



House of Commons
 Thursday 20 October 2016
PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

DIGITAL ECONOMY BILL

NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [11 October 2016, as amended on 18 October 2016].

Matt Hancock

That the Order of the Committee of 11 October be amended as follows—

(1) In paragraph (1), after sub-paragraph (f) insert—

“(g) at 9.25 am on Tuesday 1 November;”.

(2) In paragraph (4), for “5.00 pm on Thursday 27 October” substitute “11.25 am on Tuesday 1 November”.

Calum Kerr

Clause 3, page 2, line 35, at end insert—

“(db) require a communications provider to allow an end-user to terminate a contract on repeatedly failing to meet a specific standard or obligation;”

Digital Economy Bill, continued

Louise Haigh
Kevin Brennan

- 84
- Clause 3, page 2, line 35, after “obligation”, add “within reasonable timescales”
insert”
-

Matt Hancock

- 12
- Schedule 1, page 82, line 29, leave out “and keep”
Member’s explanatory statement
The code will deal with cases where apparatus has already been installed on land. Amendments 12, 13 and 14 therefore provide for installing apparatus and keeping apparatus on land to be treated separately, and for rights described in sub-paragraphs (c), (ca) and (d) to be described consistently with this.

Matt Hancock

- 13
- Schedule 1, page 82, line 30, at end insert—
“(aa) to keep installed electronic communications apparatus which is on,
under or over the land,”
Member’s explanatory statement
The code will deal with cases where apparatus has already been installed on land. Amendments 12, 13 and 14 therefore provide for installing apparatus and keeping apparatus on land to be treated separately, and for rights described in sub-paragraphs (c), (ca) and (d) to be described consistently with this.

Matt Hancock

- 14
- Schedule 1, page 83, line 2, leave out from “installation” to end of line 4 and insert
“of electronic communications apparatus on, under or over the land or elsewhere;
(ca) to carry out any works on the land for or in connection with the
maintenance, adjustment, alteration, repair, upgrading or operation of
electronic communications apparatus which is on, under or over the
land or elsewhere.”
Member’s explanatory statement
The code will deal with cases where apparatus has already been installed on land. Amendments 12, 13 and 14 therefore provide for installing apparatus and keeping apparatus on land to be treated separately, and for rights described in sub-paragraphs (c), (ca) and (d) to be described consistently with this.

Matt Hancock

- 15
- Schedule 1, page 86, line 26, leave out “The reference in sub-paragraph (2)” and
insert “A reference in this code”
Member’s explanatory statement
This applies the extended meaning of “means of access to or from land” across the code. It is consequential on amendment 24.

Digital Economy Bill, continued

- Matt Hancock 16
 Schedule 1, page 95, line 2, after “36” insert “or as mentioned in paragraph 38A(1)”
Member’s explanatory statement
This is consequential on amendment 37.
- Matt Hancock 17
 Schedule 1, page 95, line 10, leave out “or” and insert “and”
Member’s explanatory statement
This is consequential on amendment 36.
- Matt Hancock 18
 Schedule 1, page 102, line 1, leave out “with an interest in land”
Member’s explanatory statement
This is consequential on amendment 37.
- Matt Hancock 19
 Schedule 1, page 102, line 3, at end insert “or the restoration of land,”
Member’s explanatory statement
This is consequential on amendment 38.
- Matt Hancock 20
 Schedule 1, page 102, line 6, after “removal” insert “of apparatus or restoration of land”
Member’s explanatory statement
This is consequential on amendment 38.
- Matt Hancock 21
 Schedule 1, page 102, line 14, after “never” insert “since the coming into force of this code”
Member’s explanatory statement
This provides for a condition for having a right to require removal of apparatus to be met if the only right there has been to keep the apparatus on the land was a right that came to an end under the code that Schedule 1 to the Bill replaces, or that ceased under that code to be binding on the landowner.
- Matt Hancock 22
 Schedule 1, page 102, line 24, at end insert “, or
 () where the right was granted by a lease to which Part 5 of this code does not apply.”
Member’s explanatory statement
Part 5 of the code (termination of agreements creating code rights) does not apply to certain leases governed by landlord and tenant law. The amendment provides for the ending of code rights under such a lease and under Part 5 to be treated in the same way for the purposes of rights to require removal of apparatus.

Digital Economy Bill, *continued*

Matt Hancock

23

Schedule 1, page 103, line 17, at end insert—

“() This paragraph does not affect rights to require the removal of apparatus under another enactment (see paragraph 38A).”

Member’s explanatory statement*This is consequential on amendment 37.*

Matt Hancock

24

Schedule 1, page 103, line 17, at end insert—

“When does a landowner or occupier of neighbouring land have the right to require removal of electronic communications apparatus?”

- 36A (1) A landowner or occupier of any land (“neighbouring land”) has the right to require the removal of electronic communications apparatus on, under or over other land if both of the following conditions are met.
- (2) The first condition is that the exercise by an operator in relation to the apparatus of a right mentioned in paragraph 13(1) interferes with or obstructs a means of access to or from the neighbouring land.
- (3) The second condition is that the landowner or occupier of the neighbouring land is not bound by a code right within paragraph 3(f) entitling an operator to cause the interference or obstruction.
- (4) A landowner of neighbouring land who is not the occupier of the land does not meet the second condition if—
- (a) the land is occupied by a person who—
 - (i) conferred a code right (which is in force) entitling an operator to cause the interference or obstruction, or
 - (ii) is otherwise bound by such a right, and
 - (b) that code right was not conferred in breach of a covenant enforceable by the landowner.
- (5) In the application of sub-paragraph (4)(b) to Scotland the reference to a covenant enforceable by the landowner is to be read as a reference to a contractual term which is so enforceable.”

Member’s explanatory statement

New paragraph 36A makes provision for a landowner or occupier of neighbouring land to have a right to require removal of apparatus that obstructs or interferes with a means of access to that land.

Matt Hancock

25

Schedule 1, page 103, line 27, at end insert—

“(1A) A landowner or occupier of neighbouring land may by notice require an operator to disclose whether—

- (a) the operator owns electronic communications apparatus on, under or over land that forms (or, but for the apparatus, would form) a means of access to the neighbouring land, or uses such apparatus for the purposes of the operator’s network, or
- (b) the operator has the benefit of a code right entitling the operator to keep electronic communications apparatus on, under or over land that

Digital Economy Bill, continued

forms (or, but for the apparatus, would form) a means of access to the neighbouring land.”

Member’s explanatory statement

This is consequential on amendment 24. Paragraph 37(1A) provides for a landowner or occupier of neighbouring land to have the rights in paragraph 37 to require an operator to disclose whether it owns apparatus or has code rights relevant to the neighbouring land.

- Matt Hancock 26
- Schedule 1, page 103, line 33, after “(1)” insert “or (1A)”
Member’s explanatory statement
This is consequential on amendment 25.
- Matt Hancock 27
- Schedule 1, page 103, line 34, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 25.
- Matt Hancock 28
- Schedule 1, page 103, line 37, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 25.
- Matt Hancock 29
- Schedule 1, page 103, line 38, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 25.
- Matt Hancock 30
- Schedule 1, page 103, line 47, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 25.
- Matt Hancock 31
- Schedule 1, page 104, line 2, leave out from beginning to “requiring” in line 9 and insert—
- “(1) The right of a landowner or occupier to require the removal of electronic communications apparatus on, under or over land, under paragraph 36 or 36A, is exercisable only in accordance with this paragraph.
 - (2) The landowner or occupier may give a notice to the operator whose apparatus it is”
- Member’s explanatory statement**
The amendment clarifies that a landowner or occupier can require removal of electronic communications apparatus only in accordance with the procedure set out in paragraph 38.

Digital Economy Bill, *continued*

- Matt Hancock 32
 Schedule 1, page 104, line 23, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 24.
- Matt Hancock 33
 Schedule 1, page 104, line 33, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 24.
- Matt Hancock 34
 Schedule 1, page 104, line 40, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 24.
- Matt Hancock 35
 Schedule 1, page 104, line 41, after “landowner” insert “or occupier”
Member’s explanatory statement
This is consequential on amendment 24.
- Matt Hancock 36
 Schedule 1, page 104, line 42, at end insert—
 “() On an application under sub-paragraph (6) or (7) the court may not make an order in relation to apparatus if an application under paragraph 19(3) has been made in relation to the apparatus and has not been determined.”
Member’s explanatory statement
This provides that the court cannot order removal of apparatus under Part 6 of the code if there is an outstanding application under paragraph 19 (to keep the apparatus installed) that has not been determined.
- Matt Hancock 37
 Schedule 1, page 104, line 42, at end insert—
“How are other rights to require removal of apparatus enforced?”
 38A (1) The right of a person (a “third party”) under an enactment other than this code, or otherwise than under an enactment, to require the removal of electronic communications apparatus on, under or over land is exercisable only in accordance with this paragraph.
 (2) The third party may give a notice to the operator whose apparatus it is, requiring the operator—
 (a) to remove the apparatus, and
 (b) to restore the land to its condition before the apparatus was placed on, under or over the land.
 (3) The notice must—
 (a) comply with paragraph 85 (notices given by persons other than operators), and

Digital Economy Bill, continued

- (b) specify the period within which the operator must complete the works.
- (4) The period specified under sub-paragraph (3) must be a reasonable one.
- (5) Within the period of 28 days beginning with the day on which notice under sub-paragraph (2) is given, the operator may give the third party notice (“counter-notice”)—
- (a) stating that the third party is not entitled to require the removal of the apparatus, or
 - (b) specifying the steps which the operator proposes to take for the purpose of securing a right as against the third party to keep the apparatus on the land.
- (6) If the operator does not give counter-notice within that period, the third party is entitled to enforce the removal of the apparatus.
- (7) If the operator gives the third party counter-notice within that period, the third party may enforce the removal of the apparatus only in pursuance of an order of the court that the third party is entitled to enforce the removal of the apparatus.
- (8) If the counter-notice specifies steps under paragraph (5)(b), the court may make an order under sub-paragraph (7) only if it is satisfied—
- (a) that the operator is not intending to take those steps or is being unreasonably dilatory in taking them; or
 - (b) that taking those steps has not secured, or will not secure, for the operator as against the third party any right to keep the apparatus installed on, under or over the land or to re-install it if it is removed.
- (9) Where the third party is entitled to enforce the removal of the apparatus, under sub-paragraph (6) or under an order under sub-paragraph (7), the third party may make an application to the court for—
- (a) an order under paragraph 39(1) (order requiring operator to remove apparatus etc), or
 - (b) an order under paragraph 39(2) (order enabling third party to sell apparatus etc).
- (10) If the court makes an order under paragraph 39(1), but the operator does not comply with the agreement imposed on the operator and the third party by virtue of paragraph 39(5), the third party may make an application to the court for an order under paragraph 39(2).
- (11) An order made on an application under this paragraph need not include provision within paragraph 39(1)(b) or (2)(d) unless the court thinks it appropriate.
- (12) Sub-paragraph (9) is without prejudice to any other method available to the third party for enforcing the removal of the apparatus.

How does paragraph 38A apply if a person is entitled to require apparatus to be altered in consequence of street works?

- 38B (1) This paragraph applies where the third party’s right in relation to which paragraph 38A applies is a right to require the alteration of the apparatus in consequence of the stopping up, closure, change or diversion of a street or road or the extinguishment or alteration of a public right of way.
- (2) The removal of the apparatus in pursuance of paragraph 38A constitutes compliance with a requirement to make any other alteration.
- (3) A counter-notice under paragraph 38A(5) may state (in addition to, or instead of, any of the matters mentioned in paragraph 38A(5)(b)) that the operator requires the third party to reimburse the operator in respect of any expenses incurred by the operator in or in connection with the making of any alteration in compliance with the requirements of the third party.

Digital Economy Bill, continued

- (4) An order made under paragraph 38A on an application by the third party in respect of a counter-notice containing a statement under sub-paragraph (3) must, unless the court otherwise thinks fit, require the third party to reimburse the operator in respect of the expenses referred to in the statement.
- (5) Paragraph 39(2)(b) to (e) do not apply.
- (6) In this paragraph—
 - “road” means a road in Scotland;
 - “street” means a street in England and Wales or Northern Ireland.”

Member’s explanatory statement

New paragraphs 38A and 38B provide for a right to require removal of electronic communications apparatus to be available to not only to a person with an interest in land (see paragraph 36(1)) but also to a “third party” whose right to require removal of apparatus arises pursuant to an enactment, or on some other legal basis.

Matt Hancock

38

Schedule 1, page 104, line 42, at end insert—

“When can a separate application for restoration of land be made?”

- 38C (1) This paragraph applies if—
- (a) the condition of the land has been affected by the exercise of a code right, and
 - (b) restoration of the land to its condition before the code right was exercised does not involve the removal of electronic communications apparatus from any land.
- (2) The occupier of the land, the owner of the freehold estate in the land or the lessee of the land (“the relevant person”) has the right to require the operator to restore the land if the relevant person is not for the time being bound by the code right.
- This is subject to sub-paragraph (3).
- (3) The relevant person does not have that right if—
- (a) the land is occupied by a person who—
 - (i) conferred a code right (which is in force) entitling the operator to affect the condition of the land in the same way as the right mentioned in sub-paragraph (1), or
 - (ii) is otherwise bound by such a right, and
 - (b) that code right was not conferred in breach of a covenant enforceable by the relevant person.
- (4) In the application of sub-paragraph (3)(b) to Scotland the reference to a covenant enforceable by the relevant person is to be read as a reference to a contractual term which is so enforceable.
- (5) A person who has the right conferred by this paragraph may give a notice to the operator requiring the operator to restore the land to its condition before the code right was exercised.
- (6) The notice must—
- (a) comply with paragraph 85 (notices given by persons other than operators), and
 - (b) specify the period within which the operator must complete the works.
- (7) The period specified under sub-paragraph (6) must be a reasonable one.

Digital Economy Bill, continued

- (8) Sub-paragraph (9) applies if, within the period of 28 days beginning with the day on which the notice was given, the landowner and the operator do not reach agreement on any of the following matters—
- (a) that the operator will restore the land to its condition before the code right was exercised;
 - (b) the time at which or period within which the land will be restored.
- (9) The landowner may make an application to the court for—
- (a) an order under paragraph 39(1A) (order requiring operator to restore land), or
 - (b) an order under paragraph 39(2A) (order enabling landowner to recover cost of restoring land).
- (10) If the court makes an order under paragraph 39(1A), but the operator does not comply with the agreement imposed on the operator and the landowner by virtue of paragraph 39(5), the landowner may make an application to the court for an order under paragraph 39(2A).
- (11) In the application of sub-paragraph (2) to Scotland the reference to a person who is the owner of the freehold estate in the land is to be read as a reference to a person who is the owner of the land.”

Member's explanatory statement

New paragraph 38C makes provision about restoration of land where restoration does not involve the removal of apparatus.

Matt Hancock

39

Schedule 1, page 105, line 2, at end insert—

“(1A) An order under this sub-paragraph is an order that the operator must, within the period specified in the order, restore the land to its condition before the code right was exercised.”

Member's explanatory statement

This is consequential on amendment 38.

Matt Hancock

40

Schedule 1, page 105, line 3, after “landowner” insert “, occupier or third party”

Member's explanatory statement

This is consequential on amendments 24 and 37.

Matt Hancock

41

Schedule 1, page 105, line 15, after “landowner” insert “, occupier or third party”

Member's explanatory statement

This is consequential on amendments 24 and 37.

Matt Hancock

42

Schedule 1, page 105, line 15, at end insert—

“(1A) An order under this sub-paragraph is an order that the landowner may recover from the operator the costs of restoring the land to its condition before the code right was exercised.”

Member's explanatory statement

This is consequential on amendment 38.

