

**ODR Title:** Consumer Protection (Amendment) (EU Exit) Regulations 2018  
**IA No:** BEIS026(F)-18-CCP  
**RPC Reference No:** RPC-4286(1)-BEIS  
**Lead departments:** Department for Business, Energy and Industrial Strategy.

## Impact Assessment (IA)

**Date:** 29 October 2018

**Stage:** Final

**Source of intervention:** Domestic

**Type of measure:** Secondary

**Contact for enquiries:**  
[marie.deliedekerke@beis.gov.uk](mailto:marie.deliedekerke@beis.gov.uk)

## Summary: Intervention and Options

**RPC Opinion:** **Fit for purpose**

### Cost of preferred option (impacts enabled by primary and secondary legislation only)

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2016 prices)	Business Impact Target Status
-19.3 million	-19.3 million	1.9 million	Non-qualifying provision

### What is the problem under consideration? Why is Government intervention necessary?

Consumer protection regime allows consumers to have confidence that they are legally protected against rogue businesses that sell substandard goods or services. Consumer protection in the UK is affected through a multiplicity of Acts of Parliament and statutory instruments that are tightly linked to a range of EU legislations and make many references to the European Institutions or to EU Member States. In light of the United Kingdom European Union membership referendum and the Government's commitment to withdraw from the EU, certain changes in UK legislation must be made through the European Union (Withdrawal) Act 2018 to ensure UK law continues to be operable at the point of exiting the EU.

### What are the policy objectives and the intended effects?

The policy objective is to ensure that the existing consumer protection regime continues to operate effectively after the UK withdraws from the EU. This statutory instrument is not intended as a vehicle for reforming the existing regime. By providing legal and consumer certainty after the UK exits the EU and by maintaining an effective consumer protection regime, the Government ensures that consumer rights are applied fairly, that consumers' interests are protected, and that businesses have a clear legal framework to follow. This contributes to maintaining the UK's reputation as a positive business environment for consumers where individuals can have faith in the quality of UK consumer protection regimes to protect their rights when they engage in purchase.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0.1: Status quo (current arrangements) – The UK applies the regulations listed in paragraph 5 on a reciprocal basis with the EEA.

Option 0.2: Do nothing – Do not amend any of the regulations listed in this statutory instrument, which would result in a potential legal gap once the UK exits the EU. This is because the UK regulatory landscape for consumer protection and enforcement makes many references to the European Institutions or to Member States.

Option 1: Take minimum action required to maintain an effective consumer protection regime after the UK exits the EU (preferred) – Amend seven pieces of consumer protection legislation and revoke the EU Regulation on Online Dispute Resolution (ODR). This option would ensure that the legal framework that protects the rights and interests of consumers is maintained and that consumers continue to benefit from the same level of protection they currently experience when purchasing from UK businesses.

### Will the policy be reviewed? Not applicable If applicable, set review date:

Does implementation go beyond minimum EU requirements?	No			
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

**Signed by the responsible Minister: Kelly Tolhurst**

**29th October 2018**

# Summary: Analysis & Evidence

# Policy Change 1

**Description:** Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Online Dispute Resolution Regulation (EU) 524/2013

## FULL ECONOMIC ASSESSMENT

Price Base 2017	PV Base 2018	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low: -23.2	High: -15.5	Best Estimate: -19.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	15.5	0.0	15.5
High	23.2	0.0	23.2
Best Estimate	19.3	0.0	19.3

### Description and scale of key monetised costs by 'main affected groups'

The majority of businesses that sell goods and services, defined as all retail, accommodation, automotive and personal service enterprises, will have to become familiar with the minor changes introduced by the amendment to the 2015 ADR Regulations. Only the proportion of those businesses with an online presence will experience the one-off transition cost of having to remove the link to the ODR platform from their websites. None of the businesses will experience ongoing annual costs as a result of this amendment to the 2015 ADR Regulations. The impact of UK consumers being unable to access the ODR platform is negligible.

