












UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0709FT:</h1> <h2>Amendment of references to Data Protection Act for GDPR</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p>Purpose of Modification: This Modification replaces all references in the Uniform Network Code (UNC) to the Data Protection Act 1998 with references to the Data Protection Act 2018. This is to reflect that the Data Protection Act 2018 enacted the EU General Data Protection Regulations (2018) into UK law.</p>		
	<p>Panel consideration is due on 21 November 2019 (<i>at short notice by prior agreement</i>) The Panel determined that this fast track self-governance modification be implemented.</p>	
	<p>High Impact: None</p>	
	<p>Medium Impact: None</p>	
	<p>Low Impact: All parties to Code, CDSP</p>	

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Pre-Modification Discussion	04 November 2019		
Modification consideration by Panel	21 November 2019		
Modification Panel decision	21 November 2019		 029 2027 8552 or 07819 973337
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1 Summary

What

The references to the Data Protection Act 1998 in the Uniform Network Code (UNC) need to be updated to reflect the provisions under the EU General Data Protection Regulations (2018) (GDPR) enacted into UK Law by the Data Protection Act 2018.

Why

The Data Protection Act 2018 is the UK's implementation of the GDPR. For all intents and purposes, the Data Protection Act 1998 is repealed and replaced by the Data Protection Act 2018. The provisions in the 2018 Act that repeal most of the 1998 Act are [s.211 \(1\) \(a\)](#) and [para 44](#) of Schedule 19 of the Data Protection Act 2018.

- S.211 (1) (a) provides:
"In Schedule 19
(a) Part 1 contains minor and consequential amendments of primary legislation ..."
- Para 44 of Schedule 19 provides:
"The Data Protection Act 1998 is repealed, with the exception of section 62 and paragraphs 13, 15, 16, 18 and 19 of Schedule 15 (which amend other enactments)."

Therefore, the UNC needs to be updated to refer to the Data Protection Act 2018.

How

The update can be made by amending the references in the legal text of TPD G 2.1.13, TPD V 5.3.4, IGTAD F 5.1.3 of the UNC from the Data Protection Act 1998 to the Data Protection Act 2018.

2 Governance

Justification for Fast Track Self-Governance

This Modification should be subject to Fast Track Self-Governance as:

- a. it meets the self-governance criteria; and
- b. it is a housekeeping modification required to update the reference to the Data Protection Act in three places in Code.

Requested Next Steps

This Modification should:

- be subject to fast track self-governance and implemented.

3 Why Change?

The Data Protection Act 2018 enacted the EU General Data Protection Regulations 2018 (GDPR) into UK law and the UNC needs to be updated to reflect this change. Although the two of the references in in Code, are written as "for the avoidance of doubt" and Parties are subject to this and any other UK law whether, or not, the references are updated, the references need to be updated for clarity.

4 Code Specific Matters

Reference Documents

S.211 (1) (a) and para 44 of Schedule 19 of the Data Protection Act 2018.

Knowledge/Skills

None

5 Solution

The following references to the Data Protection Act 1998 should be replaced with Data Protection Act 2018:

The identified sections are:

- TPD G 2.1.13,
- TPD V 5.3.4,
- IGTAD F 5.1.3.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No

Consumer Impacts

None

Cross Code Impacts

None

EU Code Impacts

None

Central Systems Impacts

None

Further comments

Some sections of UNC TPD V should be reviewed in the light of the introduction of GDPR as the provisions allowing the release of data could be too wide. The sections to review are TPD V 5.15.1 and 5.18.1. In each case the risk is of the Central Data Service Provider (CDSP) providing personal data without permission, although it may be that one of the statutory exemptions applies. This therefore needs to be tested if it has not already been done. Notwithstanding, it needs to be noted that compliance with GDPR overrides the provisions of the UNC and therefore data that it allows to be released may need to be withheld to avoid breaking the law. The UNC should therefore be revised, if required, to remove any potential for misunderstanding.

TPD V 5.11.1 looks at first sight as though it falls into the same category as the other clauses, but the information supplied in Annex V-5 does not appear to include personal information.

Agreements authorised by the UNC such as confidentiality agreements, third party services agreements, which fall under TPDV 15.8.2, should be reviewed for GDPR compliance if they have not already been reviewed. The Data Services Contract has already undergone such a review.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

This Modification should further Relevant Objective 'f' as by updating the Data Protection Act references would mean that the UNC has the correct references to the Data Protection Act. It will therefore clearly state the legal obligations for UNC Parties.

8 Implementation

As fast track self-governance procedures are proposed, implementation could be sixteen business days after a unanimous vote in favour of implementation by the Modification Panel, subject to no Objection being raised.

9 Legal Text

Text Commentary

This change updates the reference to the Data Protection Act in the UNC by replacing 1998 with 2018 in the following sections:

- TPD G 2.1.13,
- TPD V 5.3.4
- IGTAD F 5.1.3

Text

TPD G 2.1.13,

2.1.13 For the purposes of paragraph 2.1.9, the Last Resort User shall execute all such documents, deeds and assignments and perform such acts as the Transporter may reasonably require, including, without limitation, executing any relevant documents, deeds and assignments, or perform such acts, necessary to ensure compliance with the provisions of the Data Protection Act ~~1998~~ 2018 (as may be amended from time to time).

TPD V 5.3.4

For the avoidance of doubt, the provisions of the Code are without prejudice to the requirements of the Data Protection Act ~~1998~~ 2018.

IGTAD F 5.1.3

For the avoidance of doubt, the provisions of this Document are without prejudice to the requirements of the Data Protection Act ~~1998~~ 2018.

10 Panel Discussions

Discussion

The Panel Chair summarised that Modification 0709FT would be subject to fast track self-governance as it aims to replace outdated references to the Data Protection Act 1998 with the requirements of the Data Protection Act 2018.

A Panel Member questioned whether this would effectively cover Shippers and Interconnectors based in Europe.

Some Panel Members advised that this change had already gone into other codes as a house keeping amendment. A Panel Member highlighted that this was the case for SPAA, DCUSA and MRA.

Most Panel Members agreed that the UNC was governed by English and Welsh law and therefore, the proposed change was sufficient.

Consideration of the Relevant Objectives

Panel Members considered relevant objective f) Promotion of efficiency in the implementation and administration of the Code, agreeing that implementation would have a positive impact because it removes possible ambiguity and updates the UNC in line with legislative requirements.

Determinations

Panel Members voted unanimously to recommend implementation of Modification 0709FT.

Self-Governance:

Panel Members voted unanimously to implement Modification 0709FT.

Panel Members voted with 14 votes in favour (out of a possible 14) to recommend implementation of Modification 0709FT.

11 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Fast Track self-governance procedures should apply and implement this Modification.