EXPLANATORY MEMORANDUM TO

THE AUDIOVISUAL MEDIA SERVICES (AMENDMENT) (EU EXIT) REGULATIONS

2020 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport and is laid before Parliament by Command of her Majesty.

2. Purpose of the instrument

2.1 This instrument is being made under section 8 of the European Union (Withdrawal) Act 2018 ("EUWA") in order to address deficiencies arising in the operation of Part 4B of the Communications Act 2003 (which transposes the revised Audiovisual Media Services Directive, Directive 2010/13/EU, ("AVMSD"))[1], as a result of the United Kingdom's exit from the European Union ("EU"). The instrument also changes some references to 'exit day' in the Broadcasting (Amendment) (EU Exit) Regulations 2019 (SI 2019/224) to 'IP completion day'. 'IP completion day' has the meaning given by section 39 of the European Union (Withdrawal Agreement) Act 2020, i.e. 31 December 2020 at 11.00 p.m, and signifies the end of the transition period.

Explanations

What did any relevant EU law do before exit day?

2.2 The AVMSD governs the coordination of national legislation on all audiovisual media. It was initially implemented into UK law in 2010 primarily by way of amendments to UK broadcasting legislation. The primary objective of the original AVMSD was to ensure the effective operation of the internal market for broadcasting services by ensuring the freedom to provide broadcasting services throughout the EU.

2.3 A subsequent revision of the AVMSD (by Directive (EU) 2018/1808) aimed to modernise the existing rules by ensuring a level playing field between the traditional broadcasting sector i.e. television, and new services such as on-demand programme services (ODPS, e.g. Netflix) and video-sharing platforms (VSPs, e.g. YouTube). The revised AVMSD reinforced the protection of minors and measures combating hate speech and public provocation to commit terrorist offences in all audiovisual content. The responsibility for administering the requirements set out in the revised AVMSD lies with each member state's national regulatory authority or body which - for the UK - is Ofcom.

2.4 The AVMSD contains provisions governing the determination of jurisdiction of a member State's regulatory authority over VSPs providing services within that state, see Article 28a(1) to (4). Primary establishment in a state (as determined for internet service providers under the E-Commerce Directive, Directive 2000/31/EC ("ECD")[2],

[1] Consolidated text available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601637872410&uri=CELEX:02010L0013-20181218

[2] Available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1601640673387&uri=CELEX:32000L0031

see Article 3(1), which is referred to as part of Article 28a(1) of the AVMSD) means that a state has jurisdiction. Physical presence of another kind, of a parent, subsidiary or group undertaking, provides ground for deemed establishment, and the AVMSD deals with the rules for determining which state has jurisdiction. Relevant factors include considering the 'hierarchy' of undertakings (the location of a parent undertaking takes precedence over a subsidiary or group undertaking, the location of a subsidiary undertaking takes precedence over a group undertaking). In the alternative, where there are only subsidiaries, or only group undertakings in the EU, and these are in more than one member State, then the length of the activity in those States is relevant. Where member States do not agree on which State has jurisdiction, this must be brought to the European Commission's attention and attempts will be made to reach a conclusion after taking advice from the European Regulators Group for Audiovisual Media Services (see Article 28a(7)).

2.5 The revised AVMSD was transposed into UK law by the Audiovisual Media Services Regulations 2020 (SI 2020/1062) ("AVMSD Regulations"), the majority of which will come into force on 1st November 2020. The provisions on VSPs are contained in new Part 4B inserted into the Communications Act 2003. The AVMSD Regulations transpose the jurisdiction provisions for VSPs by cross-referring to the relevant provisions in the AVMSD (see regulation 47 of the AVMSD Regulations, which inserts Part 4B into the Communications Act 2003 - see new section 368S(2)(d) in particular). Further information about the AVMSD and its transposition by the Audiovisual Media Services Regulations 2020 can be found in the Explanatory Memorandum accompanying that instrument[3].

