

2018 No. 1326

EXITING THE EUROPEAN UNION

CONSUMER PROTECTION

**The Consumer Protection (Amendment etc.) (EU Exit)
Regulations 2018**

<i>Sift requirements satisfied</i>	<i>15th November 2018</i>
<i>Made - - - -</i>	<i>6th December 2018</i>
<i>Laid before Parliament</i>	<i>10th December 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State has been designated^(a) for the purposes of making Regulations under section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to consumer protection.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(c).

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 and commencement

1.—(1) These Regulations may be cited as the Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018.

(2) Part 2 comes into force immediately before exit day.

(3) Parts 1, 3, 4, 5 and 6 come into force on exit day.

(a) S.I. 1993/2661.

(b) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(c) 2018 c.16.

PART 2

Amendments made under section 2(2) of the European Communities Act 1972

Amendment of the Footwear (Indication of Composition) Labelling Regulations 1995

2.—(1) The Footwear (Indication of Composition) Labelling Regulations 1995(a) are amended as follows.

(2) In regulation 3 (application)—

- (a) in paragraph (3)(b), for “Directive 89/686/EEC”, substitute “Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC(b)”;
- (b) in paragraph (3)(c), for “Directive 76/769/EEC”, substitute “Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC(c)”.

PART 3

Amendment of primary legislation

Amendment of the Consumer Rights Act 2015

3.—(1) The Consumer Rights Act 2015(d) is amended as follows.

(2) In section 32 (contracts applying law of non-EEA State)—

- (a) in the heading, for “Contracts applying law of non-EEA State”, substitute “Contracts applying law of a country other than the UK”;
- (b) in subsection (1)(a), for “an EEA State”, substitute “the United Kingdom or any part of the United Kingdom”;
- (c) in subsection (3), omit “or the law of an EEA State is chosen”.

(3) In section 59(1) (interpretation) in the definition of “producer” for “European Economic Area” substitute “United Kingdom”.

(4) In section 73(1)(b) (disapplication of rules to mandatory terms and notices) omit “or the EU”.

(5) In section 74 (contracts applying law of non-EEA State)—

- (a) in the heading, for “Contracts applying law of non-EEA State”, substitute “Contracts applying law of a country other than the UK”;
- (b) in subsection (1)(a), for “an EEA State”, substitute “the United Kingdom or any part of the United Kingdom”;
- (c) in subsection (2), omit “or the law of an EEA State is chosen”.

(a) S.I. 1995/2489 as amended by S.I. 2011/1043.

(b) OJ L 81, 31.03.2016, p. 51.

(c) OJ L 396, 30.12.2006, p. 1.

(d) 2015 c.15; there are amending instruments but none is relevant.

PART 4

Amendment of subordinate legislation

Amendment of the Crystal Glass (Descriptions) Regulations 1973

- 4.**—(1) The Crystal Glass (Descriptions) Regulations 1973(a) are amended as follows.
- (2) In regulation 4(2) omit from “Provided that” to the end.
- (3) In regulation 7 omit from “to a country” to the end.

Amendment of the Footwear (Indication of Composition) Labelling Regulations 1995

5.—(1) The Footwear (Indication of Composition) Labelling Regulations 1995 are amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) omit the definition of “the European Union”;
- (b) in the definition of “responsible person”, for “European Union” in each place it occurs, substitute “United Kingdom”.
- (3) In regulation 5(4) (labelling requirements), for “European Union”, substitute “United Kingdom”.

Amendment of the Consumer Protection from Unfair Trading Regulations 2008

6.—(1) The Consumer Protection from Unfair Trading Regulations 2008(b) are amended as follows.

- (2) In regulation 27A(5)(b) (when does a consumer have a right to redress?), for “European Economic Area”, substitute “United Kingdom”.
- (3) In Schedule 1 (commercial practices which are in all circumstances considered unfair)—
- (a) in paragraph 8, after “a language which is not”, insert “English (in the case of a trader located in the United Kingdom) or not”;
- (b) in paragraph 23, after “product is available in”, insert “the United Kingdom (if the product is sold there) or in”.

