

Reforms to the UK's Electronic Communications Code (the "Code") came into effect on 28 December 2017. The reforms include a range of measures to make it easier for network operators to rollout infrastructure (e.g., phone masts, exchanges and cabinets) on public and private land.

The government introduced the reforms to the Code in the Digital Economy Act 2017, which repealed the previous version of the Code and replaced it with a new version of the Code contained in Schedule 3A to the Communications Act 2003.¹

The Code is designed to facilitate the installation and maintenance of electronic communications networks. It confers rights on operators, who have been granted "Code Powers",² for the purposes of providing that operator's network or providing an infrastructure system. Operators with Code Powers may:

- Construct and maintain infrastructure on public land (including streets) without needing to obtain a specific street works licence to do so
- Benefit from certain immunities from the Town and Country Planning legislation
- In the event that agreement cannot be reached with the owner or occupier of private land, apply for a court order to install and maintain apparatus on private land, if it has been unable to reach agreement with the landowner

The reforms brought in by the new Code are wide ranging and include, for example, significant changes to the way land is valued and an automatic right for Code operators to upgrade and share their telecommunications apparatus. The government believes the reforms to the Code will:

- Bring down the rents telecoms operators pay to landowners to install equipment to be more in line with utilities providers, such as gas and water
- Make it easier for operators to upgrade and share their equipment with other operators to help increase coverage
- Make it easier for telecoms operators and landowners to resolve legal disputes
- Help drive investment and stimulate the continued growth, rollout and maintenance of communication technology infrastructure, an increasingly significant area of the UK's economy

In accordance with its obligations under Code, Ofcom has published a *Code of Practice* dealing with matters including:

- The provision of information for the purposes of the new Code by operators to persons who occupy or have an interest in land
- The conduct of negotiations for the purposes of the new Code between operators and such persons
- The conduct of operators in relation to persons who occupy or have an interest in land adjoining land on, under or over which electronic communications apparatus is installed

Ofcom has also published:

- Standard terms which may (but need not) be used by Code operators and landowners or occupiers when negotiating agreements to confer Code rights
- A number of template notices which must or may (depending on the circumstances in question) be used by Code operators and landowners/occupiers

Ofcom explained that it interpreted its obligation in relation to the template notices expansively and published template notices even where they were not strictly required. Ofcom believes that this will facilitate a smooth transition to the new regime. These documents are available [here](#).

Ofcom has indicated that it may review these documents "if necessary after an appropriate period" to consider their effectiveness. Ofcom has not indicated when such a review would take place, but expects that any such review would be carried out in accordance with its normal consultation principles, meaning that all interested parties would have the opportunity to input into any such review.

Contacts

Francesco Liberatore

Partner, London
T +44 207 655 1505
E francesco.liberatore@squirepb.com

Gráinne Morrissey

Senior Associate, London
T +44 207 655 1648
E grainne.morrissey@squirepb.com

¹ The Code was originally set out in Schedule 2 to the Telecommunications Act 1984, as amended.

² Ofcom has the power to grant Code Powers to operators on application.