### Other key non-monetised costs by 'main affected groups'

There will be negligible non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	0.0	0.0
High	0.0	0.0	0.0
Best Estimate	0.0	0.0	0.0

### Description and scale of key monetised benefits by 'main affected groups'

This regulation will result in no monetised benefits.

### Other key non-monetised benefits by 'main affected groups'

This regulation will result in no non-monetised benefits.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- Time necessary for businesses to become familiar with the regulation: Half an hour for a senior staff member and 15 mins of training for 20 frontline staff (only in larger firms);
- Proportion of businesses with an online presence: 59% of businesses with no employees, 78% of micro-businesses, 86% of small businesses, and 94% of medium-sized businesses (all according to 2015 Digital Capabilities in SMEs). We assumed 100% of large businesses would have an online presence;
- Time necessary to remove the link to the ODR platform from the businesses' websites: Half an hour.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: Non-qualifying provision
Costs: 1.9	Benefits: 0.0	Net: -1.9	

# Contents

Impact Assessment (IA) .....	1
Summary: Intervention and Options.....	1
<b>RPC Opinion:</b> .....	1
<b>Summary: Analysis &amp; Evidence</b> .....	<b>Policy Change 1</b>
	2
Contents.....	3
Evidence Base (for summary sheets) .....	5
A. Consumer protection and government intervention .....	5
B. Policy objective .....	6
C. Rationale for intervention .....	6
Providing legal and consumer certainty after the UK exits the EU and maintaining an effective consumer protection regime .....	6
Amending the Acts following EU Exit.....	6
D. Policy background.....	7
Consumer Rights Act 2015 .....	7
Crystal Glass (Descriptions) Regulation 1973 .....	7
Footwear (Indication of Composition) Labelling Regulations 1995 .....	7
Consumer Protection from Unfair Trading Regulations 2008.....	7
Consumer Rights (Payment Surcharges) Regulations 2012.....	7
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.....	8
Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Online Dispute Resolution Regulation (EU) 524/2013 ..	8
E. Policy options.....	8
Option 0.1 and 0.2: Status quo and do nothing.....	8
Option 1: Take minimum action required to maintain an effective consumer protection regime after the UK exits the EU .....	9
Monetised and non-monetised costs and benefits .....	12
Amendment of Parts 1 and 2 of the Consumer Rights Act 2015 .....	12
Amendment of the Crystal Glass (Descriptions) Regulations 1973 .....	12
Amendment of the Footwear (Indication of Composition) Labelling Regulations 1995.....	12
Amendment of the Consumer Protection from Unfair Trading Regulations 2008 .....	15
Amendment of the Consumer Rights (Payment Surcharges) Regulations 2012 .....	15
Amendment of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 .....	15
Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Regulation (EU) 524/2013 .....	16
Scope:.....	16
Familiarisation Cost: .....	17
Cost of removing link to ODR platform:.....	19
Impact on UK Consumers:.....	20
Summary of costs: .....	21
Risks and Assumptions:.....	22
Analytical Notes .....	23
Direct Costs to Businesses.....	23
Small and Micro Business Assessment.....	23
Wider Impacts .....	24
Equalities Impact .....	24
Family Test .....	24

Annex A – Breakdown of population and size of businesses in scope of Amendment of the 2015 ADR Regulations and Revocation of ODR Regulations.....	25
Retail: .....	25
Accommodation:.....	25
Automotive: .....	26
Personal Services: .....	26
Annex B – Median hourly wage costs of different professions involved in the regulations.....	27
Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Regulation (EU) 524/2013 .....	27

