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STATUTORY INSTRUMENTS

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**2019 No. 87**

**EXITING THE EUROPEAN UNION  
ELECTRONIC COMMUNICATIONS**

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

<i>Sift requirements satisfied</i>	<i>15th January 2019</i>
<i>Made - - - -</i>	<i>22nd January 2019</i>
<i>Laid before Parliament</i>	<i>23rd January 2019</i>
<i>Coming into force in accordance with regulation 1</i>	

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<sup>(1)</sup>.

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

**PART 1**

Introduction

**Citation, commencement and extent**

1. These Regulations may be cited as the Electronic Commerce (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

2. An amendment or revocation made by these Regulations has the same extent as the provision amended or revoked.

## PART 2

### Amendment of subordinate legislation

#### Amendment of the Electronic Commerce (EC Directive) Regulations 2002

- 3.—(1) The Electronic Commerce (EC Directive) Regulations 2002(2) are amended as follows.
- (2) In regulation 2 (interpretation), in paragraph (1)—
- (a) omit the definition of “the Commission”;
  - (b) in the definition of “established service provider”—
    - (i) for the words from “means a service provider who is” to “and who effectively pursues an economic activity” substitute—
 

“means a service provider who is—

      - (a) a national of the United Kingdom or a member State, or
      - (b) a company or firm as mentioned in Article 54 of the Treaty, and who effectively pursues an economic activity;”;
    - (ii) before the words “a member State for an indefinite period” insert “the United Kingdom or”;
  - (c) after the definition of “member State”, insert—
 

““a national of the United Kingdom” means—

    - (a) a British citizen;
    - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981(3) and who has a right of abode in the United Kingdom; or
    - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;”;
  - (d) for the definition of “regulated profession”, substitute—
 

““regulated profession” has the meaning given in regulation 8(1) of the European Union (Recognition of Professional Qualifications) Regulations 2015(4);”.
- (3) In regulation 2 (interpretation), after paragraph (3), insert—
- “(4) For the purposes of the definition of “established service provider” in paragraph (1), Article 54 of the Treaty is to be read as if the United Kingdom were a member State.”.
- (4) In regulation 4 (internal market)—
- (a) omit paragraphs (1) and (2);
  - (b) in paragraph (3), omit “other than the United Kingdom”;
  - (c) in paragraph (4), for “Paragraphs (1), (2) and (3)”, substitute “Paragraph (3)”;
  - (d) in paragraph (5), for “another”, substitute “a”;
  - (e) after paragraph (6), insert—
 

“(7) In paragraph (5), “Community acts” means Community acts as existed immediately before exit day.”;

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(2) S.I. 2002/2013.

(3) 1981 c. 61. Within Part 4, section 31 was amended by section 1(1)(b) of the British Overseas Territories Act 2002 (c. 8), and section 33 was repealed by section 15 and section 161 of, and paragraph 1(i) of Schedule 2 and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 (c. 41).

(4) S.I. 2015/2059.

- (f) in the heading, for “Internal market”, substitute “Non-UK service providers – restriction on application of requirements”.
- (5) In regulation 5 (derogations from regulation 4), omit paragraphs (4) to (7).
- (6) In regulation 6 (general information to be provided by a person providing an information society service), in paragraph (1)—
  - (a) in sub-paragraph (f)(ii), after “his professional title and”, insert “whether that title has been granted in the United Kingdom, or if not.”;
  - (b) in sub-paragraph (f)(iii), after “service provider in the”, insert “United Kingdom or”.
- (7) In regulation 10 (other information requirements), for the words from “legislation” to the end, substitute “retained EU law”.
- (8) In the Schedule, in paragraph 4, after “mandatory formal requirements”, insert “under the applicable law of the United Kingdom, or any part of it, (where the real estate is situated in the United Kingdom), or”.

#### **Amendment of the Electronic Commerce Directive (Miscellaneous Provisions) Regulations 2018**

- 4.—(1) The Electronic Commerce Directive (Miscellaneous Provisions) Regulations 2018(5) are amended as follows.
- (2) In regulation 1 (citation, commencement and extent), for paragraph (2), substitute—

“(2) Subject to paragraph (3), these Regulations extend to the United Kingdom.”.
  - (3) In regulation 2 (interpretation)—
    - (a) in paragraph (1), omit the definition of “extreme pornography offence”;
    - (b) in paragraph (2)(a)—
      - (i) omit “in a particular part of the United Kingdom or”;
      - (ii) omit “other than the United Kingdom”;
      - (iii) omit “that part of the United Kingdom or”;
      - (iv) after “is a national of”, insert “the United Kingdom or”;
    - (c) after paragraph (2), insert—

“(3) For the purposes of paragraph (2)(a)—

      - (a) “a national of the United Kingdom” means—
        - (i) a British citizen;
        - (ii) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom; or
        - (iii) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;
      - (b) Article 54 of the Treaty on the Functioning of the European Union is to be read as if the United Kingdom were a member State.”.
  - (4) Omit regulation 3 (internal market – service providers established in Scotland).
  - (5) Omit regulation 4 (internal market – service providers established in England and Wales).
  - (6) Omit regulation 5 (internal market – service providers established in Northern Ireland).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(7) In regulation 6 (non-UK service providers – restriction on institution of proceedings), in paragraph (5), omit “other than the United Kingdom”.

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Sport

22nd January 2019

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8 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 sections 8(2)(b), (c) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation relating to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

Regulation 3 amends the Electronic Commerce (EC Directive) Regulations 2002, and regulation 4 amends the Electronic Commerce Directive (Miscellaneous Provisions) Regulations 2018.

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.