

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 of the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No.

**EXITING THE EUROPEAN UNION
CONSUMER PROTECTION**

The Alternative Dispute Resolution for Consumer
Disputes (Extension of Time Limits for Legal Proceedings)
(Amendment etc.) (EU Exit) Regulations 2020

Made - - - - *****

Coming into force in accordance with regulation 1(2)

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

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Alternative Dispute Resolution for Consumer Disputes (Extension of Time Limits for Legal Proceedings) (Amendment etc.) (EU Exit) Regulations 2020.

(2) These Regulations come into force on IP completion day except for regulation 6 which comes into force immediately before IP completion day.

PART 2

Amendment of primary legislation

Amendment of the Prescription and Limitation (Scotland) Act 1973

- 2.—(1) The Prescription and Limitation (Scotland) Act 1973(2) is amended as follows.
- (2) In subsection (2) of section 14 (computation of prescriptive periods)—
- (a) omit the definition of “ADR Directive”;
 - (b) for the definition of “ADR entity” substitute—

““ADR entity” means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542)(3);”;
 - (c) for the definition of “ADR procedure” substitute—

““ADR procedure” means a procedure for the out-of-court resolution of disputes through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;”;
 - (d) after the definition of “ADR procedure” insert—

““consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;”;
 - (e) for the definition of “relevant consumer dispute” substitute—

““relevant consumer dispute” means a dispute that—

 - (a) concerns obligations under a sales contract or a service contract, and
 - (b) is between a trader established in the United Kingdom or the European Union and a consumer resident in the United Kingdom,

which the parties attempt to settle by recourse to a non-binding ADR procedure;”;
 - (f) after the definition of “relevant cross-border dispute” insert—

““sales contract” means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;

“service contract” means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;

“trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.”.

Amendment of the Limitation Act 1980

- 3.—(1) The Limitation Act 1980(4) is amended as follows.
- (2) In subsection (1) of section 33B (extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes)—

(2) 1973 c. 52. Subsection (2) of section 14 was amended by S.I. 2015/1392.

(3) S.I. 2015/542. Regulation 4 was amended by S.I. 2015/1392.

(4) 1980 c. 58. Section 33B was inserted by S.I. 2015/1392.

- (a) omit paragraph (a);
- (b) for paragraph (b) substitute—
 - “(b) “ADR entity” means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542);”;
- (c) for paragraph (d) substitute—
 - “(d) “ADR procedure” means a procedure for the out-of-court resolution of disputes through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;”;
- (d) after paragraph (d) insert—
 - “(da) “consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;”;
- (e) for paragraph (f) substitute—
 - “(f) “relevant dispute” means a dispute that—
 - (i) concerns obligations under a sales contract or a service contract, and
 - (ii) is between a trader established in the United Kingdom or the European Union and a consumer resident in the United Kingdom,which the parties attempt to settle by recourse to a non-binding ADR procedure;”;
- (f) after paragraph (f) insert—
 - “(g) “sales contract” means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;
 - (h) “service contract” means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;
 - (i) “trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.”.

Amendment of the Foreign Limitation Periods Act 1984

- 4.—(1) The Foreign Limitation Periods Act 1984⁽⁵⁾ is amended as follows.
- (2) In subsection (1) of section 1B (extension of limitation periods because of alternative dispute resolution in certain cross-border or domestic contractual disputes)—
- (a) omit paragraph (a);
 - (b) for paragraph (b) substitute—
 - “(b) “ADR entity” means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542);”;
 - (c) for paragraph (d) substitute—

(5) 1984 c. 16. Section 1B was inserted by S.I. 2015/1392.

- “(d) “ADR procedure” means a procedure for the out-of-court resolution of disputes through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;”;
- (d) after paragraph (d) insert—
- “(da) “consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;”;
- (e) for paragraph (f) substitute—
- “(f) “relevant dispute” means a dispute that—
- (i) concerns obligations under a sales contract or a service contract, and
 - (ii) is between a trader established in the United Kingdom or the European Union and a consumer resident in the United Kingdom,
- which the parties attempt to settle by recourse to a non-binding ADR procedure;”;
- (f) after paragraph (f) insert—
- “(g) “sales contract” means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;
- (h) “service contract” means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;
- (i) “trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.”.