Amendment of the Consumer Rights (Payment Surcharges) Regulations 2012

7.—(1) The Consumer Rights (Payment Surcharges) Regulations 2012(c) are amended as follows.

- (2) In regulation 5 (contracts where regulation 4 applies)—
- (a) in paragraph (2)(b), after “cross-border healthcare”, insert “as it had effect immediately before exit day”;
- (b) for paragraph (2)(h) substitute—
- “(h) which is a regulated contract within the meaning of the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010(d)”.

(3) In regulation 6B (application of regulation 6A), for “an EEA state” in each place it occurs, substitute “the United Kingdom”.

(a) S.I. 1973/1952 as amended by S.I. 2011/1043.

(b) S.I. 2008/1277 as amended by S.I. 2013/3134 and S.I. 2014/870; there are other amending instruments but none is relevant.

(c) S.I. 2012/3110 as amended by S.I. 2017/752; there are other amending instruments but none is relevant.

(d) S.I. 2010/2960; there are amending instruments but none is relevant.

Amendment of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

8.—(1) The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013(a) are amended as follows.

(2) Omit regulation 3(2) (review).

(3) In regulation 6 (limits of application: general)—

(a) for paragraph (1)(g) substitute—

“(g) which is a package travel contract within the meaning of the Package Travel and Linked Travel Arrangements Regulations 2018(b)”;

(b) for paragraph (1)(h) substitute—

“(h) which is a regulated contract within the meaning of the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010”.

(4) In Schedule 3 (model instructions for cancellation), in paragraph 5(b), for “EUR” in both places it occurs, substitute “£”.

Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

9.—(1) The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015(c) are amended as follows.

(2) Omit regulation 2(2) (review).

(3) In regulation 5 (other definitions)—

(a) omit the definition of “cross-border dispute”;

(b) omit the definition of “EU listed body”;

(c) omit the definition of “ODR platform”;

(d) omit the definition of “single point of contact”.

(4) In regulation 7, after “cross-border healthcare”, insert “as it had effect immediately before exit day”.

(5) Omit regulation 8A (consumer information regarding the ODR platform).

(6) In regulation 10 (listing of ADR entities), for “single point of contact”, in both places it occurs, substitute “Secretary of State”.

(7) In regulation 13(4) (removal of approval), for “single point of contact”, substitute “Secretary of State”.

(8) In regulation 14 (notification of the consolidated ADR entity list)—

(a) in paragraph (1)—

(i) in the words before paragraph (a), for “European Commission”, substitute “Secretary of State”,

(ii) for “the relevant European Commission website”, substitute “a website nominated by the Secretary of State”;

(b) in paragraph (2)—

(i) in the words before paragraph (a), for “European Commission”, substitute “Secretary of State”,

(ii) for “the relevant European Commission website”, substitute “a website nominated by the Secretary of State”.

(a) S.I. 2013/3134 as amended by S.I. 2015/1629 and S.I. 2018/634; there are other amending instruments but none is relevant.

(b) S.I. 2018/634.

(c) S.I. 2015/542 as amended by S.I. 2015/1392 and S.I. 2015/1972.