2.6 The original AVMSD applies to the EEA. However Directive (EU) 2018/1808 has not been added to the EEA Agreement, although the process for doing that is underway.

Why is it being changed?

2.7 Following the end of the transition period, the cross-reference to the jurisdiction provisions in the AVMSD Regulations in section 368(2)(d) will be deficient because the UK will no longer be treated as if it was a member State in UK law.

2.8 Between 1st November 2020 and the end of the transition period, the jurisdiction provisions of the AVMSD (country of origin principle) will apply. This means that each EU member State and the UK will regulate only the VSPs which fall within their respective jurisdictions, according to the rules in Article 28a(1) to (4) of the AVMSD. Any service or platform regulated by the UK or an EU member State will have access to markets in all jurisdictions in which the Directive applies without further regulation.

2.9 After December 2020, the UK will be a third country under the AVMSD and the country of origin principle will no longer apply.

2.10 In order to ensure that the law is clear and operable after the transition period, there are two types of fixes required to be undertaken in respect of VSPs: fixes to jurisdiction issues and technical fixes. The statutory instrument which this Explanatory Memorandum relates to will fix the critical jurisdiction issues highlighted above, as well as some references to 'exit day' in the Broadcasting (Amendment) (EU Exit) Regulations 2019 (SI 2019/224) to 'IP completion day' . A second statutory instrument, which will be laid in the coming months using the negative procedure,

[3] https://www.legislation.gov.uk/uksi/2020/1062/contents/made

will address less urgent and more minor technical fixes - including in relation to broadcasting aspects of the AVMSD**.**

2.11 In relation to the 'exit day' fixes, prior to the implementation of the revised AVMSD, the Broadcasting (Amendment) (EU Exit) Regulations 2019 (SI 2019/224) addressed deficiencies in retained EU law arising from EU exit in relation to broadcasting. It ensured that broadcasts available in the UK continue to be regulated effectively and that audiences are protected from harmful content. This was achieved by, firstly, moving to a country of destination system of regulation requiring television services available in the UK to be licensed and regulated by Ofcom. Secondly, by implementing the European Convention on Transfrontier Television to continue a system of freedom of reception and transmission, minimum content standards and mutual cooperation between Parties to the Convention**.**

2.12 However, as the Broadcasting (Amendment) (EU Exit) Regulations 2019 were intended to address issues arising from a 'no deal' scenario, and were passed prior to the Withdrawal Agreement, they refer in parts to 'exit day' (which was 31 January 2020). These references to 'exit day' will be replaced with references to 'IP completion day' i.e. the end of the transition period, so that the provisions work as originally intended. The Explanatory Memorandum for the Broadcasting (Amendment) (EU Exit) Regulations 2019, which set out the reasons for the original amendments, can be found here: https://www.legislation.gov.uk/uksi/2019/224/memorandum/contents.

What will it now do?

2.13 Ofcom will have jurisdiction over VSPs where the primary establishment is the UK (within the meaning of establishment as in the ECD). According to the ECD, providers must have a physical presence in the UK which is the centre of their economic activity and they must be economically active in the UK.

2.14 The instrument anticipates the revisions to the AVMSD being added to the EEA Agreement in due course, so the instrument refers to EEA States rather than EU member States. In the unlikely event that the EEA EFTA States (Iceland, Norway and Liechtenstein) were to reject the revisions to the AVMSD, the provisions would simply have no effect in relation to those States. This is because the instrument refers to "the jurisdiction of an EEA State for the purposes of the Audiovisual Media Services Directive". If the AVMSD does not extend to EEA States, then this text would have no effect in relation to the EEA EFTA States, but would have effect in relation to the EU member States, because they are also EEA States.

2.15 If Ofcom were to only regulate UK-based services which provide services to the UK, this could theoretically allow a UK based service to provide harmful content into the EEA, and the UK would be seen as a 'safe haven' for online harms from content providers. Including the EEA (and by extension the EU) would avoid the risk that UK-based content providers could send harmful content into EEA countries with impunity. Although we currently have no evidence that this is likely to occur, we think it best that the pre-transition approach be retained. This avoids creating a regulatory loophole, particularly in advance of the Online Harms regime, where Ofcom will be regulating platforms globally.

