Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No. 0000

EXITING THE EUROPEAN UNION

BROADCASTING

ELECTRONIC COMMUNICATIONS

The Electronic Communications (Amendment etc.) (EU Exit) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Electronic Communications (Amendment etc.) (EU Exit) Regulations 2019.

(2) They come into force on the later of exit day or the day after the day on which they are made.

(**a**) 2018 c. 16.

PART 2

Amendment of primary legislation

Amendment of the Communications Act 2003

2. In section 4(10)(a) of the Communications Act 2003(**a**), after "Directive" insert "(whether before or after exit day)".

PART 3

Amendment of subordinate legislation

Amendment of the Privacy and Electronic Communications (EC Directive) Regulations 2003

3.—(1) Regulation 37 of the Privacy and Electronic Communications (EC Directive) Regulations 2003(**b**) is amended as follows.

(2) In paragraph (1)(a), for the words from "implementation" to the end substitute "implementing provisions".

(3) After paragraph (1) insert—

> "(1A) "The implementing provisions" means the provisions contained in or made under an Act that were relied on by the United Kingdom immediately before exit day to implement the Directive, so far as those provisions remain in force."

(4) Omit paragraph (2).

(5) In paragraph (3)(a), for the words from "implementation" to the end substitute "implementing provisions".

PART 4

Amendments of retained direct EU legislation

Amendment of Commission Regulation (EU) No 611/2013

4.—(1) Commission Regulation (EU) No 611/2013 on the measures applicable to the notification of personal data breaches under Directive 2002/58/EC of the European Parliament and of the Council on privacy and electronic communications is amended as follows.

(2) In Article 2—

(a) in the heading, for "competent national authority" substitute "Information Commissioner";

(b) in paragraph 1, for "competent national authority" substitute "Information Commissioner";

(c) in paragraph 2, for "competent national authority" (in both places) substitute "Information Commissioner";

(d) in paragraph 3, for "competent national authority" (in each place it occurs) substitute "Information Commissioner";

(e) in paragraph 4—

(i) for "competent national authority" substitute "Information Commissioner";

(**a**) 2003 c. 21.

(**b**) S.I. 2003/2426. Regulation 37 was inserted by S.I. 2011/1208; there have been other amendments to the instrument which are not relevant to these Regulations.

(ii) for "Member State concerned" substitute "United Kingdom";

(iii) omit the final sentence;

(f) omit paragraph 5.

(3) In Article 3—

(a) in paragraph 3, for "competent national authority" substitute "Information Commissioner";

(b) in paragraph 5, for "competent national authority" (in both places) substitute "Information Commissioner";

(c) in paragraph 7, for ", in the relevant Member States," substitute "in the United Kingdom".

(4) In Article 4—

(a) in paragraph 1, for "competent national authority" substitute "Information Commissioner";

(b) omit paragraph 3.

(5) Omit Article 6.

(6) Omit the sentence following Article 7.

(7) In Annex 1—

(a) in the heading, for "competent national authority" substitute "Information Commissioner";

(b) omit points 16 and 17 (and the italic heading before them).

Amendment of Regulation (EU) 2015/2120

5.—(1) Regulation (EU) 2015/2120 of the European Parliament and of the Council laying down measures concerning open internet access and retail charges for regulated intra-EU communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012 is amended as follows.

(2) Omit Article 1(3).

(3) In Article 2, in the second paragraph, omit the definitions of "regulated intra-EU communications" and "number-based interpersonal communications service".

(4) Omit Article 5a.

(5) Omit Article 10(5).

PART 5

Revocations of retained direct EU legislation

Regulation (EU) 2018/1971

6. Regulation (EU) 2018/1971 of the European Parliament and of the Council establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 is revoked.

Retained direct EU legislation relating to the .eu top-level domain

7. The following instruments are revoked—

(a) Regulation (EC) No 733/2002 of the European Parliament and of the Council on the implementation of the .eu Top Level Domain;

(b) Commission Regulation (EC) No 874/2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration;

(c) Commission Regulation (EC) No 1654/2005 amending Regulation (EC) No 874/2004;

(d) Commission Regulation (EC) No 1255/2007 amending Commission Regulation (EC) No 874/2004;

(e) Commission Regulation (EC) No 560/2009 amending Regulation (EC) No 874/2004;

(f) Commission Implementing Decision 2014/207/EU on the designation of the .eu Top Level Domain Registry;

(g) Commission Regulation (EU) 2015/516 amending Regulation (EC) No 874/2004.

8. In the Annex to Regulation (EC) No 1137/2008 of the European Parliament and of the Council adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny, omit point 6.2.