# Evidence Base

## A. Consumer protection and government intervention

1. Consumer protection regime is important as it allows consumers to be legally protected against rogue businesses that sell substandard goods or services. It also provides individuals with the confidence that they can make informed choices when purchasing a good or service and will be able to get support in case they have a complaint.
2. The consumer protection regime includes effective enforcement by consumer enforcement authorities and access to redress for consumers when their rights have been breached. This encompasses the ability for consumers to access advice and guidance on their rights and who to contact in order to make a complaint or take action, dispute resolution mechanisms to resolve disputes between consumers and sellers without pursuing legal action, and finally legal access to redress if necessary.
3. The United Kingdom (“UK”) places prominent importance on guaranteeing the rights of individuals as consumers. It does so by empowering consumers to make choices based on accurate, clear and consistent information and enhancing their welfare as well as their economic interests.
4. Consumer protection in the UK is affected through a multiplicity of Acts of Parliament, statutory instruments, government agencies and departments and citizens' representative groups. These regimes aim to ensure the market economy produces fairness and quality in goods and services people buy. Much of the legislation to protect the economic and legal interests of UK consumers has been the result of adopting regulations and directives set by the European Union (“EU”).
5. The result is a UK regulatory landscape for consumer protection and enforcement that is tightly linked to a range of EU legislation and makes many references to the European Institutions or to the Member States. The following EU-derived consumer protection legislation make references to articles of directives, currency, specific bodies, organisations or Member States specific to the European Union:
  - Parts 1 and 2 of the Consumer Rights Act 2015;
  - The Consumer Protection from Unfair Trading Regulations 2008;
  - The Consumer Rights (Payment Surcharges) Regulations 2012;
  - The Consumer Contracts (Information, cancellation and Additional Charges) Regulations 2013;
  - The Crystal Glass (Descriptions) Regulations 1973;
  - The Footwear (Indication of Composition) Labelling Regulations 1995 (“the 1995 Footwear Labelling Regulations”); and
  - The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (“the 2015 ADR Regulations”).

## **B. Policy objective**

6. Following the result of the United Kingdom European Union membership referendum on 23 June 2016, the UK Government indicated its intention to withdraw from the EU. The Government formally notified the EU of the intention to withdraw by triggering Article 50 of the Treaty of the European Union on 29 March 2017 and will leave the European Union on 29 March 2019.
7. The Government remains committed to high standards for consumers after EU Exit, including maintaining the same protections that UK consumers currently have when buying from UK companies.
8. In order to meet these objectives, certain changes in UK legislation must be made through the European Union (Withdrawal) Act 2018, to ensure UK law continues to be operable at the point of exiting the EU – these are explained below.

## **C. Rationale for intervention**

### **Providing legal and consumer certainty after the UK exits the EU and maintaining an effective consumer protection regime**

9. The absence of a legal framework that protects the rights and interests of consumers could make it easier for rogue businesses to target consumers. As a result, this may deter some consumers from engaging in transactions with reputable businesses due to the fear that they may lose out in the event they receive a substandard good or service.
10. Government therefore intervenes in the market in the form of providing a legal framework through the application of numerous consumer protection regulations and enforcement mechanisms to ensure that consumer rights are applied fairly and that consumers' interests are protected.
11. This contributes to maintaining the UK's reputation as a positive business environment for consumers where individuals can have faith in the quality of UK consumer protection regimes to protect their rights when they engage in purchases.
12. Exiting the EU without a statutory instrument that amends the seven regulations cited in paragraph 5 risks hampering the efficiency of the UK legal framework that protects consumers. Failing to introduce this regulation could jeopardise the efficiency of the UK consumer protection regime and, as a result, cause confusion about consumers' rights to redress or make it easier for rogue businesses to target consumers.

### **Amending the Acts following EU Exit**

13. All the amendments proposed in this Statutory Instrument ("SI") are intended to ensure the continued effective operation of the existing consumer protection regime following EU Exit. The SI is not intended as a vehicle for reforming the existing regime.
14. There are, however, some aspects in which the operation of businesses selling goods and services will be different following the commencement of the SI. These are discussed in paragraphs 34 to 46 and in paragraphs 47 to 89 below.

## **D. Policy background**

### **Consumer Rights Act 2015**

15. The Consumer Rights Act provides essential contractual rights and remedies for consumers when they transact with businesses. It covers the sale of goods, services and digital content. It implements aspects of two European Directives, including part of the Sale of Consumer Goods and Associated Guarantees Directive and the Unfair Terms in Consumer Contracts Directive. Finally, it contains some purely UK-related aspects of consumer protection such as those on sales of digital content and secondary ticketing.