Digital Economy Bill, continued

- Matt Hancock 43
- Schedule 1, page 105, line 16, after “paragraph” insert “on an application under paragraph 38”
- Member’s explanatory statement*
- This is consequential on amendments 24 and 37.*
- Matt Hancock 44
- Schedule 1, page 105, line 24, after “(1)” insert “or (1A)”
- Member’s explanatory statement*
- This is consequential on amendment 38.*
- Matt Hancock 45
- Schedule 1, page 105, line 25, after “landowner” insert “, occupier or third party”
- Member’s explanatory statement*
- This is consequential on amendments 24 and 37.*
-
- Matt Hancock 46
- Schedule 2, page 138, line 17, leave out “under paragraph 2(1)” and insert “for the purposes of paragraph 2 or 3”
- Member’s explanatory statement*
- This provides that the subsisting agreements covered by the transitional provisions in Schedule 2 include agreements under paragraph 3(1) of the existing code (agreement to confer a right to obstruct access) as well as paragraph 2(1).*
- Matt Hancock 47
- Schedule 2, page 138, line 28, at end insert—
- “(2) A person who is bound by a right by virtue of paragraph 2(4) of the existing code in consequence of a subsisting agreement is, after the new code comes into force, treated as bound pursuant to Part 2 of the new code.”
- Member’s explanatory statement*
- This provides that a person who was bound by a right pursuant to a subsisting agreement (see paragraph 2(4) of the existing code) continues to be treated as bound by that agreement, under the provisions of Part 2 of the new code (see paragraph 10 of the new code).*
- Matt Hancock 48
- Schedule 2, page 138, line 31, after “are” insert “— (a)”
- Member’s explanatory statement*
- Amendments 48, 49 and 50 are consequential on amendment 46 and provide for references in the new code to a “code right” in relation to a subsisting agreement to have the corresponding meaning depending on whether the agreement was for the purposes of paragraphs 2(1) or 3(1) of the existing code.*

Digital Economy Bill, continued

Matt Hancock

49

Schedule 2, page 138, line 31, leave out “the agreement” and insert “an agreement for the purposes of paragraph 2 of the existing code”

Member’s explanatory statement

Amendments 48, 49 and 50 are consequential on amendment 46 and provide for references in the new code to a “code right” in relation to a subsisting agreement to have the corresponding meaning depending on whether the agreement was for the purposes of paragraphs 2(1) or (3(1) of the existing code.

Matt Hancock

50

Schedule 2, page 138, line 33, at end insert—

“(b) in relation to land to which an agreement for the purposes of paragraph 3 of the existing code relates, a right to do the things mentioned in that paragraph.”

Member’s explanatory statement

Amendments 48, 49 and 50 are consequential on amendment 46 and provide for references in the new code to a “code right” in relation to a subsisting agreement to have the corresponding meaning depending on whether the agreement was for the purposes of paragraphs 2(1) or (3(1) of the existing code.

Matt Hancock

51

Schedule 2, page 139, line 11, leave out sub-paragraph (1) and insert—

“5A (1) This paragraph applies in relation to a subsisting agreement, in place of paragraph 28(2) to (4) of the new code.

(2) Part 5 of the new code (termination and modification of agreements) does not apply to a subsisting agreement that is a lease of land in England and Wales, if—

(a) it is a lease to which Part 2 of the Landlord and Tenant Act 1954 applies, and

(b) there is no agreement under section 38A of that Act (agreements to exclude provisions of Part 2) in relation the tenancy.

(3) Part 5 of the new code does not apply to a subsisting agreement that is a lease of land in England and Wales, if—

(a) the primary purpose of the lease is not to grant code rights (the rights referred to in paragraph 3 of this Schedule), and

(b) there is an agreement under section 38A of the 1954 Act in relation the tenancy.

(4) Part 5 of the new code does not apply to a subsisting agreement that is a lease of land in Northern Ireland, if it is a lease to which the Business Tenancies (Northern Ireland) Order 1996 (SI 1996/725 (NI 5)) applies.

6 (1) Subject to paragraph 5A, Part 5 of the new code applies to a subsisting agreement with the following modifications.”

Member’s explanatory statement

The amendment provides for the interaction of landlord and tenant law and Part 5 of the new code (termination and modification of agreements) in the case of subsisting agreements (see paragraph 1(4) of Schedule 2).

Digital Economy Bill, continued

Matt Hancock

52

Schedule 2, page 140, line 17, leave out “the following provisions of this paragraph” and insert “sub-paragraph (3)”

Member’s explanatory statement

This is consequential on amendment 53.

Matt Hancock

53

Schedule 2, page 140, line 21, leave out sub-paragraphs (4) to (10)

Member’s explanatory statement

This relates to applications under paragraph 5(1) of the existing code (power of court to dispense with need for required agreement). The effect of the amendment is that, if an application has been made to the court before the new code comes into force, the procedures under the existing code apply, but any resultant order takes effect as an order made under the new code.

Matt Hancock

54

Schedule 2, page 142, line 7, leave out paragraphs 19 to 22 and insert—

“19A(1) This paragraph applies where before the repeal of the existing code comes into force a person has given notice under paragraph 21(2) of that code requiring the removal of apparatus.

(2) The repeal does not affect the operation of paragraph 21 in relation to anything done or that may be done under that paragraph following the giving of the notice.

(3) For the purposes of applying that paragraph after the repeal comes into force, steps specified in a counter-notice under sub-paragraph (4)(b) of that paragraph as steps which the operator proposes to take under the existing code are to be read as including any corresponding steps that the operator could take under the new code or by virtue of this Schedule.”

Member’s explanatory statement

The amendment replaces transitional provisions for requiring the removal of apparatus. It provides for paragraph 21 of the existing code to continue to apply if a notice under that paragraph has been given, but treats an operator seeking rights to keep the apparatus installed as seeking rights also under the new code or transitional provisions.

Matt Hancock

55

Page 143, line 27, leave out Schedule 3

Member’s explanatory statement

Schedule 3 is replaced by new Schedule NS1

Digital Economy Bill, continued

Matt Hancock

1

Clause 5, page 3, line 23, leave out “or transitory” and insert “, transitory or saving”

Member’s explanatory statement

The amendment adds power to make saving provision in connection with the coming into force of the new electronic communications code.

Calum Kerr

61

Clause 6, page 3, after line 35, add—

“(1A) Prior to the introduction of regulations made under subsection (1), the Secretary of State must consult—

- (a) Scottish Ministers if the regulations, or any part of the regulations, extend to Scotland;
 - (b) Welsh Ministers if the regulations, or any part of the regulations, extend to Wales; and
 - (c) Northern Ireland Ministers if the regulations, or any part of the regulations, extend to Northern Ireland.”
-

Matt Hancock

2

Clause 8, page 8, line 16, leave out “imposed” and insert “specified”.

Member’s explanatory statement

This amendment reflects the fact that a notification under new section 53E of the Wireless Telegraphy Act 2006 will specify a penalty rather than imposing it.

Matt Hancock

3

Clause 8, page 8, line 19, at end insert—

“() The amount of any other penalty specified under this section is to be such amount, not exceeding 10% of the relevant amount of gross revenue, as OFCOM think—

- (a) appropriate, and
- (b) proportionate to the contravention in respect of which it is imposed.”

Member’s explanatory statement

This amendment ensures that the penalty based on the relevant amount of gross revenue applies only where the daily default penalty specified under new section 53F(4) of the Wireless Telegraphy Act 2006 does not apply.

Matt Hancock

4

Clause 8, page 9, line 21, leave out subsection (1).

Member’s explanatory statement

This amendment is consequential on amendment 3.

Digital Economy Bill, continued

Matt Hancock

5

Clause 8, page 9, line 25, leave out “this section” and insert “section 53F”.

Member’s explanatory statement

This amendment is consequential on amendments 3 and 4.

Matt Hancock

6

Clause 8, page 12, line 21, after “penalty” insert “specified”.

Member’s explanatory statement

This amendment brings new section 53L(5) of the Wireless Telegraphy Act 2006 into line with new section 53F(5) of that Act.

Matt Hancock

7

Clause 10, page 16, line 7, at end insert—

“() In Schedule 8 to that Act (decisions not subject to appeal), at the end of paragraph 44 insert “for a relevant multiplex contravention”.

Member’s explanatory statement

This allows an appeal to the Competition Appeal Tribunal against a penalty imposed by OFCOM under section 42 of the Wireless Telegraphy Act 2006 for a breach of a wireless telegraphy licence, except where the breach relates only to broadcast content (in which case, as at present, an appeal to the Tribunal will not be possible).

Matt Hancock

8

Clause 14, page 17, line 10, leave out “and (8)”

Member’s explanatory statement

This is consequential on amendment 11.

Matt Hancock

9

Clause 14, page 17, line 18, leave out “Subsections (3A) and (3B)” and insert “Section 41(7) and subsection (3B) above”

Member’s explanatory statement

Subsection (3C), inserted in section 107 of the Wireless Telegraphy Act 2006 by the clause, lists enactments displaced by the time limits mentioned in subsections (3A) and (3B). Subsection (3A) merely refers to section 41(7), and the amendment substitutes a direct reference to that provision for the reference to subsection (3A).

Matt Hancock

10

Clause 14, page 17, line 26, at end insert—

“(3D) In relation to proceedings in Scotland, subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be

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commenced for the purposes of that section) applies also for the purposes of section 41(7) and subsection (3B) above.””

Member’s explanatory statement

The amendment adds provision about when proceedings in Scotland are deemed to be commenced for the purposes of the time limits in section 41(7) and new subsection (3B) of section 107 of the Wireless Telegraphy Act 2006.

Matt Hancock

11

Clause 14, page 17, line 31, at end insert—

“() for subsection (8) substitute—

“(8) For further provision about prosecutions see section 107.””

Member’s explanatory statement

Existing section 41(8) of the Wireless Telegraphy Act 2006 applies to section 41(7) and is superseded by section 107(3C) inserted by the clause (see amendment 9). Amendment 10 also inserts provision applying to section 41(7) into section 107. Amendment 11 therefore substitutes a subsection referring the reader to section 107.

Claire Perry

65

Clause 15, page 18, line 15, at end insert—

“(d) how persons can make a report to the age-verification regulator about pornographic material available on the internet on a commercial basis that is not complying with subsection (1).”

Member’s explanatory statement

This amendment places a requirement on the age-verification regulator to provide guidance as to how persons can report non-compliant pornography websites to the age-verification regulator.

Louise Haigh
Kevin Brennan

85

Clause 15, page 18, line 20, leave out subsection (5)(a).

Claire Perry

66

Clause 15, page 18, line 24, at end insert “or an internet service provider.”

Member’s explanatory statement

This amendment and amendment 67 ensure that the requirement to implement age verification does not fall on ISPs but commercial sites or applications offering pornographic material; and defines internet service providers.

Louise Haigh
Kevin Brennan

87

Clause 15, page 18, line 25, leave out subsection 6.

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- Claire Perry 68
- Clause 20, page 21, line 5, at beginning insert “If the person in contravention of section 15(1) is resident in the United Kingdom,”
- Member’s explanatory statement*
- This amendment and amendments 69, 70, 71, 72, 73 and 74 place a requirement on the age-verification regulator to impose fines where a UK person has contravened clause 15(1) unless the contravention has ceased; or to issue an enforcement notice to person outside of the UK who has contravened clause 15(1).*
- Claire Perry 69
- Clause 20, page 21, line 5, leave out “may” and insert “must”
- Member’s explanatory statement*
- See the explanatory statement for amendment 68.*
- Claire Perry 70
- Clause 20, page 21, line 7, after “15(1)”, insert “, unless subsection (5) applies”
- Member’s explanatory statement*
- See the explanatory statement for amendment 68.*
- Claire Perry 71
- Clause 20, page 21, line 10, at beginning insert “If the person in contravention of section 15(1) is not resident in the United Kingdom,”
- Member’s explanatory statement*
- See the explanatory statement for amendment 68.*
- Claire Perry 72
- Clause 20, page 21, line 10, leave out “may” and insert “must”
- Member’s explanatory statement*
- See the explanatory statement for amendment 68.*
- Claire Perry 73
- Clause 20, page 21, line 16, leave out subsection (4)
- Member’s explanatory statement*
- See the explanatory statement for amendment 68.*
- Louise Haigh
Kevin Brennan 86
- Clause 20, page 21, line 40, leave out paragraph (b) and insert—
- “(b) “during the initial determination period fix the date for ending the contravention of section 15(1) as the initial enforcement date.”
- Louise Haigh
Kevin Brennan 88
- Clause 20, page 21, line 40, at end insert—
- “(c) after the initial determination period fix a period of one week for ending the contravention of section 15(1)”.

Digital Economy Bill, continued

- Claire Perry 74
- Clause 20, page 21, line 42, leave out “may” and insert “must”
Member’s explanatory statement
See the explanatory statement for amendment 68.
- Calum Kerr 62
- Clause 20, page 22, line 13, at end insert—
“(14) Within 12 months of this Act coming into force, the Secretary of State shall commission a review of the effectiveness of the enforcement of sections 15 and 19 and shall lay the report of the review before each House of Parliament.”
- Louise Haigh
Kevin Brennan 89
- Clause 20, page 22, line 13, at end insert—
“(14) In this section, “initial determination period” means a period of 12 months from the date of the passing of this Act to the initial enforcement date.”
-
- Claire Perry 75
- Clause 22, page 23, line 28, at end insert; “and
(c) the person has been the subject of a enforcement notice under section 20(2) and the contravention has not ceased.”
- Claire Perry 76
- Clause 22, page 23, line 29, leave out “may” and insert “must”
Member’s explanatory statement
This amendment places a requirement on the age-verification regulator to give notice to payment or ancillary service providers that a person has contravened clause 15(1) or is making prohibited material available on the internet to persons in the United Kingdom.
- Louise Haigh
Kevin Brennan 90
- Clause 22, page 23, line 29, leave out “or ancillary service provider” and insert “, ancillary service provider, or internet service provider.”.
- Claire Perry 77
- Clause 22, page 24, line 23, at end insert “or
(c) an internet service provider.”
Member’s explanatory statement
This amendment and amendment 78 ensure that the definition of an ancillary service provider would include ISPs; and defines internet service providers.

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan

91

Clause 22, page 24, line 23, at end insert—

“(6A) In this section an “ancillary service provider” includes, but is not limited to, domain name registrars, social media platforms, internet service providers, and search engines.”

Claire Perry

79

Clause 22, page 24, line 24, leave out “may” and insert “must”

Member’s explanatory statement

This amendment places a requirement on the age-verification regulator to issue guidance about the services that it determines are enabling or facilitating the making available of pornographic or prohibited content.

Claire Perry

80

Clause 23, page 25, line 1, at end insert—

“(3) The age-verification regulator must consult with any persons it considers appropriate, about the option to restrict the use of its powers to large pornography websites only.”

Member’s explanatory statement

This amendment requires the age-verification regulator to consult on whether, in the exercising of its function, it should restrict its powers to large pornography websites only.

Claire Perry

67

Clause 25, page 26, line 2, at end insert—

““internet service provider” has the same meaning as in section 124N of the Communications Act 2003 (interpretation);”.

Member’s explanatory statement

See the explanatory statement for amendment 66.

Kevin Brennan
Louise Haigh

92

Clause 26, page 26, line 18, leave out “, or will expose the owner of the copyright to the risk of loss.”

Member’s explanatory statement

This amendment and amendment 93 is a probing amendment to explore the impact of Clause 26 on account holders.

Digital Economy Bill, continuedKevin Brennan
Louise Haigh

93

Clause 26, page 26, line 35, leave out “, or expose the owner of the rights to the risk of loss.”

Member’s explanatory statement

See amendment 92.

Nigel Adams

63

Clause 28, page 27, leave out subsections (3) to (5)

Member’s explanatory statement

This amendment, together with Amendment 64, are probing amendments to identify a timeframe for the repeal of section 73 of the Copyright, Design and Patents Act 1988 as it is not clear when the repeal will come into force. The amendments would mean that repeal of section 73 of the CPDA would come into force as soon as the Bill receives Royal Assent.