2.16 VSPs established in the EEA under the same primary establishment principles laid out above, will not be regulated by Ofcom and will be regulated by the EEA State that they are established in. If this approach was not followed, this would put a duty on

Ofcom to regulate larger social media platforms such as Facebook by virtue of it being established in Ireland but having a subsidiary in the UK. This would in effect mean that Ofcom spent resources and incurred costs of duplicating the efforts of other EEA regulators, to little effect.

2.17 VSPs established outside of the UK, but having a group undertaking in the UK, will be under UK jurisdiction, but only in the event that the VSP has no other group undertakings in the EEA. Where the VSP does have a group undertaking in an EEA State, then the UK will not have jurisdiction and Ofcom will rely on that EEA State to regulate the VSP according to the AVMSD provisions.

2.18 Although this instrument seeks to address jurisdictional concerns, there may be a situation where the provider has no physical presence in the UK or the EEA of any kind. In the event of this occurring, Ofcom will not be the regulator, nor will any regulator in Europe - this is the current position under the AVMSD. There is a second concern that, as with the VSP TikTok which is established in China with multiple subsidiaries across the EU, there may be a period of time before its European regulator is decided upon definitively - in the meantime there will be a gap in regulation.

2.19 Please note that it is likely that there will be only a small number of VSPs in Ofcom's jurisdiction.

Online Harms Regulatory Framework

2.20 The Online Harms White Paper published last year, set out the government's intention to introduce a new duty of care on companies towards their users, with an independent regulator to oversee this framework. In February 2020, the government announced that it was minded to give Ofcom the role of the independent online harms regulator.

2.21 The Audiovisual Media Services Regulations 2020 share broadly similar objectives to the online harms regime. It is the government's preference for the requirements on UK-established video sharing platforms to transition to, and be superseded by, the online harms regulatory framework, once the latter comes into force. This means that requirements on UK-established video sharing platforms to have systems in place to protect users will be encompassed in the online harms legislation.

2.22 This alignment between the two regimes offers the opportunity for early engagement with some stakeholders and for Ofcom and Government to understand the challenges in regulating online services. Under the VSP regime, Ofcom will only regulate services established in their jurisdiction whereas under Online Harms, Ofcom will regulate any in-scope service provided to UK users irrespective of where that service is based. Furthermore, the general scope of the regime is much wider than that of the VSP regime.

2.23 As a result of the upcoming Online Harms regime, it is not beneficial to expand Ofcom's jurisdiction for the VSP regime after the end of the transition period. This will allow for adequate testing of the regulatory processes ahead of the online harms legislation coming into force.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the EUWA). The enactments which are amended also have a United Kingdom extent.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Minister of State for Digital and Culture, Caroline Dinenage, has made the following statement regarding Human Rights:

5.2 "In my view the provisions of the Audiovisual Media Services (Amendment) (EU Exit) Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 See the text under the heading of 'Explanations' in section 2 for details of what legislation is being amended and why.

6.2 Not all deficiencies as a result of the UK's withdrawal from the EU which relate to the Audiovisual Media Services Regulations 2020 are being addressed by this instrument. There will be another instrument which will deal with the remaining deficiencies.

7. Policy background

What is being done and why?

7.1 The AVMSD Regulations transposed the AVMSD. This statutory instrument addresses the jurisdictional deficiencies in the AVMSD Regulations which will arise after the end of the transition period. It also fixes some references to 'exit day' in the Broadcasting (Amendment) (EU Exit) Regulations 2019 that need to be updated to refer to 'IP completion day'.

Appropriate Regulatory Body

7.2 The AVMSD Regulations make provision for the 'appropriate regulatory authority' as the regulator. This will in the first instance be Ofcom, but Ofcom has the power to designate another body corporate to be the appropriate regulatory authority (a co-regulator).

