



# House of Commons

**Tuesday 1 November 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**This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end.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 and 20 October 2016].**

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 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).

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- (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.*

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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.*

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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

**Digital Economy Bill, continued**

- 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.*

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.

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**Digital Economy Bill, *continued***

- (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
  - (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);

**Digital Economy Bill, continued**

“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.”

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.”

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**Digital Economy Bill, continued**

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) 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.

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.*

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**Digital Economy Bill, *continued***

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.
- (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.

**Digital Economy Bill, continued**

- (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
- “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.*

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**Digital Economy Bill, *continued***

Nigel Adams  
Kevin Brennan  
Louise Haigh

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.*

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**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.”

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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.*

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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.*

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**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.*

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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).”
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**Digital Economy Bill, *continued***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.”

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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).”
- 

Calum Kerr  
Drew Hendry

NC32

To move the following Clause—

**“OFCOM power to enforce structural separation of BT Openreach**

After section 49C of the Communications Act 2003 insert—

- “(49D) OFCOM has the power to enforce the structural separation of BT Openreach, should OFCOM consider this necessary.””
-

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**Digital Economy Bill, continued**

Kevin Brennan  
Louise Haigh

NC33

To move the following Clause—

**“Pre-loaded IPTV boxes**

- (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In section 107(1)(d)(ii) after “offers” insert “, advertises”.
- (3) After section 107(1)(d)(iv) insert—
  - “(v) installs, maintains or replaces, or
  - (vi) otherwise promotes by means of commercial communications, or”
- (4) In section 107(1)(e) after “article” insert “, device, product or component”.
- (5) In section 107(1)(e) after “work” insert “or which is, and which he knows or has reason to believe is, primarily designed, produced, adapted or otherwise used in a manner described in this section whether alone or in conjunction with another article, device, product, component, or service supplied by or with the knowledge of the same person for the purpose of enabling or facilitating the infringement of copyright”.

***Member’s explanatory statement***

*This new clause allows the Government to fulfil its commitment in the IPO’s Enforcement Strategy to ensure that UK business and rights holders have the necessary legal means to protect their IP. It brings in language to cover the supply of IPTV boxes clearly being marketed or sold for the purpose of enabling or facilitating copyright infringement, recognising that many devices may not, themselves, infringe copyright, but are supplied in conjunction with information which enables users to infringe copyright.*

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Calum Kerr  
Drew Hendry

NC34

To move the following Clause—

**“Power of Information Commissioner to take action on unsolicited communications**

- (1) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I.2003/2426) are amended as follows.
- (2) In Regulation 31(1), between “sections 55A to 55E” and “of the Data Protection Act 1998” insert “and section 61”.
- (3) In Schedule 1, after paragraph 8B insert—
  - “8C In subsections (1) and (3) of section 61—
    - (a) for “an offence under this Act” there shall be substituted “a contravention of the Privacy and Electronic Communications (EC Directive) Regulations 2000”;
    - (b) for “guilty of that offence” there shall be substituted “liable for that contravention”; and

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**Digital Economy Bill, continued**

- (c) for “proceeded against and published accordingly” there shall be substituted “served with a notice, proceeded against of punished accordingly”.”

**Member’s explanatory statement**

*This new clause seeks to allow the Information Commissioner’s Office to take action against company directors for breaches not only of the Data Protection Act 1998, but of the 2003 EU regulations on unsolicited communications.*

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Louise Haigh  
Kevin Brennan

**NC35**

To move the following Clause—

**“Public register of data disclosures**

- (1) No disclosure by a public authority under Part 5 shall be lawful unless detailed by an entry in a public register.
  - (2) Any entry made in a public register under subsection (1) shall be disclosed to another person only for the purposes set out in this Part.
  - (3) Each entry in the register must contain, or include information on—
    - (a) the uniform resource locator of the entry,
    - (b) the purpose of the disclosure,
    - (c) the specific data to be disclosed,
    - (d) the data controllers and data processors involved in the sharing of the data,
    - (e) any exchange of letters between the data controllers on the disclosure,
    - (f) any other information deemed relevant.
  - (4) In this section, “uniform resource locator” means a standardised naming convention for entries made in a public register.
- 

Louise Haigh  
Kevin Brennan

**NC36**

To move the following Clause—

**“Bill caps for all mobile phone contracts**

- (1) A telecommunications service provider supplying a contract relating to a hand-held mobile telephone must, at the time of entering into such a contract, allow the end-user the opportunity to place a financial cap on the monthly bill under that contract.

**Digital Economy Bill, continued**

- (2) A telecommunications service provider under subsection (1) must not begin to supply a contracted service to an end-user unless the end-user has either—
  - (a) requested the monthly cap be put in place and agreed the amount of that cap, or
  - (b) decided, on a durable medium, not to put a monthly cap in place.
- (3) The end-user should bear no cost for the supply of any service above the cap if the provider has—
  - (a) failed to impose a cap agreed under subsection (2)(a),
  - (b) introduce, or amend, a cap following the end-user’s instructions under subsection (2)(b), or
  - (c) removed the cap without the end-user’s instructions or has removed it without obtaining the consumer’s express consent on a durable medium under subsection (2).”

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Louise Haigh  
Kevin Brennan

NC37

To move the following Clause—

**“Duty to provide free wifi on rail services**

- (1) The Railways Act 1993 is amended as follows.
- (2) After section 26 insert—

“(26D) In deciding whether to select the person who is to be the franchisee under a franchise agreement by means of an invitation to tender and whom so to select, the appropriate franchising authority must stipulate a requirement for franchisees to provide free wifi for passengers.”

***Member’s explanatory statement***

*This new clause requires the Secretary of State to stipulate in the “franchise agreement” a requirement for franchisees to provide free wifi for passengers.*

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Louise Haigh  
Kevin Brennan

NC38

To move the following Clause—

**“Responsibility for policy and funding of TV licence fee concessions**

After section 365(5) of the Communications Act 2003 insert—

- “(5A) It shall be the responsibility of the Secretary of State to—
- (a) specify the conditions under which concessions are entitled, and
  - (b) provide the BBC with necessary funding to cover the cost of concessions,
- and this responsibility shall not be delegated to any other body.”

***Member’s explanatory statement***

*This new clause seeks to enshrine in statute that it should be the responsibility of the Government*

**Digital Economy Bill, continued**

*to set the entitlement for any concessions and to cover the cost of such concession. This new clause will ensure the entitlement and cost of over-75s TV licences remain with the Government. It would need to be agreed with Clause 76 not standing part of the Bill.*

**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.

**Digital Economy Bill, continued**

- (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.

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”.

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**Digital Economy Bill, continued***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)”.

*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.

**Digital Economy Bill, *continued***

- (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”.
- 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.



**Digital Economy Bill, continued**

- (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”;
  - (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”;

**Digital Economy Bill, continued**

- (c) in the heading, for “telecommunication systems” substitute “electronic communications networks”.

*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)”.

**Digital Economy Bill, continued**

(7) Omit paragraph (7).

*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.”

**Digital Economy Bill, continued***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.
- (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.

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**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”.

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**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.*


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 Matt Hancock

186

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.*


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 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.*



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**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.

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ORDER OF THE COMMITTEE [11 OCTOBER 2016, AS AMENDED ON 18 OCTOBER 2016 AND 20 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;
  - (g) at 9.25 am on Tuesday 1 November;
- (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 11.25 am on Tuesday 1 November.

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**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

*The following Notices were withdrawn on Wednesday 26 October:*

NC23

*The following Notices were withdrawn on Thursday 27 October:*

NC22

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