

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) (NO. 2) ORDER 2018
2018 No. 1062

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Exiting the European Union and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Section 2(2) of the European Communities Act 1972 (“ECA 1972”) includes a power for “designated” Ministers and departments to make subordinate legislation.

2.2 This instrument designates the Secretary of State in relation to the issuance of multilingual standards forms by the Registrar General for England and Wales.

2.3 This instrument also designates the Secretary of State in relation to geo-blocking and other forms of discrimination in the context of trade in goods and services, where such discrimination is based on customers’ nationality, place of residence or place of establishment within the internal market.

2.4 This instrument also explains that existing designation orders are not restricted by this Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 2(2) of the ECA 1972 confers a power that may be exercised by a designated Minister or government department. A designated Minister or government department can make secondary legislation to implement European Union obligations, or to deal with matters arising out of or related to those European obligations.

Multilingual standard forms

4.2 In 2016, the EU introduced Regulation (EU) 2016/1191¹ of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012. It makes provision for, among other

¹ OJ L 200, 26.7.2016, p. 1-136. A copy of Regulation (EU) 2016/1191 can be accessed via the following link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1191&from=EN>

things, the issuance of multilingual standard forms for certain public documents, including birth, death, and marriage certificates.

- 4.3 The Registrar General for England and Wales exercises functions and duties related to the issuance of certain public documents. The functions and duties of the Registrar General are limited, by Section 1(1) of the Registration Service Act 1953, to those conferred or imposed by or under any enactment.

Geo-blocking

- 4.4 In 2018, the EU introduced Regulation (EU) 2018/302² of the European Parliament and of the Council on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC. It aims to prevent discrimination based on customers' nationality, place of residence or place of establishment in cross-border transactions between a trader and a customer relating to the sale of goods and the provision of services within the Union.

5. Extent and Territorial Application

- 5.1 This instrument extends and applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

Multilingual Standard Forms

- 7.1 The Secretary of State proposes to make legislation under Section 2(2) to implement Regulation (EU) 2016/1191. This Order designates the Secretary of State for this purpose.
- 7.2 In order to comply with the Regulation, it is necessary for new regulations to be adopted. More specifically, the Secretary of State intends to make regulations to enable the Registrar General for England and Wales to issue multilingual standard forms.

Geo-blocking

- 7.3 The Secretary of State proposes to make legislation under Section 2(2) to implement Regulation (EU) 2018/302. This Order designates the Secretary of State for this purpose.
- 7.4 In order to comply with the Regulation, it is necessary for new regulations to be adopted. More specifically, the Secretary of State intends to make regulations to set out measures applicable to infringements of the provisions of the Regulation.

² OJ L 601, 2.3.2018, p. 1-15. A copy of Regulation (EU) 2018/302 can be accessed via the following link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0302&from=EN>

8. Consultation outcome

8.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

9. Guidance

9.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 This Order does not apply to activities that are undertaken by small businesses.

12. Monitoring, review and expiry

12.1 The designation in this and similar orders is intended to identify clearly the subject areas in relation to which the Minister or government department is designated.

12.2 The designation contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

12.3 The designation will cease to have effect on exit day, as defined in Section 20 of the 2018 Act.

13. Contact

13.1 Les Saunders at the Department for Exiting the European Union (Telephone: 020 7276 0190 or email: les.saunders@dexeu.gov.uk) can answer any queries regarding the instrument.