

# **DIGITAL ECONOMY ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Topic 2: Online infringement of copyright***

#### ***Section 7: Contents of the initial obligations code***

55. **Section 7** inserts new section 124E in the 2003 Act. This sets out what the code underpinning the initial obligations (whether an industry code or OFCOM's own code) must contain. The reason for including the underpinning material in a code, rather than directly in the 2003 Act, is that it is likely to be detailed and to have to be adapted and refined over time.
56. The code must set out the process by which the initial obligations will operate and the procedures that copyright owners and ISPs must follow in relation to them. It must set out the criteria, evidence and standards of evidence required in a CIR and the required format and content of a notification letter sent to a subscriber. It must not permit any CIR more than 12 months old to be taken into account for the purposes of a notification.
57. The code must also set the threshold applying for the purposes of determining who is a "relevant subscriber" under section 124B (and may therefore be the subject of a copyright infringement list). CIRs which are more than 12 months old must not be taken into account to determine whether the threshold is met and a copyright infringement list under section 124B must not take into account any such CIR.
58. The code must also provide for OFCOM to administer the code and to enforce it in the event of a failure to comply with the code, and it must meet the requirements concerning subscriber appeals (as set out in new section 124K of the 2003 Act, inserted by section 13).