Louise Haigh
Kevin Brennan

98

Clause 29, page 28, line 25, leave out “had regard to” and insert “complied with”

Member’s explanatory statement

This amendment provides stronger compliance with the code of practice on the disclosure of information.

Matt Hancock

108

☆ Clause 30, page 29, line 21, at end insert “, or

- () the making of grants (by any person) under section 15 of the Social Security Act 1990 in accordance with regulations under that section made by the Scottish Ministers or the Welsh Ministers.”

Member’s explanatory statement

This amendment enables information to be disclosed by a specified person to a licensed gas or electricity supplier for the purposes of a scheme in Scotland or Wales for the payments of grants to improve energy efficiency under section 15 of the Social Security Act 1990.

Digital Economy Bill, continued

Louise Haigh
Kevin Brennan

100

- Clause 30, page 29, line 33, leave out “had regard to” and insert “complied with”
Member’s explanatory statement
This amendment provides stronger compliance with the code of practice on the disclosure of information.
-

Louise Haigh
Kevin Brennan

99

- Clause 32, page 30, line 13, at end insert—
- “(1A) In determining whether to make regulations under section 29, 30 or 31 the appropriate national authority must ensure that—
- (a) the sharing of information authorised by the regulations is minimised to what is strictly necessary,
 - (b) the conduct authorised by the regulations to achieve the “specified objective” is proportionate to what is sought to be achieved by that conduct,
 - (c) a Privacy Impact Assessment compliant with the relevant code of practice of the Information Commissioner’s Office has taken place and been made publicly available,
 - (d) the proposed measures have been subject to public consultation for a minimum of 12 weeks, and responses have been given conscientious consideration.
- (1B) As soon as is reasonably practicable after the end of three years beginning with the day on which the regulations come into force, the relevant Minister must review its operation for the purposes of deciding whether these should be amended or repealed.
- (1C) Before carrying out the review the relevant Minister must publish the criteria by reference to which that determination will be made.
- (1D) In carrying out the review the relevant Minister must consult—
- (a) the Information Commissioner, and
 - (b) open the review to public consultation for a minimum of 12 weeks, and demonstrate that responses have been given conscientious consideration.”

Member’s explanatory statement

This amendment seeks to reduce the risk of successful legal challenges. Challenges are often made on grounds of privacy and this would amend that to increase privacy safeguards.

Matt Hancock

109

- ☆ Clause 32, page 30, line 18, at end insert—
- “(ba) for the prevention or detection of crime or the prevention of anti-social behaviour,”

Member’s explanatory statement

This amendment and amendment 112 create a further exception to the bar on using information disclosed under Chapter 1 of Part 5 of the Bill for a purpose other than that for which it was disclosed. The amendments allow use for the prevention or detection of crime or the prevention of anti-social behaviour.

Digital Economy Bill, continued

Matt Hancock

110

- ☆ Clause 32, page 30, line 19, leave out “(whether or not in the United Kingdom)”
Member’s explanatory statement

This amendment removes the provision stating that a criminal investigation for the purposes of clause 32(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

111

- ☆ Clause 32, page 30, line 21, leave out “and whether or not in the United Kingdom”
Member’s explanatory statement

This amendment removes the provision stating that legal proceedings for the purposes of clause 32(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Matt Hancock

112

- ☆ Clause 32, page 30, line 28, at end insert—

“() In subsection (2)(ba) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 109.

Louise Haigh
 Kevin Brennan

96

- Clause 32, page 30, line 33, at end insert—

“(3A) A particular person identified in personal information disclosed under sections 29, 30 or 31 is able to request to a specified person under subsection 29(1) that the personal information is modified and corrected if necessary.”

Louise Haigh
 Kevin Brennan

95

- Clause 32, page 30, line 34, leave out “(including a body corporate)” and insert “, a group of persons, a private company or a publicly traded company irrespective of their size and revenue, but”

Louise Haigh
 Kevin Brennan

101

- Clause 33, page 31, line 19, leave out “or permitted”

Digital Economy Bill, continued

Matt Hancock

113

☆ Clause 33, page 31, line 24, at end insert—

“(da) for the prevention or detection of crime or the prevention of anti-social behaviour,”

Member’s explanatory statement

This amendment and amendment 116 create a further exception to the bar on the further disclosure of information disclosed under Chapter 1 of Part 5 of the Bill, allowing disclosure for the prevention or detection of crime or the prevention of anti-social behaviour.

Louise Haigh
Kevin Brennan

102

Clause 33, page 31, line 25, leave out “made” and insert “necessary”

Member’s explanatory statement

This amendment and amendments 103 and 104 seek to place a stricter requirement to reduce the risk of non-compliance with data protection.

Matt Hancock

114

☆ Clause 33, page 31, line 25, leave out “(whether or not in the United Kingdom)”

Member’s explanatory statement

This amendment removes the provision stating that a criminal investigation for the purposes of clause 33(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Louise Haigh
Kevin Brennan

103

Clause 33, page 31, line 27, leave out “made” and insert “necessary”

Member’s explanatory statement

See the explanatory statement for amendment 102.

Matt Hancock

115

☆ Clause 33, page 31, line 28, leave out “and whether or not in the United Kingdom”

Member’s explanatory statement

This amendment removes the provision stating that legal proceedings for the purposes of clause 33(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Louise Haigh
Kevin Brennan

104

Clause 33, page 31, line 30, leave out “made” and insert “necessary”

Member’s explanatory statement

See the explanatory statement for amendment 103.

Digital Economy Bill, continued

Matt Hancock

116

☆ Clause 33, page 31, line 35, at end insert—

“() In subsection (2)(da) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 113.

Matt Hancock

117

☆ Clause 33, page 31, line 36, leave out subsections (3) and (4) insert—

“() A person commits an offence if—

(a) the person discloses personal information in contravention of subsection (1), and

(b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.”

Member’s explanatory statement

This amendment applies to the disclosure of personal information in contravention of subsection (1) of clause 33. It has the effect that it is an offence to do so only if the person knows that the disclosure contravenes that subsection or is reckless as to whether it does so.

 Matt Hancock

118

☆ Clause 35, page 32, line 30, at end insert—

“() The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a code of practice issued under clause 35 by the relevant Minister and relating to the disclosure of information under clause 29, 30 or 31 to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Louise Haigh
Kevin Brennan

105

Clause 35, page 32, line 31, leave out “have regard to” and insert “comply with”

Louise Haigh
Kevin Brennan

106

Clause 35, page 32, line 42, at end insert—

“(ea) the public for a minimum of 12 weeks, and the relevant Minister, must demonstrate that responses have been given conscientious consideration, and”

Digital Economy Bill, continued

Louise Haigh
Kevin Brennan

107

- Clause 38, page 36, line 12, leave out from “that” to end of subsection and insert—
- “(a) the authority or civil registration official to whom it is disclosed (the “recipient”) requires the information to enable the recipient to exercise one or more of the recipient’s functions and,
- (b) the data subjects whose information is being disclosed have given valid consent under data protection legislation.”

Member’s explanatory statement

This amendment would remove bulk sharing while allowing certificates to be shared to support electronic government services.

Louise Haigh
Kevin Brennan

97

- Clause 38, page 36, line 15, at end insert—
- “(2A) An authority or civil registration official requiring the information must specify the reasons for requiring the information to be disclosed.
- (2AA) Information disclosed under this section shall not be shared with any other public or private body beyond those specified in subsection (1).”

Matt Hancock

119

- ☆ Clause 38, page 37, line 35, at end insert—
- “() The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a code of practice issued under section 19AC of the Registration Service Act 1953 by the Registrar General and relating to the disclosure of information under section 19AA of that Act to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Matt Hancock

120

- ☆ Clause 41, page 40, line 5, at end insert—
- “(ba) for the prevention or detection of crime or the prevention of anti-social behaviour,”

Member’s explanatory statement

This amendment and amendment 123 create a further exception to the bar on using information disclosed under Chapter 3 of Part 5 of the Bill for a purpose other than that for which it was disclosed. The amendments allow use for the prevention or detection of crime or the prevention of anti-social behaviour.

Matt Hancock

121

- ☆ Clause 41, page 40, line 6, leave out “(whether or not in the United Kingdom)”

Member’s explanatory statement

This amendment removes the provision stating that a criminal investigation for the purposes of

Digital Economy Bill, continued

clause 41(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

122

- ☆ Clause 41, page 40, line 8, leave out “and whether or not in the United Kingdom”
Member’s explanatory statement
This amendment removes the provision stating that legal proceedings for the purposes of clause 41 may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Matt Hancock

123

- ☆ Clause 41, page 40, line 11, at end insert—
“() In subsection (2)(ba) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”
Member’s explanatory statement
See the explanatory statement for amendment 120.

Matt Hancock

124

- ☆ Clause 42, page 41, line 4, at end insert—
“(da) for the prevention or detection of crime or the prevention of anti-social behaviour,”
Member’s explanatory statement
This amendment and amendment 127 create a further exception to the bar on the further disclosure of information disclosed under Chapter 3 of Part 5 of the Bill, allowing disclosure for the prevention or detection of crime or the prevention of anti-social behaviour.

Matt Hancock

125

- ☆ Clause 42, page 41, line 5, leave out “(whether or not in the United Kingdom)”
Member’s explanatory statement
This amendment removes the provision stating that a criminal investigation for the purposes of clause 42(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

126

- ☆ Clause 42, page 41, line 8, leave out “and whether or not in the United Kingdom”
Member’s explanatory statement
This amendment removes the provision stating that legal proceedings for the purposes of clause 42(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Digital Economy Bill, continued

Matt Hancock

127

☆ Clause 42, page 41, line 12, at end insert—

“() In subsection (2)(da) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 124.

Matt Hancock

128

☆ Clause 42, page 41, line 13, leave out subsections (3) and (4) insert—

“() A person commits an offence if—

- (a) the person discloses personal information in contravention of subsection (1), and
- (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.”

Member’s explanatory statement

This amendment applies to the disclosure of personal information in contravention of subsection (1) of clause 42. It has the effect that it is an offence to do so only if the person knows that the disclosure contravenes that subsection or is reckless as to whether it does so.

 Matt Hancock

129

☆ Clause 44, page 42, line 7, at end insert—

“() The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a code of practice issued under clause 44 by the relevant Minister and relating to the disclosure of information under clause 40 to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

 Matt Hancock

130

☆ Clause 45, page 43, line 10, at end insert—

“() The relevant Minister may only make regulations under subsection (5)—

- (a) in a case where the regulations include provision relating to Scotland, with the consent of the Scottish Ministers;
- (b) in a case where the regulations include provision relating to Wales, with the consent of the Welsh Ministers;
- (c) in a case where the regulations include provision relating to Northern Ireland, with the consent of the Department of Finance in Northern Ireland.”

Member’s explanatory statement

This amendment requires the relevant Minister to obtain the consent of the Scottish Ministers,

Digital Economy Bill, continued

Welsh Ministers or Department of Finance before making regulations which, following a review under clause 45, amend or repeal Chapter 3 of Part 5 and make provision relating to Scotland, Wales or Northern Ireland respectively.

Matt Hancock

131

☆ Clause 49, page 46, line 43, at end insert—

“(ba) for the prevention or detection of crime or the prevention of anti-social behaviour,”

Member’s explanatory statement

This amendment and amendment 134 create a further exception to the bar on using information disclosed under Chapter 4 of Part 5 of the Bill for a purpose other than that for which it was disclosed. The amendments allows use for the prevention or detection of crime or the prevention of anti-social behaviour.

Matt Hancock

132

☆ Clause 49, page 46, line 44, leave out “(whether or not in the United Kingdom)”

Member’s explanatory statement

This amendment removes the provision stating that a criminal investigation for the purposes of clause 49(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

133

☆ Clause 49, page 46, line 46, leave out “and whether or not in the United Kingdom”

Member’s explanatory statement

This amendment removes the provision stating that legal proceedings for the purposes of clause 49(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Matt Hancock

134

☆ Clause 49, page 47, line 6, at end insert—

“() In subsection (2)(ba) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 131.

Matt Hancock

135

☆ Clause 50, page 47, line 44, at end insert—

“(da) for the prevention or detection of crime or the prevention of anti-social behaviour,”

Member’s explanatory statement

This amendment and amendment 138 create a further exception to the bar on the further disclosure

Digital Economy Bill, continued

of information disclosed under Chapter 4 of Part 5 of the Bill, allowing disclosure for the prevention or detection of crime or the prevention of anti-social behaviour.

Matt Hancock

136

- ☆ Clause 50, page 48, line 1, leave out “(whether or not in the United Kingdom)”

Member’s explanatory statement

This amendment removes the provision stating that a criminal investigation for the purposes of clause 50(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

137

- ☆ Clause 50, page 48, line 4, leave out “and whether or not in the United Kingdom”

Member’s explanatory statement

This amendment removes the provision stating that legal proceedings for the purposes of clause 50(2) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Matt Hancock

138

- ☆ Clause 50, page 48, line 11, at end insert—

“() In subsection (2)(da) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 135.

Matt Hancock

139

- ☆ Clause 50, page 48, line 12, leave out subsections (3) and (4) insert—

“() A person commits an offence if—

- (a) the person discloses personal information in contravention of subsection (1), and
- (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.”

Member’s explanatory statement

This amendment applies to the disclosure of personal information in contravention of subsection (1) of clause 50. It has the effect that it is an offence to do so only if the person knows that the disclosure contravenes that subsection or is reckless as to whether it does so.

Matt Hancock

140

- ☆ Clause 52, page 49, line 7, at end insert—

“() The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a code of practice issued under clause 52 by the relevant Minister and

Digital Economy Bill, continued

relating to the disclosure of information under clause 48 to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Matt Hancock

141

☆ Clause 53, page 50, line 10, at end insert—

- “() The relevant Minister may only make regulations under subsection (5)—
- (a) in a case where the regulations include provision relating to Scotland, with the consent of the Scottish Ministers;
 - (b) in a case where the regulations include provision relating to Wales, with the consent of the Welsh Ministers;
 - (c) in a case where the regulations include provision relating to Northern Ireland, with the consent of the Department of Finance in Northern Ireland.”

Member’s explanatory statement

This amendment requires the relevant Minister to obtain the consent of the Scottish Ministers, Welsh Ministers or Department of Finance before making regulations which, following a review under clause 53, amend or repeal Chapter 4 of Part 5 and make provision relating to Scotland, Wales or Northern Ireland respectively.

Matt Hancock

142

☆ Clause 56, page 52, line 23, at end insert—

- “(3A) For the purposes of the first condition the information may be processed by—
- (a) the public authority,
 - (b) a person other than the public authority, or
 - (c) both the public authority and a person other than the public authority,
- (subject to the following provisions of this Part).
- (3B) Personal information may be disclosed for the purpose of processing it for disclosure under subsection (1)—
- (a) by a public authority to a person involved in processing the information for that purpose;
 - (b) by one such person to another such person.”

Member’s explanatory statement

This amendment and amendments 143, 144, 146 to 149, 151 to 153, 159, 160 and 162 to 166 relate to the processing of information for disclosure under clause 56 so as to remove identifying features. They make it clear that a person other than the public authority which is the source of the information may be involved in processing that information.

Matt Hancock

143

☆ Clause 56, page 52, line 31, after “person”, insert “, other than the public authority,”

Member’s explanatory statement

See the explanatory statement for amendment 142.

Digital Economy Bill, continued

Matt Hancock

144

- ☆ Clause 56, page 52, line 32, leave out “this section” and insert “subsection (1)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

145

- ☆ Clause 56, page 52, line 35, at end insert—
 “() the public authority, if the public authority is involved in processing the information for disclosure under subsection (1);”
Member’s explanatory statement
This amendment has the effect that a public authority which processes information for disclosure under clause 56 must be accredited for that purpose under clause 61.