Introducing rules for VSPs

7.3 The new statutory framework introduced by the AVMSD Regulations, inserting a new Part 4B into the Communications Act 2003, means that for the first time UK online

services whose principal purpose (or an essential functionality of the service) is to provide access to the public to videos uploaded to the service by users, will fall within the scope of statutory regulation. The AVMSD requires VSP providers to take 'appropriate measures' to achieve specified protection purposes. The protection purposes are:

i. to protect minors from content and advertising that might impair their physical, mental or moral development;

ii. to protect the general public from content and advertising that incites violence or hatred towards people with certain protected characteristics;

iii. to protect the general public from content and advertising that is a criminal offence under EU law to circulate (i.e. terrorist content, content containing child sexual exploitation and abuse, and racist/xenophobic content).

7.4 The system does not involve direct regulation of content on VSPs, which is the approach for linear TV and ODPS regulation. Instead, regulation is of the systems which VSP providers have in place to deliver the protection purposes. This reflects the different level of control that service providers have over the content provided by the respective services. For linear TV and ODPS, that is a high level of control because they have editorial responsibility for the content. VSP providers do not have editorial responsibility for content, as videos are uploaded by users; VSP providers are merely responsible for the organisation of content on the services that they provide.

Increased protection against harmful content for minors and the general public

7.5 The revised Directive requires that the most harmful content is subject to the strongest protections, such as age assurance or technical measures. It also reinforces protection on linear TV and ODPS against incitement to violence or hatred and public provocation to commit terrorist offences. The Regulations amend the Communications Act 2003 to ensure that Ofcom is able to enforce these requirements for linear, ODPS and VSPs.

Key Dates

7.6 The AVMSD Regulations will come into force on 1 November 2020, at which time Ofcom will be able to commence with any enforcement action necessary. To provide sufficient support to VSPs, Ofcom will be engaging with, and providing guidance to, industry on the development of the regime between December 2020 and April 2021. Ofcom will issue finalised guidance for services in Summer 2021.

7.7 The advance notification requirement comes into force on 6 April 2021. Existing UK VSPs will be required to notify their service to Ofcom before 6 May 2021.

Pre - EU Exit (VSP Jurisdiction)

7.8 Between 1 November 2020 and the end of the transition period, the country of origin principle will apply. This means that each EU Member State and the UK will regulate only the VSPs falling within its jurisdiction under the rules in the AVMSD. Any platform regulated by the UK or an EU Member State will have access to markets in all jurisdictions in which the Directive applies without further regulation.

Post - EU Exit (VSP Jurisdiction)

7.9 After 31 December 2020, the UK will become a third country in relation to the EU, and the country of origin principle will no longer apply. The cross-reference in the AVMSD Regulations to the jurisdiction provisions in the AVMSD will no longer work and VSPs within what was previously UK jurisdiction, will fall out of scope. Practically, this means that without this instrument, after the transition period, Ofcom would not regulate any VSPs.

7.10 This instrument ensures Ofcom has jurisdiction over VSPs where the primary establishment is the UK (establishment in this context means in accordance with the test laid out in the ECD). According to the test of establishment from the ECD, providers must have a physical presence in the UK which is the centre of their economic activity and they must be economically active in the UK.

7.11 VSPs established in the EEA under the same primary establishment principles laid out above, will not be regulated by Ofcom and will be regulated by the EEA State they are established in (provided that the AVMSD applies in that State). If this approach was not followed, this would have the effect of putting a duty on Ofcom to regulate larger social media platforms such as Facebook by virtue of it being established in Ireland but having a subsidiary in the UK.

7.12 VSPs established outside of the UK, but having a group undertaking in the UK will fall under UK jurisdiction as per Article 28a(2) to (4) of the AVMSD, but only in the event that the VSP has no other group undertakings in the EEA. Where the VSP does have an undertaking in another EEA State, then the UK will not have jurisdiction and Ofcom will rely on that EEA State to regulate the VSP according to the AVMSD provisions.