### **Crystal Glass (Descriptions) Regulation 1973**

16. The Crystal Glass Regulations 1973 implement a Directive setting out special descriptions that can be applied to crystal glass products and the necessary composition of such products classed as crystal glass.
17. The Regulations prevent misleading or false descriptions being applied to crystal glassware supplied or offered for sale in the UK. These Regulations ensure that consumers can be confident the descriptors applied to crystal glass are accurate.

### **Footwear (Indication of Composition) Labelling Regulations 1995**

18. The Footwear (Indication of Composition) Labelling Regulations 1995 (“the 1995 Footwear Labelling Regulations”) implement the EU Footwear Directive, which mandates a common labelling system for footwear applying across the European Economic Area (EEA). Its purpose is to inform consumers as to the materials used in the main components of footwear and provides symbols to indicate these materials. It defines the main components of footwear as the ‘upper’, the ‘lining and sock’, and the ‘outer sole’. It lists the types of materials that footwear may be described as composed of as ‘leather’, ‘coated leather’, ‘natural textile materials and synthetic or non-woven textile materials’, and ‘all other materials’. The Footwear Directive also sets out categories of footwear which are exempt from these requirements.
19. The 1995 Footwear Labelling Regulations also impose different legal obligations on the ‘responsible person’ (who is the manufacturer/their agent established in the Community, or the person who first makes the footwear available on the Community market) and the ‘retailer’. It also contains definitions of protective footwear and the marketing of dangerous substances which cross reference to EU Directives.

### **Consumer Protection from Unfair Trading Regulations 2008**

20. These Regulations implement the Unfair Commercial Practices Directive. The Regulations prohibit businesses from aggressive practices (following an amendment in 2014), giving misleading information or burying important information, such as delivery charges, that an average consumer needs before making an informed purchasing decision. It requires that any extra charges the consumer is liable to pay be upfront and transparent.

### **Consumer Rights (Payment Surcharges) Regulations 2012**

21. These Regulations implement part of the Consumer Rights Directive and prohibit traders from charging consumers more than the direct cost borne by the trader for the use of a given means of payment such as a credit card. They have been augmented in January 2018 to prohibit additional charges to consumers for the use of specific payment mechanisms.

## **Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**

22. These Regulations implement part of the Consumer Rights Directive and regulate pre-contractual information for in-store, distance, and off-premises contracts for goods and services, setting out what information must be provided and when. It also provides rules governing delivery for distance sale including a right to reject within 14 days of a contract being entered into.

## **Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Online Dispute Resolution Regulation (EU) 524/2013**

23. Alternative Dispute Resolution (ADR) offers a simple, low cost and faster means of settling a dispute between a consumer and business, more quickly and cheaply than using the courts. There are different forms of ADR including mediators, arbitrators and Ombudsmen.

24. The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (“the 2015 ADR Regulations”) designate the “competent authorities” who are responsible for the certification of ADR providers. The 2015 ADR Regulations provide that all traders – those that are obliged to use alternative dispute resolutions services and those that are not – must signpost consumers to certified ADR providers and inform the consumer whether they intend to use them or not. Implementing the regulations transposes all these requirements into UK law.

25. The UK has a ‘mixed economy’ on ADR. In several (usually regulated) sectors, e.g. financial services and energy, businesses are required to participate in ADR schemes and to pay for them. In all other sectors, businesses can choose to participate but are not legally obliged to do so.

26. The Regulations for the complementary Online Dispute Resolution (ODR) platform set out how traders and ADR providers must interact with the European Commission-owned ‘ODR platform’, which was established by a domestic implementing regulation<sup>1</sup>. The ODR platform is an online case management tool that allows consumers across the EU to make a complaint against a trader where goods or services have been bought online. This is then transmitted to an ADR provider who can conduct the dispute resolution procedure, if the trader agrees to use ADR.

27. The Regulation requires all online traders who sell goods or services to consumers to provide them with a link on their website to the ODR platform and an email address on their website so that consumers have a first point of contact. The Regulation does not itself require any trader to participate in an ADR scheme.