Matt Hancock

146

- ☆ Clause 56, page 52, line 37, leave out “this section” and insert “subsection (1)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

147

- ☆ Clause 56, page 52, line 38, leave out “this section” and insert “subsection (1)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

148

- ☆ Clause 56, page 52, line 41, leave out “this section” and insert “subsection (1)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

149

- ☆ Clause 56, page 53, line 1, leave out subsection (9)
Member’s explanatory statement
See the explanatory statement for amendment 142.
-

Matt Hancock

150

- ☆ Clause 57, page 53, line 24, at end insert—
 “() In its application to a public authority with functions relating to the provision of health services or adult social care, section 56 does not authorise the disclosure of information held by the authority in connection with such functions.”
Member’s explanatory statement
This amendment and amendments 168 to 170 ensure that Chapter 5 of Part 5 applies to a public authority with functions relating to the provision of health services or adult social care and other functions, but that in such a case the powers to disclose in the Chapter only apply to information held in connection with the other functions.

Digital Economy Bill, continued

Matt Hancock

151

- ☆ Clause 57, page 53, line 28, leave out “56” and insert “56(1)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

152

- ☆ Clause 58, page 53, line 38, leave out “56(9)” and insert “56(3B)”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

153

- ☆ Clause 58, page 54, line 2, at end insert “(including section 56(3B))”
Member’s explanatory statement
See the explanatory statement for amendment 142.

Matt Hancock

154

- ☆ Clause 58, page 54, line 6, at end insert—
“(da) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,”
Member’s explanatory statement
This amendment and amendment 157 create a further exception to the bar on the further disclosure of information which is disclosed under clause 56 (so that it can be processed for disclosure under that section), allowing disclosure for the prevention or detection of crime or the prevention of anti-social behaviour.

Matt Hancock

155

- ☆ Clause 58, page 54, line 7, leave out “(whether or not in the United Kingdom)”
Member’s explanatory statement
This amendment removes the provision stating that a criminal investigation for the purposes of clause 58(3) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to a criminal investigation covers an investigation overseas in any event.

Matt Hancock

156

- ☆ Clause 58, page 54, line 10, leave out “and whether or not in the United Kingdom”
Member’s explanatory statement
This amendment removes the provision stating that legal proceedings for the purposes of clause 58(3) may be within or outside the United Kingdom. This is for consistency and on the basis that a reference to legal proceedings covers proceedings overseas in any event.

Digital Economy Bill, continued

Matt Hancock

157

☆ Clause 58, page 54, line 11, at end insert—

“() In subsection (3)(da) “anti-social behaviour” has the same meaning as in Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (see section 2 of that Act).”

Member’s explanatory statement

See the explanatory statement for amendment 154.

Matt Hancock

158

☆ Clause 58, page 54, line 21, leave out subsections (5) and (6) insert—

“() A person commits an offence if—

- (a) the person discloses personal information in contravention of subsection (2), and
- (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.

Member’s explanatory statement

This amendment applies to the disclosure of personal information in contravention of subsection (2) of clause 58. It has the effect that it is an offence to do so only if the person knows that the disclosure contravenes that subsection or is reckless as to whether it does so.

Matt Hancock

159

☆ Clause 58, page 54, line 39, leave out “56(9)” and insert “56(3B)”

Member’s explanatory statement

See the explanatory statement for amendment 142.

Matt Hancock

160

☆ Clause 59, page 54, line 43, leave out “56(9)” and insert “56(3B)”

Member’s explanatory statement

See the explanatory statement for amendment 142.

Matt Hancock

161

☆ Clause 60, page 55, line 19, at end insert—

“() The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a code of practice issued under clause 60 by the relevant Minister and relating to the disclosure of information under clause 56 to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Digital Economy Bill, continued

Matt Hancock

162

- ☆ Clause 60, page 55, line 24, leave out “56” and insert “56(1)”
Member’s explanatory statement
 See the explanatory statement for amendment 142.
-

Matt Hancock

163

- ☆ Clause 61, page 56, line 7, leave out “56” and insert “subsection (1) of section 56”
Member’s explanatory statement
 See the explanatory statement for amendment 142.

Matt Hancock

164

- ☆ Clause 61, page 56, line 9, leave out “section” and insert “subsection”
Member’s explanatory statement
 See the explanatory statement for amendment 142.

Matt Hancock

165

- ☆ Clause 61, page 56, line 11, leave out “section” and insert “subsection”
Member’s explanatory statement
 See the explanatory statement for amendment 142.

Matt Hancock

166

- ☆ Clause 61, page 56, line 23, leave out “56” and insert “56(1)”
Member’s explanatory statement
 See the explanatory statement for amendment 142.

Matt Hancock

167

- ☆ Clause 61, page 56, line 38, at end insert—
 “(6A) The Statistics Board—
 (a) may from time to time revise conditions or grounds published under this section, and
 (b) if it does so, must publish the conditions or grounds as revised.
 (6B) Subsection (6) applies in relation to the publication of conditions or grounds under subsection (6A) as it applies in relation to the publication of conditions or grounds under subsection (2).”
Member’s explanatory statement
 This amendment enables the Statistics Board to revise the conditions and grounds it establishes for the accreditation and withdrawal of accreditation of people and research for the purposes of information sharing under Chapter 5 of Part 5 of the Bill.
-

Digital Economy Bill, continued

Matt Hancock

168

- ☆ Clause 63, page 57, line 18, leave out subsection (2) and insert—
- “(2) A person is not a public authority for the purposes of this Chapter if the person—
- (a) only has functions relating to the provision of health services,
 - (b) only has functions relating to the provision of adult social care, or
 - (c) only has functions within paragraph (a) and paragraph (b).
- (2A) The following are to be disregarded in determining whether subsection (2) applies to a person—
- (a) any power (however expressed) to do things which are incidental to the carrying out of another function of that person;
 - (b) any function which the person exercises or may exercise on behalf of another person.”

Member’s explanatory statement*See the explanatory statement for amendment 150.*

Matt Hancock

169

- ☆ Clause 63, page 57, line 21, leave out “subsection (2)(a)” and insert “this Chapter”
- Member’s explanatory statement**
See the explanatory statement for amendment 150.

Matt Hancock

170

- ☆ Clause 63, page 57, line 30, leave out “subsection (2)(b)” and insert “this Chapter”
- Member’s explanatory statement**
See the explanatory statement for amendment 150.

Matt Hancock

171

- ☆ Clause 67, page 60, line 37, at end insert—
- “() a subsidiary undertaking of the Bank of England within the meaning of the Companies Acts (see sections 1161 and 1162 of the Companies Act 2006),”
- Member’s explanatory statement**
This amendment means that the provisions in new section 45B of the Statistics and Registration Service Act 2007 about access to information by the Statistics Board will apply to subsidiaries of the Bank of England as well as to the Bank itself.

Matt Hancock

172

- ☆ Clause 67, page 61, leave out lines 39 to 43 and insert “the public authority—
- () is a part of the Scottish Administration, or
 - () is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).”
- Member’s explanatory statement**
This amendment modifies the requirement for a request for information under new section 45B of the Statistics and Registration Service Act 2007 and any response to be laid before the Scottish Parliament so that it applies to a request to public authority which is a part of the Scottish Administration or a Scottish public authority with mixed or no reserved functions.

Digital Economy Bill, continued

Matt Hancock

173

- ☆ Clause 67, page 61, line 45, leave out from beginning to end of line 3 on page 62 and insert “the public authority is a Wales public authority as defined by section 157A of the Government of Wales Act 2006.”

Member’s explanatory statement

This amendment modifies the requirement for a request for information under new section 45B of the Statistics and Registration Service Act 2007 and any response to be laid before the National Assembly for Wales so that it applies to a request to a Wales public authority.

Matt Hancock

174

- ☆ Clause 67, page 62, line 13, at end insert—

“() Until the coming into force of section 12 of the Bank of England and Financial Services Act 2016 subsection (1)(b) has effect as if the words in brackets were omitted.”

Member’s explanatory statement

This amendment makes provision about the reference in new section 45B(1)(b) to the Bank of England in the exercise of its functions as the Prudential Regulation Authority in the period before the coming into force of section 12 of the Bank of England and Financial Services Act 2016. Until that section comes into force the Authority will remain a subsidiary of the Bank and so will be covered by the reference in amendment 171.

Matt Hancock

175

- ☆ Clause 67, page 62, line 41, leave out from “authority” to end of line 3 on page 63 and insert “which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).”

Member’s explanatory statement

This amendment modifies the requirement to obtain the consent of the Scottish Ministers before giving a notice under new section 45C of the Statistics and Registration Service Act 2007 so that it applies to a notice given to a Scottish public authority with mixed or no reserved functions.

Matt Hancock

176

- ☆ Clause 67, page 63, line 5, leave out from “authority” to end of line 10 and insert “which is a Wales public authority as defined by section 157A of the Government of Wales Act 2006.”

Member’s explanatory statement

This amendment modifies the requirement to obtain the consent of the Welsh Ministers before giving a notice under new section 45C of the Statistics and Registration Service Act 2007 so that it applies to a notice given to a Wales public authority.

Matt Hancock

188

- ☆ Clause 67, page 65, line 3, at end insert—

“() The statement must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).”

Member’s explanatory statement

This amendment requires a statement issued under section 45E of the Statistics and Registration Service Act 2007 by the Statistics Board and relating to the exercise of its functions under sections

Digital Economy Bill, continued

45B, 45C and 45D of that Act to be consistent with the data-sharing code of practice issued by the Information Commissioner under the Data Protection Act 1998.

Matt Hancock

177

- ☆ Clause 72, page 70, line 15, after “135”, insert “of the Communications Act 2003”.
- Member’s explanatory statement***
This amendment makes it clear that the Act amended by clause 72 is the Communications Act 2003.
-

Matt Hancock

178

- ☆ Clause 76, page 74, line 24, at end insert—
- “() In subsection (4)(a) after “concession” insert “provided for by the regulations”.
- Member’s explanatory statement***
Section 365A(4) inserted by clause 76(6) gives the BBC power, where they determine that a TV licence fee concession is to apply, to provide how entitlement to the concession may be established. This amendment makes a consequential amendment to the Secretary of State’s power to make similar provision.

Matt Hancock

179

- ☆ Clause 76, page 74, line 26, after “section” insert “or section 365A”
- Member’s explanatory statement***
This extends the definition of “concession” given in section 365(5) of the Communications Act 2003 to section 365A inserted by clause 76(6).

Matt Hancock

180

- ☆ Clause 76, page 74, leave out lines 28 and 29 and insert—
- “(5A) Regulations under this section may not provide for a concession that requires the person to whom the TV licence is issued, or another person, to be of or above a specified age, unless—
- (a) the age specified is below 65, and
 - (b) the requirement is not satisfied if the person concerned is 65 or over at the end of the month in which the licence is issued.
- (5B) Subsection (5A) does not apply to—
- (a) the concession provided for by regulation 3(d) of and Schedule 4 to the Communications (Television Licensing) Regulations 2004 (S.I. 2004/692) (accommodation for residential care), or
 - (b) a concession in substantially the same form.”
- Member’s explanatory statement***
This amendment allows the Secretary of State to continue the existing concession in relation to accommodation for residential care, including its age-related element, after May 2020, but after that date any other age-related concession would be a decision for the BBC (see amendment 181).

Digital Economy Bill, continued

Matt Hancock

181

- ☆ Clause 76, page 74, line 33, leave out from “apply” to end of line 39 and insert—
- “(1A) Any concession under this section must include a requirement that the person to whom the TV licence is issued, or another person, is of or above a specified age, which must be 65 or higher, at or before the end of the month in which the licence is issued.
- (1B) A determination under this section—
- (a) may in particular provide for a concession to apply, subject to subsection (1A), in circumstances where a concession has ceased to have effect by virtue of section 365(5A), but
- (b) may not provide for a concession to apply in the same circumstances as a concession within section 365(5B).”

Member’s explanatory statement

This amends the power of the BBC from June 2020 to determine age-related concessions for people over 65, to make clear that it extends to any such concessions previously provided for by the Secretary of State, with the exception of the current residential care concession (see amendment 180).

Nigel Adams

64

- Clause 82, page 80, line 2, at end insert—
- “(a) section 28;”

Member’s explanatory statement

This amendment, together with Amendment 63, are probing amendments to identify a timeframe for the repeal of section 73 of the Copyright, Design and Patents Act 1988 as it is not clear when the repeal will come into force. The amendments would mean that repeal of section 73 of the CPDA would come into force as soon as the Bill receives Royal Assent.

Matt Hancock

182

- ☆ Clause 82, page 80, line 3, at end insert—
- “() section (Power to apply settlement finality regime to payment institutions);”

Member’s explanatory statement

This provides for new clause NC29 to come into force on royal assent. By convention regulations made under the section inserted by that clause would not be made so as to come into force earlier than two months after royal assent.

Matthew Hancock

183

- ☆ Clause 82, page 80, line 14, leave out “section” and insert “sections (*Suspension of radio licences for inciting crime or disorder*) and”

Member’s explanatory statement

This provides for new clause NC28 to come into force 2 months after Royal Assent.

Digital Economy Bill, continued

Kevin Brennan
Louise Haigh

94

Clause 82, page 80, line 14, at end insert—
“(h) section 28.”

Member’s explanatory statement

This amendment would mean that repeal of section 73 of the Copyright Designs and Patents Act of 1988 would come into force two months after the Royal Assent of the Bill.

Matt Hancock

184

☆ Clause 82, page 80, line 14, at end insert—

“() section (*Bank of England oversight of payment systems*) and Schedule (*Bank of England oversight of payment systems*).”

Member’s explanatory statement

The amendment provides for the new clause and Schedule about the Bank of England’s oversight of payment systems (NC30 and NS2) to come into force 2 months after Royal Assent.

Claire Perry

81

Clause 82, page 80, line 18, at end insert—

“(4A) Part 3 will come into force at the end of the period of one year beginning on the day on which the Act is passed.”

Member’s explanatory statement

This amendment ensures that Part 3 will be implemented by ensuring the Part comes into effect a year to the day the Act is passed, rather than on the day the Secretary of State determines through regulations.

Matt Hancock

185

☆ Clause 83, page 80, line 31, at end insert—

“() Section (*Qualifications in information technology: payment of tuition fees*) extends to England and Wales only.”

Member’s explanatory statement

This amendment is consequential on NC26.

NEW CLAUSES

Matt Hancock

NC26

☆ To move the following Clause—

“Qualifications in information technology: payment of tuition fees

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- (2) In section 88(1) (qualifications for persons aged 19 or over: payment of tuition fees), for “1(a) or (b)” substitute “1(a), (b) or (ba)”.

Digital Economy Bill, continued

- (3) In paragraph 1 of Schedule 5 (qualifications for persons aged 19 or over), after paragraph (b) insert—

“(ba) a specified qualification in making use of information technology;”.

- (4) After paragraph 5 of that Schedule insert—

“Power to specify qualification in information technology

5A The level of attainment demonstrated by a specified qualification in making use of information technology must be the level which, in the opinion of the Secretary of State, is the minimum required in that respect by persons aged 19 or over in order to be able to operate effectively in day-to-day life.”

Member’s explanatory statement

This clause creates an obligation on the Secretary of State to ensure that courses of study for qualifications in information technology are free of charge for persons in England aged 19 or over. The qualifications will be specified in regulations under Schedule 5 to the Apprenticeships, Skills, Children and Learning Act 2009.

Matt Hancock

NC27

- ☆ To move the following Clause—

“Digital additional services: seriously harmful extrinsic material

After section 24 of the Broadcasting Act 1996 (digital additional services) insert—

“24A Duty to prevent access to seriously harmful extrinsic material

- (1) In carrying out their functions, OFCOM must do all that they consider appropriate to prevent digital additional services from enabling members of the public to access seriously harmful extrinsic material.
- (2) “Seriously harmful extrinsic material”, in relation to a digital additional service, means material that—
- (a) is not included in the service, and
 - (b) appears to OFCOM—
 - (i) to have the potential to cause serious harm, or
 - (ii) to be likely to encourage or incite the commission of crime or lead to disorder.”