Why is this instrument required?

7.13 This instrument is essential for Ofcom to be able to determine and justify which providers of video-sharing platform services they will be regulating. If between the AVMSD Regulations coming into force on 1 November 2020 and the summer of 2021, Ofcom become aware of serious instances of egregious or illegal harm caused by inadequate regulatory systems of VSPs within UK jurisdiction and consider it is appropriate to do so, Ofcom will take robust enforcement action. Ofcom will also use this period to work collaboratively with VSPs to help them understand their regulatory obligations.

7.14 If VSPs within UK jurisdiction dropped out of scope after the transition period this would cause a regulatory gap, by not allowing Ofcom to enforce or work with platforms with known instances of harm during the period of the regulatory gap. There is therefore a risk that the public would not be adequately protected from harm.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of the EUWA in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 There are no plans to consolidate the legislation amended by this instrument

10. Consultation outcome

10.1 The EUWA does not require a formal consultation to take place for instruments relating to exit. A public consultation was not held so as to avoid prejudicing ongoing exit negotiations, and also because of the limited scope of policy options in relation to fixing deficiencies.

10.2 The Devolved Administrations have been informed of this instrument.

11. Guidance

11.1 The nominated regulatory authority, Ofcom, will publish guidance in accordance with the Audiovisual Media Services Regulations 2020 and will engage with VSPs to help them understand any new obligations. The legislation defines VSPs in accordance with the AVMSD criteria and Ofcom will issue guidance for services to help them understand whether they meet this definition and fall under UK jurisdiction. This guidance, which Ofcom plans to publish in draft form for consultation later this year, will take into account the 'essential functionality' guidelines which have been published by the European Commission.

11.2 Ofcom will also have a duty in legislation to produce guidance on the application of the 'appropriate measures' which VSPs can take to protect users. Ofcom's guidance will make clear that VSPs must take into account freedom of expression when designing and implementing their systems to protect users from the required areas of harm.

11.3 Further guidance will be issued by Ofcom after the laying of this statutory instrument to help VSPs understand the rules around jurisdiction after the end of the transition period.

12. Impact

12.1 There is a low impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this statutory instrument because there is a low level of impact per business. A De-Minimis Assessment showed that costs directly attributable to this fixing SI are minimal and include only one-off familiarisation costs.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses, however, section 3 of the Communications Act 2003 requires that enforcement action by Ofcom is proportionate.

14. Monitoring & review

14.1 The Government will continue to engage with the regulator, particularly in regard to the regulation of VSPs, particularly as the legislation relating to VSPs will be repealed and encompassed within the Online Harms regulatory framework.

15. Contact

15.1 Subul Ahsan (subul.ahsan@dcms.gov.uk/0794 7921326) and Emma Broadhurst (emma.broadhurst@dcms.gov.uk/0782644610) at the Department for Digital, Culture, Media and Sport can answer any queries regarding the instrument.

15.2 Orla MacRae at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Caroline Dinenage MP, Minister for Digital and Culture at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

1.1 The Minister for Digital and Culture, Caroline Dinenage, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Audiovisual Media Services (Amendment) (EU Exit) Regulations 2020 do no more than is appropriate".

1.2 This is the case because the instrument corrects legislative deficiencies arising from EU exit. It amends EU references and makes appropriate provision to correct deficiencies arising from withdrawal and to ensure the continued operation of the regulatory framework. Further detail is given in sections 2, 6 and 7 of this explanatory memorandum.

2. Good reasons

2.1 The Minister for Digital and Culture, Caroline Dinenage, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

2.2 These are that the instrument addresses failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU. The policy reasons for the changes are set out in section 7 of this explanatory memorandum.

3. Equalities

3.1 The Minister for Digital and Culture, Caroline Dinenage, has made the following statement:

"The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

3.2 The Minister for Digital and Culture, Caroline Dinenage, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the draft instrument, I, the Minister for Digital and Culture, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.