PART 1
Introduction

Citation and commencement

1. These Regulations may be cited as the Open Internet Access (Amendment etc.) (EU Exit) Regulations 2018 and come into force on exit day.
PART 2
Amendment of subordinate legislation

Amendment of the Open Internet Access (EU Regulation) Regulations 2016

2.—(1) The Open Internet Access (EU Regulation) Regulations 2016(2) are amended as follows.
(2) In regulation 1, after paragraph (2), insert—

“(3) In these Regulations, references to OFCOM’s functions under the EU Regulation should be read as references to OFCOM’s functions for the purposes of Articles 3, 4 and 5 of the EU Regulation.”.

(3) Omit regulation 4 (National Regulatory Authority).
(4) Omit regulation 5 (BEREC guidelines).
(5) In regulation 7—
(a) in paragraph (1), before “OFCOM shall” insert “Subject to paragraph (2A),”;
(b) after paragraph (2) insert—

“(2A) A requirement imposed under paragraph (1) must be concerned with—
(a) technical characteristics;
(b) minimum quality of service requirements;
(c) any other measure that is appropriate and necessary for either or both of the purposes in paragraph (2).”.

PART 3
Amendment of retained direct EU legislation

Amendment of Regulation (EU) 2015/2120

(2) In Article 1(1) omit “common”.
(3) In Article 2, in the second paragraph, after subparagraph (2), insert—

“(3) ‘OFCOM’ means the Office of Communications as established by the Office of Communications Act 2002(3).”.

(4) In Article 3—
(a) in paragraph 1, for “Union law, or national law that complies with Union law”, substitute “national law”;
(b) in paragraph 3, for subparagraph (a), substitute—

“(a) comply with national legislation, to which the provider of internet access services is subject, or with measures giving effect to such national legislation,
including with orders by courts or public authorities vested with relevant powers;”.

(5) In Article 4—
(a) in paragraph 3—
(i) omit “are in addition to those provided for in Directive 2002/22/EC and”;
(ii) for “Member States”, substitute “the Secretary of State or OFCOM”;
(iii) for “the relevant provisions of Directives 2002/21/EC and 2002/22/EC”, substitute “the relevant provisions of domestic legislation implementing Directives 2002/21/EC and 2002/22/EC”;

(b) in paragraph 4, for “the national regulatory authority”, substitute “OFCOM”.

(6) In Article 5—
(a) in paragraph 1, for “national regulatory authorities”, in each place it occurs, substitute “OFCOM”;
(b) in paragraph 1, omit the words “For those purposes…” to “…including providers of internet access services.”;
(c) in paragraph 1, omit the words “, and provide those reports to the Commission and to BEREC”;
(d) in paragraph 2, for “the national regulatory authority”, in each place it occurs, substitute “OFCOM”;
(e) in paragraph 2, for “that national regulatory authority”, substitute “OFCOM”;
(f) omit paragraph 3;
(g) omit paragraph 4.

(7) Omit Article 6 (Penalties).


(9) Omit Article 9 (Review clause).

(10) In Article 10—
(a) in paragraph 2, omit sub-paragraph (c);
(b) omit paragraph 3.

(11) After Article 10, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

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26th November 2018
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)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.


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