171, 29.6.2007, p 32](#)), Regulation [\(EC\) No 544/2009](#) ([OJ L 167, 29.6.2009, p 12](#)) and [Directive 2009/140/EC](#) ([OJ L 337, 18.12.2009, p 37](#)).

“in-building physical infrastructure” means physical infrastructure or installations at the end-user’s location, including elements under joint ownership, intended to host wired or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the access point of the building with the network termination point;

“infrastructure operator” means—

- (a) a network provider;
- (b) an undertaking providing physical infrastructure intended to provide a service of production, transport, transmission or distribution of—
 - (i) gas;
 - (ii) electricity, including public lighting;
 - (iii) heating; or
 - (iv) water, including disposal or treatment of waste water and sewage, and drainage systems; or
- (c) an undertaking providing physical infrastructure intended to provide transport services, including railways, roads, ports and airports;

“Minister of the Crown” has the meaning given in section 8(1) of the Ministers of the Crown Act 1975(4) and “appropriate Minister of the Crown” is to be construed in accordance with regulation 10(3);

“network provider” means an undertaking providing or authorised to provide a public electronic communications network (within the meaning of section 151(1) of the 2003 Act);

“network termination point” has the same meaning as in the Framework Directive;

“OFCOM” means the Office of Communications(5);

“permit” means an explicit or implicit decision of an authority granting permission to an undertaking to carry out building or civil engineering works, where an application has been made by the undertaking to the authority for such permission, and the carrying out of the works without that permission would be unlawful;

“physical infrastructure” means any network element which is intended to host other network elements and which is not itself active, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles. The term does not include cables (including strands of optical fibre) and elements of networks used for the provision of water intended for human consumption, as defined in point 1 of Article 2 of Council Directive 98/83/EC(6) on the quality of water intended for human consumption;

“rights holder” means any person who holds a right to use—

- (a) an access point; or
- (b) in-building physical infrastructure;

“roads coordination duty” means—

- (a) in England and Wales, the duty under section 59(1) of the New Roads and Street Works Act 1991(7);
- (b) in Scotland, the duty under section 118(1) of that Act(8); and

(4) 1975 c. 26.

(5) Established by the Office of Communications Act 2002 (c. 11).

(6) OJ L 330, 5.12.1998, p 32. Amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p 1), Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p 14) and Directive 2015/1787 (OJ L 260, 7.10.2015, p 6).

(7) 1991 c. 22. Section 59 was amended by the Traffic Management Act 2004 (c. 18), section 42.

(8) Section 118 was amended by the Transport (Scotland) Act 2005 (asp 12), section 23.

(c) in Northern Ireland, the duty under Article 19(1) of the Street Works (Northern Ireland) Order 1995⁽⁹⁾;

“Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules made under section 15 of the Enterprise Act 2002⁽¹⁰⁾.

Other rights and obligations

3.—(1) A requirement on an infrastructure operator or rights holder to provide access to physical infrastructure or in-building physical infrastructure arising under Part 2 is not to be taken to prejudice the property rights of any other person.

(2) These Regulations are without prejudice to rights and obligations arising under the electronic communications code (within the meaning of section 106(1) of the 2003 Act).

⁽⁹⁾ S.I. 1995/3210 (N.I. 19). Article 19 is prospectively amended by S.I. 2007/287 (N.I. 1).

⁽¹⁰⁾ 2002 c.40.