Commission Decision 2003/548/EC

9. The following instruments are revoked—

(a) Commission Decision 2003/548/EC on the minimum set of leased lines with harmonised characteristics and associated standards referred to in Article 18 of the Universal Service Directive;

(b) Commission Decision 2008/60/EC amending Decision 2003/548/EC.

Commission Decision 2007/176/EC

10. The following instruments are revoked—

(a) Commission Decision 2007/176/EC establishing a list of standards and/or specifications for electronic communications networks, services and associated facilities and services and replacing all previous versions;

(b) Commission Decision 2008/286/EC amending Decision 2007/176/EC.

Regulation (EC) No 544/2009

11. Regulation (EC) No 544/2009 of the European Parliament and of the Council amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services is revoked.

Commission Decision 2005/752/EC

12. Commission Decision 2005/752/EC establishing an expert group on electronic commerce is revoked.

Commission Decision on establishing the European Regulators Group for Audiovisual Media Services

13. Commission Decision on establishing the European Regulators Group for Audiovisual Media Services (notified under document number C(2014) 462) is revoked.

Revocation of provisions of EEA agreement

14. In Annex 11 to the EEA agreement, so far as it forms part of domestic law by virtue of section 3(1) of the European Union (Withdrawal) Act 2018, the following points are revoked insofar as they are retained EU law—

(a) 1a (referring to Commission Decision 2009/766/EC);

(b) 5ce (referring to Regulation (EC) No 2887/2000);

(c) 5cf (referring to Decision No 676/2002/EC)

(d) 5ch (referring to Commission Decision 2002/622/EC);

(e) 5cla (referring to Decision No 243/2012/EU);

(f) 5claa (referring to Commission Implementing Decision 2013/195/EU);

(g) 5cn (referring to Commission Decision 2003/548/EC);

(h) 5cq (referring to Commission Decision 2004/545/EC);

(i) 5cr (referring to Commission Decision 2005/50/EC);

(j) 5cs (referring to Commission Decision 2005/513/EC);

(k) 5cv (referring to Commission Decision 2007/98/EC);

(l) 5cw (referring to Commission Decision 2007/131/EC);

(m) 5cy (referring to Commission Decision 2007/176/EC);

(n) 5cz (referring to Commission Decision 2006/771/EC);

(o) 5czb (referring to Commission Decision 2007/344/EC);

(p) 5czc (referring to Commission Decision 2008/294/EC);

(q) 5czd (referring to Commission Decision 2008/411/EC);

(r) 5cze (referring to Commission Decision 2008/477/EC);

(s) 5czf (referring to Commission Decision 2008/671/EC);

(t) 5czg (referring to Commission Decision 2010/166/EU);

(u) 5czh (referring to Commission Decision 2010/267/EU);

(v) 5czi (referring to Commission Implementing Decision 2012/688/EU);

(w) 5czj (referring to Commission Implementing Decision 2014/641/EU);

(x) 5czk (referring to Commission Implementing Decision (EU) 2015/750);

(y) 5czl (referring to Commission Implementing Decision (EU) 2016/339);

(z) 5czm (referring to Commission Implementing Decision (EU) 2016/687);

(aa) 5czo (referring to Decision (EU) 2017/899);

(bb) 5haa (referring to Commission Regulation (EU) No 611/2013);

(cc) 5n (referring to Commission Decision 2005/752/EC);

(dd) 5oa (referring to Regulation (EC) No 733/2002);

(ee) 5oaa (referring to Commission Implementing Decision 2014/207/EU);

(ff) 5oab (referring to Commission Regulation (EC) No 874/2004);

(gg) 5ob (referring to Regulation (EU) 2015/2120);

(hh) 5r (referring to Commission Decision on establishing the European Regulators Group for Audiovisual Media Services).

15. In Annex 13 to the EEA agreement, so far as it forms part of domestic law by virtue of section 3(1) of the European Union (Withdrawal) Act 2018, the following points are revoked insofar as they are retained EU law—

(a) 17ke (referring to Commission Delegated Regulation (EU) No 305/2013);

(b) 17kf (referring to Decision No 585/2014/EU).

Name
Minister of State
Department for Digital, Culture, Media and Sport

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (c), (e), and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of electronic communications and, in particular, amend legislation relating to the notification of personal data breaches by providers of publicly available electronic communications services, and revoke certain retained direct EU legislation. Part 2 amends primary legislation, Part 3 amends subordinate legislation, Part 4 amends retained direct EU legislation, and Part 5 revokes retained direct EU legislation.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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