

2016 No. 524

ELECTRONIC COMMUNICATIONS

**The Privacy and Electronic Communications (EC Directive)
(Amendment) Regulations 2016**

<i>Made</i> - - - -	<i>21st April 2016</i>
<i>Laid before Parliament</i>	<i>25th April 2016</i>
<i>Coming into force</i> - -	<i>16th May 2016</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the 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 and commencement

1. These Regulations may be cited as the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2016 and shall come into force on 16th May 2016.

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

2.—(1) The Privacy and Electronic Communications (EC Directive) Regulations 2003(c) are amended as follows.

(2) In regulation 19, for paragraph (2) substitute—

“(2) Those circumstances are where—

- (a) the called line is that of a subscriber who has previously notified the caller that for the time being he consents to such communications being sent by, or at the instigation of, the caller on that line; and
- (b) the person transmitting, or instigating the transmission of, such communications—
 - (i) does not prevent presentation of the identity of the calling line on the called line; or
 - (ii) presents the identity of a line on which he can be contacted.”

(3) In regulation 21—

(a) before paragraph (1) insert—

“(A1) A person shall neither use, nor instigate the use of, a public electronic communications service for the purposes of making calls (whether solicited or unsolicited) for direct marketing purposes except where that person—

(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 and S.I. 2015/355.

- (a) does not prevent presentation of the identity of the calling line on the called line; or
- (b) presents the identity of a line on which he can be contacted.”;
- (b) in paragraph (2), for “paragraph (1)” substitute “paragraphs (A1) or (1)”; and
- (c) in the heading, for “Unsolicited calls for direct marketing purposes” substitute “Calls for direct marketing purposes”.

21st April 2016

Neville-Rolfe
Parliamentary Under Secretary of State
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 require that persons making or instigating calls for direct marketing purposes do not prevent presentation of the identity of the calling line on the called line.

Regulation 2(2) amends regulation 19 of the 2003 Regulations to provide that a person may neither transmit, nor instigate the transmission of, communications comprising recorded matter for direct marketing purposes by means of an automated calling or communication system where that person prevents presentation of the identity of the calling line on the called line.

Regulation 2(3) amends regulation 21 of the 2003 Regulations to provide that a person may neither use, nor instigate the use of, a public electronic communications service for the purposes of making calls (whether solicited or unsolicited) for direct marketing purposes where that person prevents presentation of the identity of the calling line on the called line.

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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