

2018 No. 1153

ENFORCEMENT

The Geo-Blocking (Enforcement) Regulations 2018

Made - - - - *6th November 2018*

Laid before Parliament *12th November 2018*

Coming into force - - *3rd December 2018*

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 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.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and section 210(9) of the Enterprise Act 2002(c), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Geo-blocking (Enforcement) Regulations 2018 and come into force on 3rd December 2018.

Amendment to Schedule 13 to the Enterprise Act 2002

2. In the Enterprise Act 2002, in Schedule 13(d), after paragraph 9F, insert—

“**9G.** Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 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(e).”.

Actionable breach

3.—(1) A breach of an obligation by a trader to comply with Article 3 (access to online interfaces), Article 4(1) (access to goods or services) or Article 5(1) (non-discrimination for reasons related to payment) of Regulation 2018/302 in relation to a customer is to be treated as a breach of a duty owed by the trader to that customer.

(a) S.I. 2018/1062.

(b) 1972 c. 68. Section 2(2) was amended by section 27(1) 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) 2002 c. 40. Section 210 was amended by S.I. 2006/3363 and S.I. 2011/1043.

(d) There are amendments to Part 1 of Schedule 13 but none are relevant to these Regulations.

(e) OJ L No. 601, 02.03.2018, p. 1.

(2) Where the customer suffers loss or damage due to such a breach by the trader, that loss or damage is actionable by the customer against that trader.

(3) In this regulation—

(a) “Regulation 2018/302” means Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 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;

(b) “customer” and “trader” each have the meaning given in Article 2 of that Regulation.

Henley

Parliamentary Under Secretary of State

Department for Business, Energy and Industrial Strategy

6th November 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 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 (“the Geo-blocking Regulation”) applies in the law of the United Kingdom by direct effect. However, Article 7(1) of the Geo-Blocking Regulation requires Member States to designate a body or bodies responsible for adequate and effective enforcement of the Regulation and Article 7(2) requires Member States to lay down the rules setting out the measures applicable to infringements of the provisions of the Regulation. These Regulations implement those provisions.

Regulation 2 amends Schedule 13 to the Enterprise Act 2002 (c. 40) so that a contravention of the Geo-blocking Regulation by a trader may be enforced under Part 8 of that Act if the contravention harms the collective interests of consumers.

Regulation 3 provides that a failure of a trader to comply with certain Articles of the Geo-blocking Regulation is a breach of an obligation owed by a trader to a customer so that, where loss or damage is caused by the trader to the customer, the customer may bring a civil action against the trader in respect of that loss or damage.

An impact assessment has not been published for this instrument as it has minimal impact on the private, public and voluntary sectors.

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