Amendment of the Limitation (Northern Ireland) Order 1989

- 5.—(1) The Limitation (Northern Ireland) Order 1989(6) is amended as follows.
- (2) In paragraph (5) of article 51B (extension of time limits: non-binding ADR procedure)—
- (a) omit the definition of “ADR Directive”;
 - (b) for the definition of “ADR entity” substitute—

““ADR entity” means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 ([S.I. 2015/542](#));”;
 - (c) for the definition of “ADR procedure” substitute—

““ADR procedure” means a procedure for the out-of-court resolution of disputes through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;”;
 - (d) after the definition of “ADR procedure” insert—

““consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;”;
 - (e) for the definition of “relevant dispute” substitute—

““relevant dispute” means a dispute that—

(6) [S.I. 1989/1339 \(N.I. 11\)](#). Article 51B was inserted by [S.I. 2015/1392](#).

- (a) concerns obligations under a sales contract or a service contract, and
 - (b) is between a trader established in the United Kingdom or the European Union and a consumer resident in the United Kingdom, which the parties attempt to settle by recourse to a non-binding ADR procedure;”;
- (f) after the definition of “relevant dispute” insert—
- ““sales contract” means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;
- “service contract” means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;
- “trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.”.

PART 3

Amendment of subordinate legislation

Amendment of the Equality (Amendment and Revocation) (EU Exit) Regulations 2019

6.—(1) The Equality (Amendment and Revocation) (EU Exit) Regulations 2019(7) are amended as follows.

- (2) In paragraph (2) of regulation 5 (amendment of the Equality Act 2010(8))—
- (a) for sub-paragraph (b) substitute—
 - “(b) for paragraph (b), substitute—
 - ““ADR entity” means a person whose name appears on a list maintained in accordance with regulation 10 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542)”;
 - (b) after sub-paragraph (c) insert—
 - “(ca) after paragraph (d), insert—
 - “(da) “consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;”;
 - (c) in sub-paragraph (d), for “contract of sale or for services” substitute “sales contract or a service contract”;
 - (d) after sub-paragraph (d) insert—
 - “(e) after paragraph (f), insert—
 - “(g) “sales contract” means a contract under which a trader transfers, or agrees to transfer, the ownership of goods to a consumer and the consumer pays, or agrees to pay, the price, including any contract that has both goods and services as its object;

(7) S.I. 2019/305.

(8) 2010 c. 15. Section 140AA was inserted by S.I. 2015/1392 and is to be amended by S.I. 2019/305.

- (h) “service contract” means a contract, other than a sales contract, under which a trader supplies, or agrees to supply, a service to a consumer and the consumer pays, or agrees to pay, the price;
 - (i) “trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.”.
- (3) After regulation 9 insert—

“PART 5

Transitional provision

10. These Regulations do not affect any extension of a time limit under section 140AA of the Equality Act 2010 which has begun before these Regulations come into force.”.

PART 4

Transitional provision

Transitional provision

7.—(1) These Regulations do not affect any extension which has begun before these Regulations come into force.

- (2) For the purpose of paragraph (1), “extension” means an extension of—
- (a) a prescriptive period under section 14 of the Prescription and Limitation (Scotland) Act 1973,
 - (b) a time limit under section 33B of the Limitation Act 1980,
 - (c) a limitation period under section 1B of the Foreign Limitation Periods Act 1984, or
 - (d) a time limit under article 51B of the Limitation (Northern Ireland) Order 1989.

Date

Name
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 8(1) 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 section 8(2)(d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend EU-derived domestic legislation (“the relevant legislation”) which implements Directive 2013/11/EU on alternative dispute resolution for consumer disputes. The relevant legislation extends time limits for bringing legal action where, at the expiry of the time limit in question, the parties in a dispute brought by a consumer against a trader are engaged in non-binding alternative dispute resolution (ADR). These Regulations remove references to the Directive with the effect that the time limits will only be extended for ADR in which the consumer is resident in the United Kingdom and uses the services of an ADR provider which is authorised under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542).

These Regulations substantively reflect the amendments made to section 140AA of the Equality Act 2010 (c. 15) by regulation 5 of the Equality (Amendment and Revocation) (EU Exit) Regulations 2019 (S.I. 2019/305) (“the Equality Exit Regulations”). Regulation 6 of these Regulations, in turn, amends the Equality Exit Regulations for consistency.

Part 4 of these Regulations ensures that any extension of a time limit arising as a result of ADR proceedings started before these Regulations come into force is unaffected by these Regulations. Regulation 6(3) inserts an equivalent transitional provision into the Equality Exit Regulations.

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

An Explanatory Memorandum is available with these Regulations on www.legislation.gov.uk. Copies have been placed in the Libraries of both Houses of Parliament.