## **E. Policy options**

### **Option 0.1 and 0.2: Status quo and do nothing**

#### **Option 0.1 – The status quo (current arrangements)**

28. Under the status quo, the UK applies the regulations listed in paragraph 5 on a reciprocal basis with the EEA. The baseline against which the impacts of this statutory instrument

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<sup>1</sup> [http://www.legislation.gov.uk/ukxi/2015/1972/pdfs/ukxi\\_20151972\\_en.pdf](http://www.legislation.gov.uk/ukxi/2015/1972/pdfs/ukxi_20151972_en.pdf)



are estimated is the current UK status acquis as expected before March 2019. In other words, the costs to businesses in this impact assessment are calculated against option 0.1 (the status quo) rather than against option 0.2 (do nothing) below.

### **Option 0.2 – Do nothing**

29. The seven regulations mentioned in paragraph 5 would remain in place but the UK's exit from the EU on 29 March 2019 will render uncertain their legal status. Not proceeding with this legislation could lead to the retention, post EU Exit, of ineffective provisions causing confusion about consumers' rights to redress when shopping in the UK. With an unclear or inoperable legal framework, it could make it easier for rogue businesses to target consumers.
30. Failing to proceed with this legislation could also result in the preservation of unilateral rights favouring EU citizens. If cross-border rights enshrined in the transposed and direct-effect EU laws addressed through this SI are not revoked, EU27 consumers' rights could be preserved when they purchase (post EU Exit) from UK-based traders without reciprocity for UK consumers when they purchase (post EU Exit) from EU-based traders. For example, consumers within the EU-27 Member States could gain redress through UK ADR schemes, for disputes they have with UK businesses, regarding online purchases of goods and services. The service would however not be reciprocated for UK consumers to gain redress (post EU Exit) from EU-based traders and therefore they would be at a disadvantage in gaining redress.

### **Option 1: Take minimum action required to maintain an effective consumer protection regime after the UK exits the EU**

31. Implement the Consumer Protection (Amendment) (EU Exit) Regulations into UK law by 29 March 2019. These Regulations contain amendments to seven pieces of consumer protection legislation and revoke the EU Regulation on Online Dispute Resolution (ODR). They also make consequential amendments to EU derived consumer protection legislation to omit or replace references to EU currency, specific bodies, organisations or Member States, where the references are no longer relevant post EU Exit. This option would ensure that the legal framework that protects the rights and interests of consumers is maintained and that consumers continue to benefit from the same level of protection they currently experience when purchasing from UK businesses.
32. A more detailed description of the changes on each of the amended regulations is outlined in paragraphs 34 to 46 below.
33. Option 1 is our preferred option as it ensures that the existing consumer protection regime is maintained when UK consumers purchase from UK traders and accomplishes the Government's objective of preserving the same protections that UK consumers currently have when purchasing from UK businesses. This option forms the basis of this impact assessment.

### **The Consumer Protection (Amendment) (EU Exit) Regulations Amendment of Parts 1 and 2 of the Consumer Rights Act 2015**

34. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Rights Act 2015 to omit references to the EU and to replace other references to the "European Economic Area" with "United Kingdom". This is to ensure that the legislation continues to operate effectively at the point the United Kingdom withdraws from the European Union. The instrument makes only minor changes described above and does not represent a policy change.

### **Amendment of the Crystal Glass (Descriptions) Regulations 1973**

35. The Consumer Protection (Amendment) (EU Exit) Regulations make two minor amendments to the Crystal Glass (Descriptions) Regulations 1973 to remove any specific requirements or references related to membership of the EU and other Member States. This is necessary to ensure that the requirements and sanctions for the labelling of crystal glassware remain the same following the UK's withdrawal from the EU. The instrument makes only the two minor changes described above and does not represent a policy change.

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

36. The Consumer Protection (Amendment) (EU Exit) Regulations amends the Footwear (Indication of Composition) Labelling Regulations 1995 to ensure footwear requirements continue to apply to footwear products on the UK market. This will ensure that the same rules and laws in relation to footwear composition labelling will apply on the day after EU Exit as on the day before, thereby providing maximum possible certainty to UK businesses and consumers.