Member’s explanatory statement

This new clause would require OFCOM to seek to prevent digital television additional services enabling access to seriously harmful content that does not form part of the service, for instance by linking to content streamed from the internet. OFCOM could do this by imposing licence conditions in relation to such services.

Digital Economy Bill, *continued*

Matthew Hancock

NC28

☆ To move the following Clause—

“Suspension of radio licences for inciting crime or disorder

- (1) In Chapter 2 of Part 3 of the Broadcasting Act 1990 (sound broadcasting services), for section 111B (power to suspend licence to provide satellite service) substitute—

“111B Suspension of licences for inciting crime or disorder

- (1) OFCOM must serve a notice under subsection (2) on the holder of a licence granted under this Chapter if they are satisfied that—
- (a) the licence holder has included in the licensed service one or more programmes containing material likely to encourage or incite the commission of crime or to lead to disorder,
 - (b) in doing so the licence holder has failed to comply with a condition included in the licence in compliance with section 263 of the Communications Act 2003, and
 - (c) the failure would justify the revocation of the licence.
- (2) A notice under this subsection must—
- (a) state that OFCOM are satisfied as mentioned in subsection (1),
 - (b) specify the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned there,
 - (c) state that OFCOM may revoke the licence after the end of the period of 21 days beginning with the day on which the notice is served on the licence holder, and
 - (d) inform the licence holder of the right to make representations to OFCOM in that period about the matters that appear to OFCOM to provide grounds for revoking the licence.
- (3) The effect of a notice under subsection (2) is to suspend the licence from the time when the notice is served on the licence holder until either—
- (a) the revocation of the licence takes effect, or
 - (b) OFCOM decide not to revoke the licence.
- (4) If, after considering any representations made to them by the licence holder in the 21 day period mentioned in subsection (2)(c), OFCOM are satisfied that it is necessary in the public interest to revoke the licence, they must serve on the licence holder a notice revoking the licence.
- (5) The revocation of a licence by a notice under subsection (4) takes effect from whatever time is specified in the notice.
- (6) That time must not be earlier than the end of the period of 28 days beginning with the day on which the notice under subsection (4) is served on the licence holder.
- (7) Section 111 does not apply to the revocation of a licence under this section.”
- (2) In section 62(10) of the Broadcasting Act 1996 (application of sections 109 and 111 of the 1990 Act to digital sound programme services) for the words from “section 109” to “1990 Act” substitute “sections 109, 111 and 111B of the 1990 Act (enforcement)”.

Digital Economy Bill, continued

- (3) In section 250(3) of the Communications Act 2003 (application of sections 109 to 111A of the 1990 Act to radio licensable content services) for “111A” substitute “111B”.”

Member’s explanatory statement

This new Clause gives OFCOM power to suspend immediately, and subsequently revoke, the licence of any licensed radio service if material is included that is likely to encourage or incite crime or lead to disorder. It replaces a power applying only to satellite and cable services.

Matt Hancock

NC29

- ☆ To move the following Clause—

“Power to apply settlement finality regime to payment institutions

In Part 24 of the Financial Services and Markets Act 2000 (insolvency) after section 379 insert—

*“Settlement finality***“379A Power to apply settlement finality regime to payment institutions**

- (1) The Treasury may by regulations made by statutory instrument provide for the application to payment institutions, as participants in payment or securities settlement systems, of provision in subordinate legislation—
 - (a) modifying the law of insolvency or related law in relation to such systems, or
 - (b) relating to the securing of rights and obligations.
- (2) “Payment institution” means—
 - (a) an authorised payment institution or small payment institution within the meaning of the Payment Services Regulations 2009 (S.I. 2009/209), or
 - (b) a person whose head office, registered office or place of residence, as the case may be, is outside the United Kingdom and whose functions correspond to those of an institution within paragraph (a).
- (3) “Payment or securities settlement system” means arrangements between a number of participants for or in connection with the clearing or execution of instructions by participants relating to any of the following—
 - (a) the placing of money at the disposal of a recipient;
 - (b) the assumption or discharge of a payment obligation;
 - (c) the transfer of the title to, or an interest in, securities.
- (4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (5) Regulations under this section may—
 - (a) make consequential, supplemental or transitional provision;
 - (b) amend subordinate legislation.

Digital Economy Bill, *continued*

- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

The inserted section enables the Treasury to apply a settlement finality regime to payment institutions. The current settlement finality regime for payment systems and securities settlement systems is in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979).

Matt Hancock

NC30

- ☆ To move the following Clause—

“Bank of England oversight of payment systems

Schedule (*Bank of England oversight of payment systems*) extends Part 5 of the Banking Act 2009 (Bank of England oversight of inter-bank payment systems) to other payment systems; and makes consequential provision.”

Member’s explanatory statement

The new clause introduces new Schedule NS2 which extends the Bank of England’s oversight of payment systems, by removing the current restriction that limits the Bank’s oversight to systems for payments between financial institutions.

Calum Kerr

NC1

- To move the following Clause—

“Strategic review of sharing telecommunications infrastructure

- (1) Within six months of this Act coming into force, the Secretary of State shall commission a strategic review of the sharing of telecommunications infrastructure and shall lay the report of the review before each House of Parliament.
 - (2) The review under subsection (1) shall consider measures to maximise the sharing of telecommunications infrastructure by telecommunications service providers.”
-

Calum Kerr

NC2

- To move the following Clause—

“Ability of end-user to cancel telephone contract in event of lack of signal at residence

A telecommunications service provider must allow an end-user to cancel a contract relating to a hand-held mobile telephone if, at any point during the

Digital Economy Bill, continued

contract term, the mobile telephones is consistently unable to obtain a signal when located at the end-user's main residence."

Nigel Adams

NC3

To move the following Clause—

“Power to provide for a code of practice related to copyright infringement

- (1) The Secretary of State may by regulations make provision for a search engine to be required to adopt a code of practice concerning copyright infringement that complies with criteria specified in the regulations.
- (2) The regulations may provide that if a search engine fails to adopt such a code of practice, any code of practice that is approved for the purposes of that search engine by the Secretary of State, or by a person designated by the Secretary of State, has effect as a code of practice adopted by the search engine.
- (3) The Secretary of State may by regulations make provision—
 - (a) for the investigation and determination of disputes about a search engine's compliance with its code of practice,
 - (b) for the appointment of a regulator to review and report to the Secretary of State on—
 - (i) the codes of practice adopted by search engines, and
 - (ii) compliance with the codes of practice;
 - (c) for the consequences of a failure by a specified search engine to adopt or comply with a code of practice including financial penalties or other sanctions.
- (4) Regulations made under this section—
 - (a) may make provision that applies only in respect of search engines of a particular description, or only in respect of activities of a particular description;
 - (b) may make incidental, supplementary or consequential provision;
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Member's explanatory statement

This would amend the Bill to present an opportunity for the Government to fulfil its manifesto commitment to reduce copyright infringement and ensure search engines do not link to the worst-offending sites. There is an absence of a specific provision in the Bill to achieve this.

Thangam Debbonaire

NC5

To move the following Clause—

“Internet pornography: requirement to prevent publication of material involving persons subject to force etc

- (1) It is an offence for a person to make available on the internet pornographic material on a commercial basis to persons in the United Kingdom if they know or

Digital Economy Bill, *continued*

ought to know that the production of the pornographic material involved exploited persons.

- (2) For the purposes of this section, exploited persons are persons who have been induced or encouraged to appear in the pornographic material as a result of exploitative conduct.
- (3) Exploitative conduct means, but is not limited to—
 - (a) the use of force, threats (whether or not relating to violence) or any other form of coercion, or
 - (b) any form of deception.
- (4) It is irrelevant where in the world the exploitative conduct takes place.
- (5) For the purposes of this section, making pornographic material available on the internet on a commercial basis has the same meaning as section 15(2).
- (6) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.”

Member’s explanatory statement

The purpose of this new clause is to make it an offence to make available pornographic material on a commercial basis where it could reasonably be known that persons have been induced to appear in the material by coercion, threats, force, deception, or by any other exploitative conduct.

Claire Perry

NC6

To move the following Clause—

“Requirement to cease services to non-complying persons

- (1) Where the age-verification regulator has given notice to a payment-services provider or ancillary service provider under section 22(1), the payment-services provider or ancillary service provider must cease the service provided to the person making pornographic material available in the United Kingdom.
- (2) A payment-services provider or ancillary service provider who fails to comply with a requirement imposed by subsection (1) commits an offence, subject to subsection (3).
- (3) No offence is committed under subsection (2) if the payment-services provider or ancillary service provider took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.
- (4) A payment-services provider or ancillary service provider guilty of an offence under subsection (2) is liable, on summary conviction, to a fine.
- (5) In this section “payment-services provider” and “ancillary service provider” have the same meaning as in section 22.”

Member’s explanatory statement

This new clause requires payment and ancillary services to block payments or cease services made to pornography websites that do not offer age-verification if they have received a notice of non-compliance under section 22(1). This provision would only apply to websites outside of the UK. This would enhance the enforcement mechanisms that are available under the Bill.

Digital Economy Bill, continued

Claire Perry

NC7

To move the following Clause—

“On-demand programme services: requirement to prevent persons under the age of 18 accessing pornographic material with an 18 classification certificate

Section 368E of the Communication Act 2003 (harmful material) is amended as follows—

- (a) in subsection (5)—
 - (i) after subsection (a) insert—
 - “(aa) a video work in respect of which the video works authority has issued an 18 classification certificate, and that it is reasonable to assume from its nature was produced solely or principally for the purposes of sexual arousal,”;
 - (ii) after subsection (b) insert—
 - “(ba) material that was included in a video work to which paragraph (aa) applies, if it is reasonable to assume from the nature of the material—
 - (i) that it was produced solely or principally for the purposes of sexual arousal, and
 - (ii) that its inclusion was among the reasons why the certificate was an 18 certificate,
 - “(bb) any other material if it is reasonable to assume from its nature—
 - (i) that it was produced solely or principally for the purposes of sexual arousal, and
 - (ii) that any classification certificate issued for a video work including it would be an 18 certificate.”
- (b) in subsection (7) after “section” insert—
 - ““18 certificate” means a classification certificate which—
 - (a) contains, pursuant to section 7(2)(b) of the Video Recordings Act 1984, a statement that the video work is suitable for viewing only by persons who have attained the age of 18 and that no video recording containing that work is to be supplied to any person who has not attained that age, and
 - (b) does not contain the statement mentioned in section 7(2)(c) of that Act that no video recording containing the video work is to be supplied other than in a licensed sex shop;”

Member’s explanatory statement

This new clause requires the extension of measures for UK based video on demand programming to protect children from 18 material as well as R18 material.

Digital Economy Bill, *continued*

Claire Perry

NC8

To move the following Clause—

“Duty to provide a service that excludes adult-only content

- (1) This section applies to internet service providers who supply an internet access service to subscribers.
- (2) For the purposes of subsection (1), “subscribers” includes—
 - (a) domestic subscribers;
 - (b) schools; and
 - (c) organisations that allow a person to use an internet access service in a public place.

For the purposes of the conditions in subsections (3) and (4), if the subscriber is a school or organisation a responsible person within the school or organisation shall be regarded as the subscriber.
- (3) A provider to whom subsection (1) applies must provide to subscribers an internet access service which excludes adult-only content unless all of the conditions listed in subsection (4) have been fulfilled.
- (4) The conditions are—
 - (a) the subscriber “opts in” to subscribe to a service that includes online adult-only content;
 - (b) the subscriber is aged 18 or over; and
 - (c) the provider of the service has an age verification scheme which meets the standards set out by OFCOM in subsection (4) and which has been used to confirm that the subscriber is aged 18 or over before a user is able to access adult-only content.
- (5) It shall be the duty of OFCOM, to set, and from time to time to review and revise, standards for the—
 - (a) filtering of adult content in line with the standards set out in Section 319 of the Communications Act 2003;
 - (b) age verification policies to be used under subsection (4) before an user is able to access adult content; and
 - (c) filtering of content by age or subject category by providers of internet access services.
- (6) The standards set out by OFCOM under subsection (5) must be contained in one of more codes.
- (7) Before setting standards under subsection (5), OFCOM must publish, in such a manner as they think fit, a draft of the proposed code containing those standards.
- (8) After publishing the draft code and before setting the standards, OFCOM must consult relevant persons and organisations.
- (9) It shall be the duty of OFCOM to establish procedures for the handling and resolution of complaints in a timely manner about the observance of standards set under subsection (5), including complaints about incorrect filtering of content.
- (10) OFCOM may designate any body corporate to carry out its duties under this section in whole or in part.
- (11) OFCOM may not designate a body under subsection (10) unless, as respects that designation, they are satisfied that the body—
 - (a) is a fit and proper body to be designated;
 - (b) has consented to being designated;
 - (c) has access to financial resources that are adequate to ensure the effective performance of its functions under this section; and

Digital Economy Bill, continued

- (d) is sufficiently independent of providers of internet access services.
- (12) It shall be a defence to any claims, whether civil or criminal, for a provider to whom subsection (1) applies to prove that at the relevant time they were—
- (a) following the standards and code set out in subsection (5); and
 - (b) acting in good faith.
- (13) Nothing in this section prevents any providers to whom subsection (1) applies from providing additional levels of filtering of content.
- (14) In this section—
- “adult-only content” means material that contains offensive and harmful material from which persons under the age of 18 are protected;
 - “age verification scheme” is a scheme to establish the age of the subscriber;
 - “internet access service” and “internet service provider” have the same meaning as in section 124N of the Communications Act 2003 (interpretation);
 - “material from which persons under the age of 18 are protected” means material specified in the OFCOM standards under section 2;
 - “OFCOM” has the same meaning as in Part 1 of the Communications Act 2003;
 - “offensive and harmful material” has the same meaning as in section 3 of the Communications Act 2003 (general duties of OFCOM); and
 - “subscriber” means a person who receives the service under an agreement between the person and the provider of the service.”

Member’s explanatory statement

This new clause places a statutory requirement on internet service providers to limit access to adult content by persons under 18. It would give Ofcom a role in determining the age verification scheme and how material should be filtered. It would ensure that ISPs were able to continue providing family friendly filtering once the net neutrality rules come into force in December 2016.

Louise Haigh
Kevin Brennan

NC9

To move the following Clause—

“Review of broadband delivery UK

- (1) The Secretary of State shall commission an independent evaluation of the delivery of superfast broadband by Broadband Delivery UK.
 - (2) The evaluation under subsection (1) shall consider—
 - (a) The financial impact on customers of a single provider delivering superfast broadband;
 - (b) Value-for-money for the taxpayer, and
 - (c) Competition in the delivery of superfast broadband.
 - (3) The Secretary of State shall lay the report of the review before each House of Parliament by 1 July 2018.”
-

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan

NC10

To move the following Clause—

“Procurement process

- (1) The Secretary of State must ensure an open procurement process is held in respect of the allocation of the universal service order.
- (2) (2)The Secretary of State must appoint a body to undertake an alternative dispute resolution role to arbitrate in instances of disagreement over designation.”

