

Proposed changes to the 2017 Electronic Communications Code



Following the [consultation on access to land and changes to the electronic communications code](#) (the Code) earlier this year, the Government has announced plans to tweak the 2017 Code to enable the Government achieve its policy objectives that 85% of the UK will have access to and a choice of superfast broadband and digital communications networks including 5G available for both business and residential occupiers by 2025.

It has been increasingly apparent that whilst an improvement of its predecessor, the substantial reforms introduced in the 2017 Code are not working as intended to deliver the Government's objectives and has instead led to increased delays, increased costs and site providers increasingly reluctant to agree to grant Code rights voluntarily.

New measures to be introduced

Building on the changes brought by the 2017 Code, new measures are to be introduced in the Product Security and Telecommunications Infrastructure (PSTI) Bill, aimed at overcoming the following problems identified with the 2017 Code:

- the lack of engagement and collaboration from both site providers and operators;
- non-responsive or non-identifiable site provider;
- how operators in occupation under expired Code agreements granted under the old Code can speed up the renewal process;
- improving and clarifying the automatic rights to share and upgrade apparatus; and
- reducing the lengthy delays and number of disputes.



How will this help?

The intention of these reforms is to enable faster and more collaborative negotiations, to make it easier, cheaper and quicker for operators to install, upgrade or share telecommunications apparatus on, in or under commercial and residential property by introducing:

- a requirement for operators to consider the use of Alternative Dispute Resolution ('ADR') rather than legal proceedings, where there are difficulties agreeing terms. Operators will be required to explain the availability of ADR as an option in their notices to site providers;
- greater rights for operators to upgrade and share apparatus installed prior to the 2017 Code in specific circumstances where there will be no impact on private land; and
- provisions to allow operators to secure Code rights more quickly and cheaply through the courts if a site provider repeatedly does not respond to requests for these rights allowing operators who already have apparatus installed under an expired agreement to either renew that agreement, or request a new one.

These proposals are not intended to help site providers who may not want telecommunications apparatus in, on or under their land or buildings and do not address the statutory valuation scheme which has resulted in site providers receiving considerable lower rents for granting Code rights allowing an operator to use having telecommunications apparatus on, in or under their land or building.

When will this be introduced?

The Bill is to be introduced when Parliamentary time allows. The detail of these proposals will not be known until the draft Bill is published. Careful scrutiny will be needed. Unfortunately, for site providers, it is unlikely to be an improvement.



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