37. If we did not amend the UK Regulations, the requirements set out would no longer apply in the UK. If UK businesses changed their model and approach, we would no longer be able to enforce the Regulations and this could result in a reduction in consumer's ability to make an informed choice based on understanding the material various footwear options are composed of and in business uncertainty about the requirements regarding to footwear labelling.

38. Our proposed changes under Option 1 will have an impact on some UK businesses. Depending on the route to market of the products that some UK retailers sell, UK-based businesses may find themselves responsible for meeting the legal obligations of the 'responsible person' when the UK exits the EU. If that business is a retailer, it will face these obligations in addition to their existing obligations as a 'retailer'. Affected UK businesses will be those who currently sell footwear where the manufacturer, the manufacturer's authorised agent, or the person who first places the footwear on the EEA market (where neither manufacturer or their authorized agent is established in the EEA) is established in a non-UK EEA country.

39. In contrast, while the UK remains a member of the EU, if the manufacturer or their agent (or the first person place the footwear on the EEA market) is based in an EEA state, they will be the 'responsible person' and must comply with the relevant legal obligations even when that product is retailed in the UK.

### **Amendment of the Consumer Protection from Unfair Trading Regulations 2008**

40. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Protection from Unfair Trading Regulations 2008 to replace references to the "European Economic Area" with "United Kingdom". This is to ensure that the legislation continues to operate effectively at the point the United Kingdom withdraws from the European Union. The instrument makes only minor changes described above and does not represent a policy change.

### **Amendment of the Consumer Rights (Payment Surcharges) Regulations 2012**

41. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Rights (Payment Surcharges) Regulations 2012 to replace references to definitions in EU Directives. This is to ensure that the legislation continues to operate effectively at the point the United Kingdom withdraws from the European Union. The

instrument makes only minor changes mentioned above and does not represent a policy change.

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

42. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to repeal a requirement for the Secretary of State to have regard to how the Directive is implemented in other EU Member States when carrying out a review, to ensure that a cross reference to a Directive is still effective when the UK is no longer a member of the EU, and to replace references to European currency (Euro) with pound sterling. The instrument makes only minor changes mentioned above and does not represent a policy change.

### **Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Online Dispute Resolution Regulation (EU) 524/2013**

43. Upon EU Exit in a no-deal scenario, UK-based ADR entities will no longer be required to act in cross border disputes, as the UK will no longer be a member of the EU and therefore will no longer be required to resolve disputes between UK traders and consumers and parties in other countries.
44. The Consumer Protection (Amendment) (EU Exit) Regulations amend The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 to ensure the requirements of the regulation in respect of ADR continue to apply in the UK market, apart from those which will no longer operate. The SI will retain the process by which competent authorities certify ADR providers and ensure that ADR meeting the standards in the regulations is still available for consumers in a dispute with a trader, in all sectors. This instrument will also amend the requirement for competent authorities to make available a list of ADR bodies published by the European Commission replacing this with a requirement to make available a list of ADR bodies published by the Secretary of State.
45. The Chartered Trading Standards Institute (CTSI) administers the competent authority functions on behalf of the Secretary of State and is required to produce an approved list of ADR bodies. We do not envisage that Government will incur extra costs as BEIS already provides funding to CTSI for these functions and this is likely to continue for domestic purposes within the level of funding already provided.
46. The ODR requirements will become unworkable as the platform is maintained by the European Commission for consumers and traders in the European Single Market. This will no longer be available to UK consumers and traders after EU Exit and is a direct consequence of the UK departing from the EU as the platform is run by the European Commission. The SI will therefore revoke the ODR Regulation as the ODR platform will no longer be available to UK consumers and traders. Currently, traders selling goods and services online are required to provide a link to the ODR platform on their website. This SI will therefore have an impact on some UK businesses as they will have to update their websites to remove the links to the ODR platform.