Louise Haigh
Kevin Brennan

NC11

To move the following Clause—

“Power to make regulations about blocking injunctions preventing access to locations on the internet

- (1) The Secretary of State may by regulations make provision about the granting by a court of a blocking injunction in respect of a location on the internet which the court is satisfied has been, is being or is likely to be used for or in connection with an activity that is contravening, or has contravened, section 15(1) of this Act.
- (2) “Blocking injunction” means an injunction that requires an internet service provider to prevent its service being used to gain access to a location on the internet.
- (3) Regulations introduced under subsection (1) above may, in particular—
 - (a) make provision about the type of locations against which a blocking injunction should be granted;
 - (b) make provision about the circumstances in which an application can be made for a blocking injunction;
 - (c) outline the type of circumstances in which the court will grant a blocking injunction;
 - (d) specify the type of evidence, and other factors, which the court must take into account in determining whether or not to grant a blocking injunction;
 - (e) (e)make provision about the notice, and type of notice, including the form and means, by which a person must receive notice of an application for a blocking injunction made against them; and
 - (f) make provision about any other such matters as the Secretary of State considers are necessary in relation to the granting of a blocking injunction by the court.
- (4) Regulations under this subsection must be made by statutory instrument.
- (5) (5)A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this Part—
“Internet service provider” has the same meaning as in section 16 of the Digital Economy Act 2010.

Digital Economy Bill, continued

In the application of this Part to Scotland
“injunction” means interdict.”

Member’s explanatory statement

This new Clause empowers the Secretary of State to introduce regulations in relation to the granting of a backstop blocking injunction by a court. The injunction would require an internet service provider to prevent access to a site or sites which do not comply with the age-verification requirements. This would only be used where the other enforcement powers (principally fines) had not been effective in ensuring that sites put in place effective age-verification.

Louise Haigh
Kevin Brennan

NC12

To move the following Clause—

“Code of practice by age verification regulator

- (1) The age verification regulator must issue a code of practice giving practical guidance as to the requirements of any provision under this Part of the Act.
- (2) The following persons must, in exercising their functions under this Part and in the design and delivery of their products and services, adhere to the code of practice, and ensure that the safety and wellbeing of children is paramount—
 - (a) relevant persons;
 - (b) internet service providers;
 - (c) ancillary service providers;
 - (d) payment-service providers; and
 - (e) any such other persons to whom the code of practice applies.
- (3) Any code of practice issued by the age verification regulator under subsection (1) above must include standards in relation to the following—
 - (a) how content is managed on a service, including the control of access to online content that is inappropriate for children, and the support provided by the service for child safety protection tools and solutions;
 - (b) the assistance available for parents to limit their child’s exposure to potentially inappropriate content and contact;
 - (c) how the persons specified in subsection (2) above shall deal with abuse and misuse, including the provision of clear and simple processes for the reporting and moderation of content or conduct which may be illegal, harmful, offensive or inappropriate, and for the review of such reports;
 - (d) the action which must be taken in response to child sexual abuse content or illegal contact, including but not limited to, the co-operation with the appropriate law enforcement authorities;
 - (e) the action to be taken by the persons specified in subsection (2) above to comply with existing data protection and advertising rules and privacy rights that address the specific needs and requirements of children; and
 - (f) the provision of appropriate information, and the undertaking of relevant activities, to raise awareness of the safer use of connected devices and online services in order to safeguard children, and to promote their health and wellbeing.
- (4) The age verification regulator may from time to time revise and re-issue the code of practice.

Digital Economy Bill, *continued*

- (5) Before issuing or reissuing the code of practice the age verification regulator must consult—
- (a) the Relevant Minister;
 - (b) the Information Commissioner;
 - (c) the Scottish Ministers;
 - (d) the Welsh Ministers;
 - (e) the Northern Ireland Executive Committee;
 - (f) the persons specified in subsection (2) above;
 - (g) children;
 - (h) organisations and agencies working for and on behalf of children; and
 - (i) such other persons as the age verification regulator considers appropriate.
- (6) As soon as is reasonably practicable after issuing or reissuing the code of practice the age verification regulator must lay a copy of it before—
- (a) Parliament,
 - (b) the Scottish Parliament,
 - (c) the National Assembly for Wales, and
 - (d) the Northern Ireland Assembly.
- (7) The age verification regulator must—
- (a) publish any code of practice issued under subsection (1) above; and
 - (b) when it revises such a code, publish—
 - (i) a notice to that effect, and
 - (ii) a copy of the revised code; and
 - (c) when it withdraws such a code, publish a notice to that effect.
- (8) The Secretary of State may by regulations make consequential provision in connection with the effective enforcement of the minimum standards in subsection (3).
- (9) Regulations under subsection (8)—
- (a) must be made by statutory instrument;
 - (b) may amend, repeal, revoke or otherwise modify the application of this Act;
 - (c) may make different provision for different purposes;
 - (d) may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) A statutory instrument containing regulations under subsection (8) (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.
- (11) In this Part—
- “ancillary service provider” has the meaning given by section 22(6);
- “child” means an individual who is less than 18 years old.
- “Information Commissioner” has the meaning given by section 18 of the Freedom of Information Act 2000
- “Internet service provider” has the same meaning as in section 16 of the Digital Economy Act 2010.
- “Northern Ireland Executive Committee” has the meaning given by section 20 of the Northern Ireland Act 1998
- “payment-service providers” has the meaning given by section 22(5)
- “relevant Minister” has the meaning given by section 47(1)
- “relevant persons” has the meaning given by section 19(3)
- “Scottish Ministers” has the meaning given by section 44(2) of the Scotland Act 1998

Digital Economy Bill, continued

“Welsh Ministers” has the meaning given by section 45 of the Government of Wales Act 2006.”

Member’s explanatory statement

This new Clause gives the power to the age verification regulator to introduce a code of practice for internet content providers. The code of practice would be based on existing industry and regulatory minimum standards (such as the BBFC classification system) and require providers to ensure that the safety and wellbeing of children is paramount in the design and delivery of their products and services.

Nigel Adams

NC13

To move the following Clause—

“Offence to use digital ticket purchasing software to purchase excessive number of tickets

- (1) A person commits an offence if he or she utilizes digital ticket purchasing software to purchase tickets over and above the number permitted in the condition of sale.
- (2) A person commits an offence if he or she knowingly resells or offers to resell a ticket that the person knows, or could reasonably suspect, was obtained using digital ticket purchasing software and was acting in the course of a business.
- (3) For the purposes of subsection (2) a person shall be treated as acting in the course of a business if he or she does anything as a result of which he makes a profit or aims to make a profit.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
 - (a) imprisonment for a period not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (5) In this section—
 - (a) “digital ticket purchasing software” means any machine, device, computer programme or computer software that, on its own or with human assistance, bypasses security measures or access control systems on a retail ticket purchasing platform that assist in implementing a limit on the number of tickets that can be purchased, to purchase tickets.
 - (b) “retail ticket purchasing platform” shall mean a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.”
- (6) Subsections (1) and (2) shall apply in respect of anything done whether in the United Kingdom or elsewhere.”

Member’s explanatory statement

This new clause creates an offence to use digital ticket purchasing software to purchase tickets for an event over and above the number permitted in the condition of sale. It also creates an offence to knowingly resell tickets using such software.

Digital Economy Bill, *continued*

Kevin Brennan
Louise Haigh

NC14

To move the following Clause—

“Digital broadcasting and protection of listed sporting events

Within 12 months of this Act coming into force, the Secretary of State shall commission an evaluation of the impact of developments in digital broadcasting on the protection of listed sporting events for public service broadcasters, and shall lay the report of the evaluation before each House of Parliament.”

Kevin Brennan
Louise Haigh

NC15

To move the following Clause—

“Storage of uploaded works

- (1) The Electronic Commerce (EC Directive) Regulations 2002 is amended as follows.
- (2) After Regulation 19 (a)(ii) insert—
 - “(iii) does not play an active role in the storage of information including by optimising the presentation of the uploaded works or promoting them.”

Member’s explanatory statement

This new clause clarifies circumstances when a digital service is deemed an active provider of copyright protected content.

Kevin Brennan
Louise Haigh

NC16

To move the following Clause—

“E-book lending

In section 43(2) of the Digital Economy Act 2010, leave out from “limited time” to “and loan.”

Member’s explanatory statement

This new clause aims to extend public lending rights to remote offsite e-book lending.

Digital Economy Bill, continued

Kevin Brennan
Louise Haigh

NC17

To move the following Clause—

“PSB prominence

- (1) The Communications Act 2003 is amended as follows.
- (2) At the end of section 310(1) add “that satisfy the qualification criteria to be set by OFCOM in the code.”
- (3) In section 310(2) leave out “OFCOM consider appropriate” and insert “required by OFCOM”.
- (4) In section 310(4)(a) after “programmes” insert “, including on-demand programme services,”.
- (5) In section 310(5)(a) after “service” insert “, including on-demand programme service,”.
- (6) In section 310(8)(a) after “services” insert “, including on-demand programme services,”.
- (7) In section 310(8)(b) after “services” insert “, including on-demand programme services.”

Member’s explanatory statement

This new clause would modernise the PSB prominence regime – as recommended by Ofcom in its 2015 PSB Review. Provisions in the Communications Act 2003 currently only apply to traditional public service TV channels on traditional TV channel menus (‘EPGs’). This proposal would extend the law to on-demand services such as catch-up TV and to the connected TV on-demand menus where such services are found.

Louise Haigh
Kevin Brennan

NC18

To move the following Clause—

“Approval of Age-verification providers

- (1) Age-verification providers must be approved by the age-verification regulator.
- (2) In this section an “age-verification provider” means a person who appears to the age-verification regulator to provide, in the course of a business, a service used by a person to ensure that pornographic material is not normally accessible by persons under the age of 18.
- (3) The age-verification regulator must publish a code of practice to be approved by the Secretary of State and laid before Parliament.
- (4) The code will include provisions to ensure that age-verification providers—
 - (a) perform a Data Protection Impact Assessment and make this publicly available,
 - (b) take full and appropriate measures to ensure the accuracy, security and confidentiality of the data of their users,
 - (c) minimise the processing of personal information to that which is necessary for the purposes of age-verification,
 - (d) do not disclose the identity of individuals verifying their age to persons making pornography available on the internet,

Digital Economy Bill, *continued*

- (e) take full and appropriate measures to ensure that their services do not enable persons making pornography available on the internet to identify users of their sites or services across differing sites or services,
 - (f) do not create security risks for third parties or adversely impact security systems or cyber security,
 - (g) comply with a set standard of accuracy in verifying the age of users.
- (5) Age-verification Providers must comply with the code of practice.
- (6) To the extent that a term of a contract purports to prevent or restrict the doing of any act required to comply with the Code, that term is unenforceable.”

Louise Haigh
Kevin Brennan

NC19

To move the following Clause—

“Personal data breaches

- (1) The Data Protection Act 1998 is amended as follows.
- (2) After section 24 insert—

“24A Personal data breaches: notification to the Commissioner

- (1) In this section, section 24B and section 24C, “personal data breach” means unauthorised or unlawful processing of personal data or accidental loss or destruction of, or damage to, personal data.
- (2) Subject to subsections (3), (4)(c) and (4)(d), if a personal data breach occurs, the data controller in respect of the personal data concerned in that breach shall, without undue delay, notify the breach to the Commissioner.
- (3) The notification referred to in subsection (2) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (4) The Secretary of State may by regulations—
 - (a) prescribe matters which a notification under subsection (2) must contain;
 - (b) prescribe the period within which, following detection of a personal data breach, a notification under subsection (2) must be given;
 - (c) provide that subsection (2) shall not apply to certain data controllers;
 - (d) provide that subsection (2) shall not apply to personal data breaches of a particular description or descriptions.

24B Personal data breaches: notification to the data subject

- (1) Subject to subsections (2), (3), (4), (6)(b) and (6)(c), if a personal data breach is likely to adversely affect the personal data or privacy of a data subject, the data controller in respect of the personal data concerned in that breach shall also, without undue delay, notify the breach to the data subject concerned, insofar as it is reasonably practicable to do so.

Digital Economy Bill, *continued*

- (2) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (3) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from section 7(1).
- (4) The notification referred to in subsection (1) is not required if the data controller has demonstrated, to the satisfaction of the Commissioner—
 - (a) that the data controller has implemented appropriate measures which render the data unintelligible to any person who is not authorised to access it, and
 - (b) that those measures were applied to the data concerned in that personal data breach.
- (5) If the data controller has not notified the data subject in compliance with subsection (1), the Commissioner may, having considered the likely adverse effects of the personal data breach, require the data controller to do so.
- (6) The Secretary of State may by regulations—
 - (a) prescribe matters which a notification under subsection (1) must contain;
 - (b) provide that subsection (1) shall not apply to certain data controllers;
 - (c) provide that subsection (1) shall not apply to personal data breaches of a particular description or descriptions.

24C Personal data breaches: audit

- (1) Data controllers shall maintain an inventory of personal data breaches comprising—
 - (a) the facts surrounding the breach,
 - (b) the effects of that breach, and
 - (c) remedial action taken
 which shall be sufficient to enable the Commissioner to verify compliance with the provisions of sections 24A and 24B. The inventory shall only include information necessary for this purpose.
- (2) The Commissioner may audit the compliance of data controllers with the provisions of sections 24A, 24B and 24C(1).
- (3) In section 40 (Enforcement notices)—
 - (a) in subsection (1)—
 - (i) after “data protection principles,” insert “or section 24A, 24B or 24C”;
 - (ii) for “principle or principles” substitute “principle, principles, section or sections”;
 - (b) in subsection 6(a) after “principles” insert “or the section or sections”.
- (4) In section 41 (Cancellation of enforcement notice)—
 - (a) in subsection (1) after “principles” insert “or the section or sections”;

Digital Economy Bill, *continued*

- (b) in subsection (2) after “principles” insert “or the section or sections”.
- (5) In section 41A (Assessment notices)—
- (a) in subsection (1) after “data protection principles” insert “or section 24A, 24B or 24C”;
- (b) in subsection (10)(b) after “data protection principles” insert “or section 24A, 24B or 24C”.
- (6) In section 41C (Code of practice about assessment notices)—
- (a) in subsection (4)(a) after “principles” insert “and sections 24A, 24B and 24C”;
- (b) in subsection (4)(b) after “principles” insert “or sections”.
- (7) In section 43 (Information notices)—
- (a) in subsection 43(1)—
- (i) after “data protection principles” insert “or section 24A, 24B or 24C”;
- (ii) after “the principles” insert “or those sections”;
- (b) in subsection 43(2)(b) after “principles” insert “or section 24A, 24B or 24C”.
- (8) In section 55A (Power of Commissioner to impose monetary penalty)—
- (a) after subsection (1) insert—
- “(1A) The Commissioner may also serve a data controller with a monetary penalty notice if the Commissioner is satisfied that there has been a serious contravention of section 24A, 24B or 24C by the data controller.”;
- (b) in subsection (3A) after “subsection (1)” insert “or (1A)”;
- (c) in subsection (4) omit “determined by the Commissioner and”;
- (d) in subsection (5)—
- (i) after “The amount” insert “specified in a monetary penalty notice served under subsection (1) shall be”;
- (ii) after “Commissioner” insert “and”;
- (e) after subsection (5) insert—
- “(5A) The amount specified in a monetary penalty notice served under subsection (1A) shall be £1,000.
- (5B) The Secretary of State may by regulations amend subsection (5A) to change the amount specified therein.”
- (9) In section 55B (Monetary penalty notices: procedural rights)—
- (a) in subsection (3)(a) omit “and”;
- (b) after subsection (3)(a) insert—
- “(aa) specify the provision of this Act of which the Commissioner is satisfied there has been a serious contravention, and”;
- (c) after subsection (3) insert—
- “(3A) A data controller may discharge liability for a monetary penalty in respect of a contravention of section 24A, 24B or 24C if he pays to the Commissioner the amount of £800 before the time within which the data controller may make representations to the Commissioner has expired.