- (9) In regulation 14A (the ADR entity’s duty to cooperate)—
- (a) omit paragraph (1)(a);
 - (b) in paragraph (1)(b) omit “both cross border disputes and”;
 - (c) in paragraph (2), for the words from “designated by the Secretary of State” to the end, substitute “which are enforcers under Part 8 of the Enterprise Act 2002(a)”.
- (10) In regulation 14B (agreement to submit disputes to an ADR entity), omit “cross-border dispute or” in each place it occurs.
- (11) For the heading of Part 3 (single point of contact), substitute “Functions of the Secretary of State”.
- (12) Omit regulation 17 (designation of single point of contact).
- (13) In regulation 18 (functions of single point of contact)—
- (a) in the heading, for “Functions of single point of contact”, substitute “Functions of the Secretary of State”;
 - (b) in paragraph (1)—
 - (i) for “single point of contact” substitute “Secretary of State”,
 - (ii) for “it” substitute “the Secretary of State”,
 - (iii) for sub-paragraph (b), substitute—
 - “(b) without undue delay, publish the consolidated list on a website.”;
 - (c) in paragraph (2)—
 - (i) for “single point of contact”, substitute “Secretary of State”,
 - (ii) for “its” substitute “a”,
 - (iii) omit sub-paragraph (b) and the “and” before it;
 - (d) in paragraph (3)(b) omit “or cross-border”;
 - (e) in paragraph (4)—
 - (i) for “single point of contact”, substitute “Secretary of State”,
 - (ii) for “it”, in the first place it occurs, substitute “the Secretary of State”;
 - (f) in paragraph (5), for “single point of contact”, in both places it occurs, substitute “Secretary of State”.
- (14) In regulation 19 (consumer information by traders), omit “or EU listed body” in each place it occurs.
- (15) Omit regulation 19A (consumer information by online traders and online marketplaces regarding the ODR platform).
- (16) In Schedule 3 (requirements that a competent authority must be satisfied that the person meets)—
- (a) in paragraph 1—
 - (i) in sub-paragraph (a) omit “or cross-border dispute”,
 - (ii) in sub-paragraph (b) omit “or cross-border dispute”,
 - (iii) in sub-paragraph (c) omit “or cross-border”;
 - (b) in paragraph 2—
 - (i) in sub-paragraph (a) omit “or cross-border dispute”,
 - (ii) omit sub-paragraphs (f) and (g);
 - (c) in paragraph 4 omit “or cross-border dispute”;

(a) 2002 c. 40 as amended by paragraph 95 of Schedule 18 to the Financial Services Act 2012 (c. 21), paragraph 4 of Schedule 7 to the Consumer Rights Act 2015 (c. 15), S.I. 2006/3363, S.I. 2014/892 and S.I. 2018/378. There are other amending instruments but none are relevant.

- (d) in paragraph 5—
 - (i) omit sub-paragraph (d),
 - (ii) in sub-paragraph (e) omit “and cross-border disputes”;
- (e) in paragraph 11—
 - (i) in sub-paragraph (a) omit “in a situation where there is no conflict of laws”,
 - (ii) omit sub-paragraph (b);
- (f) omit paragraph 12;
- (g) in paragraph 13 omit “or a cross-border dispute”;
- (h) omit paragraphs 17, 18 and 19.

(17) In Schedule 4 (information to be included in the list maintained by a competent authority)—

- (a) in paragraph d) omit “and cross-border dispute”;
- (b) in paragraph e) omit “and cross-border disputes”.

(18) In Schedule 5 (information to be included in an ADR entity’s annual activity report)—

- (a) omit “and cross-border disputes” in each place it occurs;
- (b) omit paragraph i).

(19) In Schedule 6 (information which an ADR entity must communicate to the relevant competent authority every two years), omit paragraph f).

PART 5

Revocation of retained direct EU legislation

Revocation of Regulation (EU) 524/2013

10. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) is revoked.

PART 6

Supplementary

Transitional provision

11. Nothing in regulation 3 or regulation 6(2) applies to a contract entered into before exit day.

6th December 2018

Kelly Tolhurst
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c. 68), and section 8(1) of the European Union (Withdrawal) Act 2018 (c.

16). They address cross-references to EU law that are obsolete; and address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), 8(2)(c), 8(2)(d), 8(2)(g) and 8(3)(a)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of consumer protection and, in particular, amend legislation relating to applicable law in consumer contracts, labelling, unfair terms relating to language and after-sales service, alternative dispute resolution and the online dispute resolution platform. Part 2 amends subordinate legislation in exercise of the powers conferred by the European Communities Act 1972. Parts 3, 4, 5 and 6 make amendments in exercise of the powers conferred by the European Union (Withdrawal) Act 2018. Part 3 amends primary legislation, Part 4 amends subordinate legislation, Part 5 revokes retained direct EU legislation and Part 6 makes transitional provisions.

A full impact assessment on the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Consumer and Competition Policy Directorate, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET or from www.gov.uk/beis, and is also annexed to the Explanatory Memorandum which is available alongside these Regulations at <http://www.legislation.gov.uk>.

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