# Monetised and non-monetised costs and benefits

## Amendment of Parts 1 and 2 of the Consumer Rights Act 2015

47. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Rights Act 2015 to omit references to the European Union and to replace any mentions of “the European Economic Area” by “the United Kingdom”. In effect, the statutory instrument only makes changes in legal definitions to address any inconsistent EU references retained in EU derived law that would prevent it from operating effectively after the withdrawal of the United Kingdom from the European Union.
48. The SI does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. For businesses and consumers, the law will continue to apply in the same way as it did before the UK exited the European Union. Businesses will experience no change resulting from the regulatory change and will therefore face negligible direct cost.

## Amendment of the Crystal Glass (Descriptions) Regulations 1973

49. The Consumer Protection (Amendment) (EU Exit) Regulations make two amendments to the Crystal Glass (Descriptions) Regulations 1973 to ensure they operate effectively when the UK leaves the EU and that there are no significant changes to the existing regime. The aim of the instrument is to ensure references to other regulations remain valid and that provisions which refer to other Member States of the EU, or which assume the UK’s membership of the EU, are removed so that they do not confuse the meaning or effect of the relevant rules. In effect, this ensures the operability and continuity of the current rules on crystal glass and does not change the rights and obligations of businesses and consumers.
50. The SI does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. For businesses and consumers, the law will continue to apply in the same way as it did before the UK exited the European Union. Businesses will experience no change resulting from the regulatory change and will therefore face negligible direct cost.

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

51. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Footwear (Indication of Composition) Labelling Regulations 1995 by removing references to EU Directives or which assume the UK’s membership of the EU. This is to ensure that the labelling requirements continue to apply to footwear products on the UK market and that the legislation continues to operate effectively when the UK withdraws from the EU. In effect, the statutory instrument only makes changes in legal definitions to address any inconsistent EU references retained in EU derived law that would prevent it from

operating effectively after the withdrawal of the United Kingdom from the European Union.

52. Removing references to the EU means that some UK businesses will now have to meet the legal obligations of the 'responsible person' in relation to footwear products. As a result of this amendment, some UK-based businesses previously only responsible for meeting the obligations of a 'retailer' (as they were not the first person to place the footwear on the EU market) will now also have to meet the legal obligations of the 'responsible person' under the UK regulations and the risk and liabilities this incurs. This will be in addition to the existing obligation on 'retailers' to ensure the footwear is labelled in accordance with the requirements of the 1995 Regulations when it is offered to sale for consumers – in practice, this is the obligation to ensure a label is present. This will mostly impact retailers that sell footwear imported from an EEA-based business.
53. It is important to note that the UK legislation regarding footwear labelling will be aligned with the one practised in the EU and the two regulations will command the same obligations. Therefore, whilst some UK-based businesses will now become the 'responsible person', the footwear product they currently import from their supplier will remain compliant with the shared requirements. Furthermore, the 1995 Footwear Labelling Regulations do not mandate any technical testing nor the production of any documentation by either the 'responsible person' or the 'retailer' to demonstrate compliance. On EU Exit, the same requirements will apply so that UK businesses will be able to continue buying from their EEA-based suppliers with confidence that the latter understand the UK footwear labelling requirements and that the goods purchased are compliant.
54. Similarly, the 1995 Regulations impose no obligations regarding the import or export of footwear. UK businesses importing footwear from non-EEA countries do not face administrative cost at the border as there are no forms they have to complete or any other administrative process they must follow to demonstrate compliance with 1995 Footwear Labelling Regulations. UK-based businesses importing footwear from within the EEA will face a similar (or even less burdensome, depending on the outcomes of the negotiations) importing process as those who import from outside the EEA. As above, they will not face administrative costs to demonstrate compliance with the UK Footwear Regulations – especially as the regulations will be aligned with those practiced in the country of import.
55. We have engaged with the British Footwear Association, the main trade association in the industry, which noted that that businesses must establish footwear composition to ensure the right tariff is paid when importing footwear from outside the EEA. They indicated that the information required to complete the import duty form correctly is the same information necessary to establish how to accurately label footwear. As there is significant variation in tariffs on footwear depending on the material used, businesses already have strong incentives to check the composition of the footwear they are importing and are highly unlikely to need additional checks to establish compliance with the 1995 Footwear Labelling Regulations. Furthermore, UK-based businesses can specify that they will only continue to import products from their EEA suppliers that are pre-labelled and meet the shared EU and UK requirements. The impact of UK-based businesses doing this is believed to be negligible as UK 'retailers' already have the obligation under the 1995 Footwear Labelling Regulations to ensure a label is attached when they retail a product and therefore check one is in place when they source footwear from the 'responsible person'.