Digital Economy Bill, continued

- (3B) A notice of intent served in respect of a contravention of section 24A, 24B or 24C must include a statement informing the data controller of the opportunity to discharge liability for the monetary penalty.
- (3C) The Secretary of State may by regulations amend subsection (3A) to change the amount specified therein, save that the amount specified in subsection (3A) must be less than the amount specified in section 55A(5A).”;
- (d) in subsection (5) after “served” insert “under section 55A(1)”;
- (e) after subsection (5) insert—
- “(5A) A person on whom a monetary penalty notice is served under section 55A(1A) may appeal to the Tribunal against the issue of the monetary penalty notice.”
- (10) In section 55C(2)(b) (Guidance about monetary penalty notices) at the end insert “specified in a monetary penalty notice served under section 55A(1)”.
- (11) In section 67 (Orders, regulations and rules)—
- (a) in subsection (4)—
- (i) after “order” insert “or regulations”;
- (ii) after “section 22(1),” insert “section 24A(4)(c) or (d), 24B(6)(b) or(c),”;
- (b) in subsection (5)—
- (i) after subsection (c) insert “(ca) regulations under section 24A(4)(a) or (b) or section 24B(6)(a),”;
- (ii) for “(ca) regulations under section 55A(5) or (7) or 55B(3)(b),” substitute “(cb) regulations under section 55A(5), (5B) or (7) or 55B(3)(b) or (3C),”.
- (12) In section 71 (Index of defined expressions) after “personal data |section 1(1)” insert “personal data breach |section 24A(1)”.
- (13) In paragraph 1 of Schedule 9—
- (a) after paragraph 1(1)(a) insert—
- “(aa) that a data controller has contravened or is contravening any provision of section 24A, 24B or 24C, or”;
- (b) in paragraph 1(1B) after “principles” insert “or section 24A, 24B or 24C”;
- (c) in paragraph (3)(d)(ii) after “principles” insert “or section 24A, 24B or 24C”;
- (d) in paragraph (3)(f) after “principles” insert “or section 24A, 24B or 24C.””

Member’s explanatory statement

This new clause seeks to create a general obligation on data controllers to notify the Information Commissioner and data subjects in the event of a breach of personal data security. The proposed obligation is similar to that imposed on electronic communication service providers by the Privacy and Electronic Communications (EC Directive) Regulations 2003.

Digital Economy Bill, *continued*

Louise Haigh
Kevin Brennan

NC20

To move the following Clause—

“Strategic review of mobile network coverage

- (1) Within six months of this Act coming into force, the Secretary of State shall commission a strategic review of mobile network coverage and shall lay the report of the review before each House of Parliament.
- (2) The review under subsection (1) shall consider measures to ensure universal mobile network coverage for residences and businesses across all telecommunications providers.
- (3) The review under subsection (1) shall also consider measures to ensure savings made by telecommunication providers under sections (4), (5) and (6) of this Act are reinvested into expanding network coverage.”

Louise Haigh
Kevin Brennan

NC21

To move the following Clause—

“Code of practice: accessibility to on-demand audiovisual services for people with disabilities affecting hearing and/or sight

- (1) The Secretary of State shall by regulations establish a code of practice for the augmentation of on-demand audiovisual programme services to require providers of such services to accompany designated output with designated levels of—
 - (a) subtitling,
 - (b) signing, or
 - (c) audio-description.
 - (2) The code shall require minimum levels of provision of one or more type of audiovisual augmentation.
 - (3) The code shall make provisions about the meeting of obligations established, including by allocating relevant responsibilities between—
 - (a) broadcasters,
 - (b) platform operators, and
 - (c) any other provider or purveyor of programmes or programme services.
 - (4) The Secretary of State shall, before making regulations under subsection (1), conduct a public consultation to inform the Secretary of State’s determination of the elements of the code.
 - (5) The Secretary of State may delegate such duties and powers conferred under this section to an appropriate designated authority or agency as the Secretary of State thinks appropriate.
 - (6) For the purpose of subsection (1) a service is an on-demand audiovisual programme if it falls within the definition given in Section 368A (Meaning of “on-demand programme service”) of the Communications Act 2003 (as inserted by the Audiovisual Media Service Regulations 2009).”
-

Digital Economy Bill, continued

Louise Haigh
Kevin Brennan

NC22

To move the following Clause—

“Right of access to information about digital identity

- (1) An individual is entitled to be informed by any digital service whether a digital identity which that digital service has created about that individual is being used by or on behalf of that digital service.
- (2) An individual under subsection (1) is entitled—
 - (a) to be given by the digital service a description of—
 - (i) the digital identity about that individual,
 - (ii) the purposes for which the digital identity is being or has been used, and
 - (iii) the recipients or classes of recipients to whom the digital identity has been or may be disclosed,
 - (b) to have communicated to them by the digital service in an intelligible form—
 - (i) the information constituting any digital identity of which that individual is the subject, and
 - (ii) any information available to the digital service as to the source of that identity, and
 - (iii) the information available to the digital service as to how the digital identity has been used, and
 - (c) where the processing by automatic means of a digital identity about that individual for the purpose of evaluating their performance at work, their creditworthiness, their reliability or conduct, or any insurance risks attached to them, has constituted or is likely to constitute the sole basis for any decision significantly affecting them, to be informed by the digital service of the reasons the digital service reached that decision.
- (3) In this section—
 - (a) “digital service” means an internet-based service provided to the public by a public authority or commercial organisation,
 - (b) “digital identity” means the collection of information from various internet sources generated by a person’s online activity, including but not limited to birth date, online search activities and purchasing history.”

Louise Haigh
Kevin Brennan

NC23

To move the following Clause—

“OFCOM review of digital applications used to facilitate intermediary employment

- (1) OFCOM must carry out a review of the market of digital applications used to facilitate intermediary employment.
- (2) The review shall examine the adequacy of regulation of the market and provide recommendations for increased regulatory powers by OFCOM in this area.

Digital Economy Bill, *continued*

- (3) The Secretary of State must lay a report of the review before each House of Parliament within six months of this Act coming into force.
 - (4) OFCOM may carry out future reviews of the market and the Secretary of State is required to lay a report of any future review before each House of Parliament.”
-

Louise Haigh
Kevin Brennan

NC24

To move the following Clause—

“Employers in the digital economy

Where a business provides a digital service in which they act as an intermediary between labour suppliers and consumers where that service retains significant control over the service providers the labour suppliers shall be defined as employees of that business, as defined in section 230 of the Employment Rights Act 1996.”

Louise Haigh
Kevin Brennan

NC31

☆ To move the following Clause—

“Review of information disclosure and data ownership

- (1) The Secretary of State must commission an independent review of information disclosure and data ownership under Chapter 1 of Part 5 of this Act.
 - (2) In conducting the review, the designated independent reviewer must consult—
 - (a) specialists in data sharing,
 - (b) people and organisations who campaign for the rights of citizens to privacy and control regarding their personal information, and
 - (c) any other persons and organisations the review considers appropriate.
 - (3) The Secretary of State must lay a report of the review before each House of Parliament within six months of this Act coming into force.
 - (4) The Secretary of State may not make an order under section 82(4) bringing the provisions of Chapter 1 of Part 5 of this Act into force until each House of Parliament has passed a resolution approving the findings of the review mentioned in subsection (3).”
-

Digital Economy Bill, continued*NEW SCHEDULES*

Matt Hancock

NS1

To move the following Schedule—

“SCHEDULE

ELECTRONIC COMMUNICATIONS CODE: CONSEQUENTIAL AMENDMENTS

PART 1

GENERAL PROVISION

Interpretation

1 In this Part—

“the commencement date” means the day on which Schedule 3A to the Communications Act 2003 comes into force;

“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;

“the existing code” means Schedule 2 to the Telecommunications Act 1984;

“the new code” means Schedule 3A to the Communications Act 2003.

References to the code or provisions of the code

- 2 (1) In any enactment passed or made before the commencement date, unless the context requires otherwise—
 - (a) a reference to the existing code is to be read as a reference to the new code;
 - (b) a reference to a provision of the existing code listed in column 1 of the table is to be read as a reference to the provision of the new code in the corresponding entry in column 2.
- (2) This paragraph does not affect the amendments made by Part 2 of this Schedule or the power to make amendments by regulations under section 6.
- (3) This paragraph does not affect section 17(2) of the Interpretation Act 1978 (effect of repeal and re-enactment) in relation to any reference to a provision of the existing code not listed in the table.

Digital Economy Bill, *continued*

Table

<i>Existing code</i>	<i>New code</i>
Paragraph 9	Part 8
Paragraph 21	Part 6
Paragraph 23	Part 10
Paragraph 29	Paragraph 17

References to a conduit system

- 3 In any enactment passed or made before the commencement date, unless the context requires otherwise—
- (a) a reference to a conduit system, where it is defined by reference to the existing code, is to be read as a reference to an infrastructure system as defined by paragraph 7(1) of the new code, and;
 - (b) a reference to provision of such a system is to be read in accordance with paragraph 7(2) of the new code (reference to provision includes establishing or maintaining).

PART 2

AMENDMENTS OF PARTICULAR ENACTMENTS

Landlord and Tenant Act 1954 (c. 56)

- 4 In section 43 of the Landlord and Tenant Act 1954 (tenancies to which provisions on security of tenure for business etc tenants do not apply) after subsection (3) insert—
- “(4) This Part does not apply to a tenancy—
- (a) the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), and
 - (b) which is granted after that Schedule comes into force.”

Opencast Coal Act 1958 (c. 69)

- 5 (1) Section 45 of the Opencast Coal Act 1958 (provisions as to telegraphic lines) is amended as follows.
- (2) In subsection (2) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In section (4) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of the electronic communications code”.

Land Drainage (Scotland) Act 1958 (c. 24)

- 6 In section 17 of the Land Drainage Act (Scotland) Act 1958 (application of paragraph 23 of the code) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Digital Economy Bill, continued*Pipe-lines Act 1962 (c. 58)*

- 7 In section 40(2) of the Pipe-lines Act 1962 (avoidance of interference with lines) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Harbours Act 1964 (c. 40)

- 8 In section 53 of the Harbours Act 1964 (application of paragraph 23 of the code) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Fair Trading Act 1973 (c. 41)

- 9 In section 137(3)(f) of the Fair Trading Act 1973 (general interpretation: services covered) for “paragraph 29 of Schedule 2 to the Telecommunications Act 1984” substitute “paragraph 17 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Highways Act 1980 (c. 66)

- 10 The Highways Act 1980 is amended as follows.
- 11 In section 177(12) (restriction of construction over highways: application of paragraph 23 of code) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- 12 (1) Section 334 (savings relating to electronic communications apparatus) is amended as follows.
- (2) In subsection (8) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (9) for “the said paragraph 23” substitute “Part 10 of the electronic communications code”.
- (4) In subsection (11)—
- (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
- (b) for “that paragraph” substitute “Part 10 of the code”.
- (5) In subsection (12) for “1(2)” substitute “103(2)”.
- (6) In subsection (13) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

Roads (Scotland) Act 1984 (c. 54)

- 13 The Roads (Scotland) Act 1984 is amended as follows.
- 14 (1) Section 50 (planting of trees etc by roads authority) is amended as follows.
- (2) In subsection (3) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (4)—
- (a) for “sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”
- (b) for “that paragraph” substitute “Part 10 of the code”.

Digital Economy Bill, continued

- 15 (1) Section 75 (bridges over and tunnels under navigable waterways) is amended as follows.
- (2) In subsection (9) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (10)—
- (a) for “sub-paragraph (8) of paragraph 23” substitute “paragraph 68”
- (b) for “that paragraph” substitute “Part 10 of the code”.
- 16 (1) Section 132 (saving for operators of telecommunications code systems) is amended as follows.
- (2) In the heading for “telecommunications code systems” substitute “electronic communications code networks”.
- (3) In subsection (4) for “paragraph 1(2) of the electronic communications code” substitute “paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (4) In subsection (5) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

Housing Act 1985 (c. 68)

- 17 Section 298 of the Housing Act 1985 (telecommunications apparatus) is amended as follows.
- 18 For the heading substitute “Electronic communications apparatus”.
- 19 In subsection (2) for “paragraph 21 of the electronic communications code” substitute “Part 6 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- 20 In subsection (3) for “paragraph 23” substitute “Part 10”.

Food and Environment Protection Act 1985 (c. 48)

- 21 The Food and Environment Protection Act 1985 is amended as follows.
- 22 In section 8A (electronic communications apparatus: operations in tidal waters etc) for the words from “paragraph 11” to “1984” substitute “Part 9 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”.
- 23 In section 9(8) (defence to operating without licence under Part 2)—
- (a) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”;
- (b) omit the words from “In this subsection” to the end.

Airports Act 1986 (c. 31)

- 24 The Airports Act 1986 is amended as follows.
- 25 (1) Section 62 (electronic communications apparatus) is amended as follows.
- (2) In subsection (1) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A of the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (4) for “Paragraph 23” substitute “Part 10”.
- (4) In subsection (5)—
- (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;

Digital Economy Bill, continued

- (b) for “that paragraph” substitute “Part 10 of the code”.
- (5) In subsection (6) for “1(2)” substitute “103(2)”
- (6) In subsection (7) for “Paragraph 21 of the electronic communications code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Landlord and Tenant Act 1987 (c. 31)

- 26 In section 4(2) of the Landlord and Tenant Act 1987 (disposals which are not relevant disposals for purposes of tenants’ right of first refusal) after paragraph (da) insert—
 - “(db) the conferral of a code right under Schedule 3A to the Communications Act 2003 (the electronic communications code);”.

Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)

- 27 In paragraph 4 of Schedule 4 to the Road Traffic (Driver Licensing and Information Systems) Act 1989 (application of paragraph 23 of code to licence holders) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Electricity Act 1989 (c. 29)

- 28 In paragraph 1(6) of Schedule 16 to the Electricity Act 1989 (application of paragraph 23) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Town and Country Planning Act 1990 (c. 8)

- 29 (1) Section 256 of the Town and Country Planning Act 1990 (electronic communications apparatus: orders by the Secretary of State) is amended as follows.
 - (2) In subsection (5) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
 - (3) In subsection (6) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of electronic communications apparatus)”.

Water Industry Act 1991 (c. 56)

- 30 In paragraph 4 of Schedule 13 to the Water Industry Act 1991—
 - (a) for “paragraph 23” substitute “Part 10”;
 - (b) for “Schedule 2 to the Telecommunications Act 1984” substitute “Schedule 3A to the Communications Act 2003”;
 - (c) in the heading, for “telecommunication systems” substitute “electronic communications networks”.

Digital Economy Bill, continued*Water Resources Act 1991 (c. 57)*

- 31 In Schedule 22 to the Water Resources Act 1991 (protection of particular undertakings)—
- (a) in paragraph 5 for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”;
 - (b) for the italic heading before paragraph 5 substitute “Protection for electronic communications networks”.

Electricity (Northern Ireland) Order 1992 (S.I. 1992/231)

- 32 In paragraph 3(2) of Schedule 4 to the Electricity (Northern Ireland) Order 1992 (application of paragraph 23) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Cardiff Bay Barrage Act 1993 (c. 42)

- 33 In paragraph 16 of Schedule 2 to the Cardiff Bay Barrage Act 1993 (application of paragraph 23) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Roads (Northern Ireland) Order 1993 (S.I. 1993/3160)

- 34 (1) Schedule 9 to the Roads (Northern Ireland) Order 1993 (saving provisions) is amended as follows.
- (2) In paragraph 2(2) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
 - (3) In paragraph 2(3) for “Paragraph 21 of the electronic communications code (restrictions on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.
 - (4) In paragraph 3 for “Paragraph 23” substitute “Part 10”.

Airports (Northern Ireland) Order 1994 (S.I. 1994/426)

- 35 (1) Article 12 of the Airports (Northern Ireland) Order 1994 (provisions as to electronic communications apparatus) is amended as follows.
- (2) In paragraph (1) for “Paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
 - (3) In paragraph (3A) for “Paragraph 23” substitute “Part 10”.
 - (4) In paragraph (4)—
 - (a) for “Sub-paragraph (8) of paragraph 23” substitute “Paragraph 68”;
 - (b) for “that paragraph” substitute “Part 10 of the code”.
 - (5) In paragraph (5) for “1(2)” substitute “103(2)”.
 - (6) In paragraph (6) for “Paragraph 21 of the electronic communications code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.
 - (7) Omit paragraph (7).

