STATUTORY INSTRUMENTS

2016 No. 1177

ELECTRONIC COMMUNICATIONS

The Privacy and Electronic Communications (EC Directive) (Amendment) (No. 2) Regulations 2016

Made - - - -	*29th November 2016*
Laid before Parliament	*7th December 2016*
Coming into force - -	*30th December 2016*

The Secretary of State, being a Minister designated(**a**) for the purposes of section 2(2) of European Communities Act 1972(**b**) in respect of matters relating to electronic communications, in exercise of the powers conferred by that section makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Privacy and Electronic Communications (EC Directive) (Amendment) (No. 2) Regulations 2016 and shall come into force on 30th December 2016.

(2) In these Regulations—

"the 2003 Regulations" means the Privacy and Electronic Communications (EC Directive) Regulations 2003(**c**);

"the relevant functions" means the functions under regulations 25 and 26 of the 2003 Regulations;

"the relevant date" means the date on which these Regulations come into force.

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

2.—(1) The 2003 Regulations are amended as follows.

(2) In regulations 25 and 26—

(a) for "OFCOM", in each place where it occurs, substitute "the Commissioner";

(b) in paragraph (1) for "them" substitute "the Commissioner or, prior to 30th December 2016, OFCOM";

(c) in paragraph (2) for "they have" substitute "the Commissioner has";

(d) in paragraph (2) for "they were" substitute "the Commissioner was or, prior to 30th December 2016, OFCOM were";

(e) in paragraphs (3) and (4) for "them" substitute "the Commissioner";

(**a**) S.I. 2001/3495. This has been amended, but the amendments are not relevant for the purposes of these Regulations.
(**b**) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(**c**) S.I. 2003/2426, as amended by S.I. 2004/1039, S.I. 2010/22, S.I. 2011/1208, S.I. 2015/355 and S.I. 2016/524.

(f) in paragraphs (4) and (5) for "their", in each place where it occurs, substitute "the Commissioner's".

Supplementary provisions

3.—(1) These Regulations do not affect the validity of anything done before the relevant date by or in relation to or on behalf of OFCOM in connection with the relevant functions.

(2) Anything which is in the process of being done immediately before the relevant date by or in relation to or on behalf of OFCOM in connection with the relevant functions may be continued on and after the relevant date by or in relation to or on behalf of the Commissioner.

Matt Hancock
Minister of State
29th November 2016 Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("the 2003 Regulations") so as to transfer from OFCOM to the Information Commissioner functions under regulations 25 and 26 in relation to registers to be kept for the purposes of regulations 20 and 21.

Regulation 2 of these Regulations amends the 2003 Regulations so that the Commissioner becomes responsible for functions under regulations 25 and 26 relating to the maintaining and keeping up to date of registers of the numbers of subscribers who do not wish to receive unsolicited communications by means of facsimile machine or unsolicited calls for direct marketing purposes.

Regulation 3 of these Regulations makes supplementary provision for continuity in relation to the exercise of functions under regulations 25 and 26 of the 2003 Regulations.

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

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