

2017 No. 753

ELECTRONIC COMMUNICATIONS

The Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017

<i>Made</i> - - - -	<i>12th July 2017</i>
<i>Laid before Parliament</i>	<i>17th July 2017</i>
<i>Coming into force</i> - -	<i>7th August 2017</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 109(1), (2A), (2B) and (3) and 402(3) of the Communications Act 2003(a) (“the Act”).

In accordance with section 109(2) of the Act, the Secretary of State has had regard to each of the matters set out in that provision.

In accordance with section 109(4) of the Act, the Secretary of State has consulted OFCOM and such other persons as the Secretary of State considers appropriate.

Citation, commencement and application

1. These Regulations may be cited as the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 and come into force on 7th August 2017.

2. The amendments made by regulation 4 do not apply to notices submitted under regulation 5 of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003(b) before the date on which these Regulations come into force.

Amendment of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003

3. The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 are amended as follows.

4. In regulation 5—

(a) for paragraphs (1)(b) and (1)(ba) substitute—

“(b) in relation to Northern Ireland, Scotland or Wales, the code operator has not given notice under regulations 6, 7 or 8 to the planning authority for the area that the code operator intends to carry out a matter specified in paragraph (1ZA) for which—

(a) 2003 c. 21. Section 109 was amended by S.I. 2011/1210, Schedule 1, paragraph 67, section 9(1) and (2) of the Growth and Infrastructure Act 2013 (c. 27) and section 7 of the Digital Economy Act 2017 (c. 30).

(b) S.I. 2003/2553 as amended by S.I. 2009/584, S.I. 2013/1403 and S.I. 2016/1049.

- (i) the code operator is not required to obtain planning permission under the Planning Acts;
 - (ii) planning permission is granted under a development order; or
 - (ba) in relation to England, the code operator intends to carry out a matter specified in paragraph (1BA) for which—
 - (i) the code operator is not required to obtain planning permission under the Planning Acts; or
 - (ii) planning permission is granted under a development order and is not subject to the prior approval process; or”
 - (b) before paragraph (1A), insert—
 - “(1ZA) the matters referred to in paragraphs (1)(b) and (1)(ba) are—
 - (i) the installation of a cabinet, box, pillar, pedestal or similar apparatus; and
 - (ii) the installation, alteration or replacement of a mast.”.
5. In regulation 20—
- (a) in paragraph (1)(a), after “(“the 2016 Regulations””, insert “and the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 (“the 2017 Regulations”)”; and
 - (b) in paragraph (2)(a), after “the 2016 Regulations”, insert “and the 2017 Regulations”.

Amendment of the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013

6. The Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013(a) are amended as follows.

7. Omit regulation 3.

Matthew Hancock
Minister of State

12th July 2017

Department for Digital, Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (S.I. 2003/2553) (“the principal Regulations”).

The electronic communications code is contained in Schedule 2 to the Telecommunications Act 1984 (c. 12). It is designed to facilitate the installation and maintenance of electronic communications networks. It confers rights on providers of such networks (each a “code operator”) for the purposes of the provision of such networks to install and maintain apparatus in, over and under land.

Regulation 4 amends regulation 5 of the principal Regulations so that notice must now be given by a code operator to the planning authority in respect of specified apparatus and circumstances.

(a) S.I. 2013/1403.

Regulation 5 amends the review provision in regulation 20 of the principal Regulations required under sections 28 to 32 of the Small Business, Enterprise, and Employment Act 2015.

The Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013 (S.I. 2013/1403) (the “2013 Regulations”) amended the principal Regulations and regulation 3 of the 2013 Regulations provided that the amendments made ceased to have effect at the end of 5th April 2013. Regulation 7 of these Regulations omits regulation 3 of the 2013 to remove the provision regarding the expiry of the effect of the amendments made in the 2013 Regulations.

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