Digital Economy Bill, continued*Landlord and Tenant (Covenants) Act 1995 (c. 30)*

- 36 In section 5 of the Landlord and Tenant (Covenants) Act 1995 (tenant released from covenants on assignment of tenancy), after subsection (4) insert—
- “(5) This section is subject to paragraph 15(4) of Schedule 3A to the Communications Act 2003 (which places conditions on the release of an operator from liability under an agreement granting code rights under the electronic communications code).”

Gas Act 1995 (c. 45)

- 37 In paragraph 2(7) of Schedule 4 to the Gas Act 1995 (application of paragraph 23 to public gas transporters) for “Paragraph 23 of Schedule 2 to the Telecommunications Act 1984” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Channel Tunnel Rail Link Act 1996 (c. 61)

- 38 (1) Part 4 of Schedule 15 to the Channel Tunnel Rail Link Act 1996 (protection of telecommunications operators) is amended as follows.
- (2) For the heading substitute “Protection of electronic communications code operators”.
- (3) In paragraph 2(1) for “Paragraph 21 of the electronic communications code” substitute “Part 6 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (4) In paragraph 2(2) for “Paragraph 23” substitute “Part 10”.
- (5) In paragraph 3 for “paragraph 9” substitute “Part 8”.
- (6) In paragraph 4(1) for “paragraph 23” substitute “Part 10”.

Gas (Northern Ireland) Order 1996 (S.I. 1996/275)

- 39 (1) Schedule 3 to the Gas (Northern Ireland) Order 1996 (other powers etc of licence holders) is amended as follows.
- (2) In paragraph 1(1) omit the following definitions—
- (a) “public telecommunications operator”;
- (b) “telecommunication apparatus” and “electronic communications network”;
- (c) “telecommunications code”.
- (3) In paragraph 3(2) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

Business Tenancies (Northern Ireland) Order 1996 (SI 1996/725 (NI 5))

- 40 In Article 4(1) of the Business Tenancies (Northern Ireland) Order 1996 (tenancies to which the Order does not apply) after paragraph (k) insert—
- “(l) a tenancy the primary purpose of which is to grant code rights within the meaning of Schedule 3A to the Communications Act 2003 (the electronic communications code), where the tenancy is granted after that Schedule comes into force.”

Town and Country Planning (Scotland) Act 1997 (c. 8)

- 41 (1) Section 212 of the Town and Country Planning (Scotland) Act 1997 (electronic communications apparatus) is amended as follows.

Digital Economy Bill, continued

- (2) In subsection (7) for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In subsection (8) for “Paragraph 21 of the electronic communications code (restriction on removal of electronic communications apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Enterprise Act 2002 (c. 40)

- 42 The Enterprise Act 2002 is amended as follows.
- 43 In section 128(5) (mergers: references to supply of services) for the words from “(within” to the end substitute “(within the meaning of paragraph 17 of Schedule 3A to the Communications Act 2003 (the electronic communications code)) for sharing the use of electronic communications apparatus.”
- 44 In section 234(5) (enforcement of consumer legislation: references to supply of services) for the words from “(within” to the end substitute “(within the meaning of paragraph 17 of Schedule 3A to the Communications Act 2003 (the electronic communications code)) for sharing the use of electronic communications apparatus.”

Communications Act 2003 (c. 21)

- 45 The Communications Act 2003 is amended as follows.
- 46 (1) Section 394 (service of notifications and other documents) is amended as follows.
- (2) In subsection (2) omit paragraph (d).
 - (3) After subsection (10) insert—
 - “(11) In its application to Schedule 3A this section is subject to paragraph 87 of that Schedule.”
- 47 (1) Section 402 (power of Secretary of State to make orders and regulations) is amended as follows.
- (2) In subsection (2) after paragraph (a) insert—
 - “(aa) regulations under paragraph 91 of Schedule 3A which amend, repeal or modify the application of primary legislation,”.
 - (3) After subsection (2) insert—
 - “(2A) A statutory instrument containing (whether alone or with other provisions) regulations under paragraph 91 of Schedule 3A 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.”
 - (4) After subsection (3) insert—
 - “(4) In this section “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.”
- 48 Schedule 3 is repealed.

Digital Economy Bill, continued*Land Reform (Scotland) Act 2003 (asp 2)*

- 49 (1) Schedule 1 to the Land Reform (Scotland) Act 2003 (path orders) is amended as follows.
- (2) In paragraph 12 for “Paragraph 1(2) of the electronic communications code” substitute “Paragraph 103(2) of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.
- (3) In paragraph 13 for “Paragraph 21 of that code (restriction on removal of apparatus)” substitute “Part 6 of the electronic communications code (rights to require removal of apparatus)”.

Housing and Regeneration Act 2008 (c. 17)

- 50 The Housing and Regeneration Act 2008 is amended as follows.
- 51 In section 2(3) (objects of the Homes and Communities Agency: interpretation) in paragraph (a) of the definition of “infrastructure” for “telecommunications” substitute “electronic communications”.
- 52 In section 57(1) (interpretation of Part 1) omit the definition of “conduit system” and insert in the appropriate place—
- ““infrastructure system” has the meaning given by paragraph 7(1) of Schedule 3A to the Communications Act 2003 (the electronic communications code), and a reference to providing such a system is to be read in accordance with paragraph 7(2) of the code (reference to provision includes establishing or maintaining).”.
- 53 In the table in section 58 (index of defined expressions in Part 1) omit the entry for “conduit system (and providing such a system)” and insert in the appropriate place—

“Infrastructure system (and providing such a system)	Section 57(1)”.
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Crossrail Act 2008 (c. 18)

- 54 (1) Part 4 of Schedule 17 to the Crossrail Act 2008 (protective provisions) is amended as follows.
- (2) In paragraph 1(2) for the definition of “electronic communications code” substitute—
- ““electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;”.
- (3) In paragraph 2(1) for “paragraph 23” substitute “Part 10”.
- (4) In paragraph 2(2) for “Paragraphs 21 and 23” substitute “Parts 6 and 10”.
- (5) In paragraph 3 for “paragraph 9” substitute “Part 8”.
- (6) In paragraph 4(1) for “paragraph 23” substitute “Part 10”.

Marine (Scotland) Act 2010 (asp 5)

- 55 The Marine (Scotland) Act 2010 is amended as follows.
- 56 In section 36(1) (electronic communications apparatus) for the words from “paragraph 11” to “apparatus” substitute “Part 9 of Schedule 3A to the Communications Act 2003 (the electronic communications code) (works in connection with electronic communications apparatus).”.
- 57 (1) Section 41 (defence to offences: electronic communications: emergency works) is amended as follows.

Digital Economy Bill, continued

(2) In subsection (1) for “paragraph 23 of the electronic communications code” substitute “Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)”.

(3) Omit subsection (2).”

Member’s explanatory statement

The new Schedule replaces Schedule 3 to the Bill and contains the amendments in that Schedule with other amendments consequential on the replacement of the electronic communications code.

Matt Hancock

NS2

☆ To move the following Schedule—

“BANK OF ENGLAND OVERSIGHT OF PAYMENT SYSTEMS

PART 1

EXTENSION OF BANK OF ENGLAND OVERSIGHT OF PAYMENT SYSTEMS

- 1 The Banking Act 2009 is amended as follows.
- 2 In the heading to Part 5 (inter-bank payment systems) omit “Inter-bank”.
- 3 In section 181 (overview) for “payments between financial institutions” substitute “transferring money”.
- 4 (1) Section 182 (interpretation: “inter-bank payment system”) is amended as follows.
 - (2) In subsection (1)—
 - (a) omit “inter-bank”;
 - (b) omit the words from “between financial institutions” to the end.
 - (3) After subsection (1) insert—

“(1A) But “payment system” does not include any arrangements for the physical movement of cash.”
 - (4) Omit subsections (2) and (3).
 - (5) In subsection (5) for “an inter-bank” substitute “a”.
 - (6) In the heading omit “inter-bank”.
- 5 In section 183 (interpretation: other expressions), in paragraph (a) for “an inter-bank” substitute “a”.
- 6 (1) Section 184 (recognition order) is amended as follows.
 - (2) In subsection (1) for “an inter-bank” substitute “a”.
 - (3) In subsection (2) omit “inter-bank”.
 - (4) In subsection (3) for “an inter-bank” substitute “a payment”.
- 7 In section 185 (recognition criteria), in subsection (1) for “an inter-bank” substitute “a”.
- 8 In section 186A (amendment of recognition order), in subsections (2)(b) and (4), omit “inter-bank”.
- 9 In section 187 (de-recognition), in subsections (2), (3)(b) and (5), omit “inter-bank”.
- 10 In section 188 (principles), in subsection (1) omit “inter-bank”.
- 11 In section 189 (codes of practice) omit “inter-bank”.
- 12 In section 190 (system rules), in subsection (1) omit “inter-bank”.

Digital Economy Bill, continued

- 13 In section 191 (directions), in subsection (1) omit “inter-bank”.
- 14 In section 192 (role of FCA and PRA), in subsections (2)(a) and (b) and (3), omit “inter-bank”.
- 15 In section 193 (inspection), in subsections (1) and (2), omit “inter-bank”.
- 16 In section 194 (inspection: warrant), in subsection (1)(a) omit “inter-bank”.
- 17 In section 195 (independent report), in subsection (1) omit “inter-bank”.
- 18 In section 196 (compliance failure) omit “inter-bank”.
- 19 In section 197 (publication), in subsection (1) omit “inter-bank”.
- 20 In section 198 (penalty), in subsection (1) omit “inter-bank”.
- 21 In section 199 (closure), in subsection (2) omit “inter-bank”.
- 22 In section 200 (management disqualification), in subsections (1) and (2), omit “inter-bank”.
- 23 In section 201 (warning), in subsection (1) for “an inter-bank” substitute “a”.
- 24 In section 202A (injunctions), in subsections (2)(a) and (3)(a), omit “inter-bank”.
- 25 In section 203 (fees), in subsection (1) omit “inter-bank”.
- 26 In section 204 (information), in subsections (1A), (2) and (4)(c), omit “inter-bank”.
- 27 In section 205 (pretending to be recognised), in subsection (1) omit “inter-bank”.
- 28 In section 206A (services forming part of recognised inter-bank payment system), in subsections (1), (2) and (7)(a) and in the heading, omit “inter-bank”.
- 29 In section 259 (statutory instruments), in the Table in subsection (3)—
- (a) in the heading for the entries in Part 5, omit “Inter-bank”;
 - (b) in the entry for section 206A, in the second column omit “inter-bank”.
- 30 In section 261 (index of defined terms), in the Table—
- (a) omit the entry for “Inter-bank payment system”;
 - (b) at the appropriate place insert—

“Payment system | 182”

PART 2

CONSEQUENTIAL AMENDMENTS

Financial Services Act 2012

- 31 The Financial Services Act 2012 is amended as follows.
- 32 (1) Section 68 (cases in which Treasury may arrange independent enquiries) is amended as follows.
- (2) In subsection (3), in paragraphs (a) and (b)(ii), omit “inter-bank”.
 - (3) In subsection (5), in the definition of “recognised inter-bank payment system”—
 - (a) omit the first “inter-bank”;
 - (b) for “an inter-bank” substitute “a”.
- 33 In section 85 (relevant functions in relation to complaints scheme), in subsection (3)(a) omit “inter-bank”.
- 34 In section 110 (payment to Treasury of penalties received by Bank of England), in subsection (5)(d) omit “inter-bank”.

Digital Economy Bill, continued
Financial Services (Banking Reform) Act 2013

- 35 The Financial Services (Banking Reform) Act 2013 is amended as follows.
- 36 In section 45 (procedure), in subsection (1)(a) omit “inter-bank”.
- 37 In section 46 (amendment of designation order), in subsection (2)(a) omit “inter-bank”.
- 38 In section 47 (revocation of designation orders), in subsection (3)(a) omit “inter-bank”.
- 39 In section 98 (duty of regulators to ensure co-ordinated exercise of functions), in subsection (5)(b) omit “inter-bank”.
- 40 In section 110 (interpretation), in subsection (1), in the definition of “recognised inter-bank payment system”—
- (a) omit the first “inter-bank”;
 - (b) for “an inter-bank” substitute “a”.
- 41 In section 112 (interpretation: infrastructure companies), in subsections (2)(a), (4)(b) and (5), omit “inter-bank”.
- 42 In section 113 (interpretation: other expressions), in subsection (1)—
- (a) in the definition of “operator” omit “inter-bank”;
 - (b) in the definition of “recognised inter-bank payment system”—
 - (i) omit the first “inter-bank”;
 - (ii) for “an inter-bank” substitute “a”;
 - (c) in the definition of “the relevant system”, in paragraphs (a) and (c), omit “inter-bank”.
- 43 In section 115 (objective of FMI administration), in subsection (1) omit “inter-bank”.
- 44 In section 120 (power to direct FMI administrator), in subsection (8) omit “inter-bank”.
- 45 In section 127 (interpretation of Part 6), in subsection (1), in the definition of “operator” and in the definition of “recognised inter-bank payment system”, omit “inter-bank”.

Member’s explanatory statement*This is the Schedule introduced by new clause NC30.*

 Matt Hancock

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- ☆ Title, line 8, after “functions;” insert “to make provision about qualifications in information technology;”

Member’s explanatory statement*This amendment is consequential on new clause NC26.*

 Matt Hancock

187

- ☆ Title, line 8, after “functions;” insert “to make provision about payment systems and securities settlement systems;”

Member’s explanatory statement*The amendment is consequential on new clauses NC29 and NC30 and new Schedule NS2.*

Digital Economy Bill, continued

ORDER OF THE HOUSE [13 SEPTEMBER 2016, AS AMENDED ON 18 OCTOBER 2016]

That the following provisions shall apply to the Digital Economy Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 1 November 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.

ORDER OF THE COMMITTEE [11 OCTOBER 2016, AS AMENDED ON 18 OCTOBER 2016]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25am on Tuesday 11 October) meet—
 - (a) at 2.00pm on Tuesday 11 October;
 - (b) at 11.30am on Thursday 13 October;
 - (c) at 9.25am on Tuesday 18 October;
 - (d) at 11.30am and 2.00pm on Thursday 20 October;
 - (e) at 9.25am and 2.00 pm on Tuesday 25 October;
 - (f) at 11.30am and 2.00pm on Thursday 27 October;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

Digital Economy Bill, *continued***TABLE**

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 11 October	Until no later than 10.00am	BT/EE TalkTalk Three
Tuesday 11 October	Until no later than 10.30am	Sky Virgin Vodafone
Tuesday 11 October	Until no later than 11.00am	Which? Countryside Alliance
Tuesday 11 October	Until no later than 11.25am	Open Data Institute The Co-operative Group
Tuesday 11 October	Until no later than 2.45pm	The British Board of Film Classification NSPCC
Tuesday 11 October	Until no later than 3.00pm	Dr Edgar Whitley, London School of Economics Wireless Infrastructure Group
Tuesday 11 October	Until no later than 4.00pm	Big Brother Watch Open Rights Group
Tuesday 11 October	Until no later than 4.30pm	ProjectsbyIF Open Corporates TUC
Tuesday 11 October	Until no later than 5.00pm	Professor Sir Charles Bean, London School of Economics The Royal Statistical Society
Thursday 13 October	Until no later than 12.00pm	StepChange Citizens Advice Dr Jerry Fishenden
Thursday 13 October	Until no later than 12.30pm	OFCOM
Thursday 13 October	Until no later than 1.00pm	The Information Commissioner's Office

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 4; Schedules 1 to 3; Clauses 5 to 84; new Clauses; new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00pm on Thursday 27 October.

Digital Economy Bill, *continued*

NOTICES WITHDRAWN

The following Notices were withdrawn on Monday 17 October:

NC4

The following Notices were withdrawn on Tuesday 18 October:

NC25