56. Under cross-cutting consumer law (including the Consumer Protection from Unfair Trading Practices Regulations 2008 and the Consumer Rights Act 2015), businesses are required to ensure they do not mislead consumers and that the goods they import conform to contract. As a result, businesses already ensure that the products they receive from their suppliers are compliant with what they had ordered as part of other regulations. This underlying responsibility applies to a range of goods and is not limited to footwear products. In other words, the practicalities of the obligations mandated to the 'responsible person' under the 1995 Footwear Labelling Regulations are already replicated under other regulations. Amending them in the context of this SI will not impact cross-cutting consumer law and will therefore not represent a change for businesses.
57. The only time the obligations of the 'responsible person' are called upon are in enforcement actions against businesses selling non-compliant goods. A 'responsible person' could be prosecuted in court for a suspected breach of the 1995 Footwear Labelling Regulations. If issued with a compliance notice by Trading Standards (on the basis of a suspected breach of the 1995 Regulations), the 'responsible person' may be required to provide evidence to satisfy the enforcement authority that they were compliant with the provisions of the 1995 Regulations. The 1995 Footwear Labelling Regulations do not make specific prescriptions as to how a 'responsible person' might demonstrate the regulations that been complied with. Furthermore, the Better Regulation Framework cites that, when introducing a regulatory measure, costs and benefits should assume 100% compliance (Better Regulation Framework 2.3.47). The same approach is taken when estimating the impact of this statutory instrument. As such, the impact of regulatory action against non-compliant UK businesses that became 'responsible persons' under this SI is not considered in this analysis.
58. The British Footwear Association indicated their members' view that the 1995 Footwear Labelling Regulations was one of the simplest pieces of EU legislation to comply with and the requirements of the regulations are fully understood by industry. They were not aware of any non-compliance and they noted it was very well established, having been in place for almost 25 years. They indicated that there was no specific reason to look to change the labelling requirements as they have not been amended since 1995 and are understood and considered to work well by the industry. If the UK were to diverge on these regulations, a new statutory instrument and accompanying impact assessment would have to be drafted and the impact on businesses would be considered at that point.
59. If there were EU-led divergence on the footwear regulations, this would be likely to represent a cost to UK businesses placing footwear on the EU market. The European Commission's Directive 94/11/EC on Footwear Labelling has been in place since 1994 and it is not known whether it will be amended in the future. Given that it is impossible to predict the decisions the European Commission will take once the UK exits the EU, such costs are not estimated in this impact assessment.
60. In conclusion, given that:
- The UK and EEA footwear labelling legislations will be aligned at the point of exit;
  - The obligations of the 'responsible person' will not, in practice, result in increased costs or burdens on UK-based businesses importing footwear from the EEA;
  - Businesses already have obligations to verify their goods (including footwear) under cross-cutting consumer law;

- Other governmental departments and stakeholders have confirmed that UK businesses importing footwear from non-EEA countries do not face administrative cost at the border to demonstrate compliance with the 1995 Footwear Labelling Regulations.

61. We estimate that this statutory instrument will have no practical impact on business, charities, voluntary bodies, or the public sector. Businesses will experience little practical change resulting from the regulatory change and will therefore face negligible direct cost.

## **Amendment of the Consumer Protection from Unfair Trading Regulations 2008**

62. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Protection from Unfair Trading Regulations 2008 to replace any reference to “the European Economic Area” with “the United Kingdom”. In effect, the statutory instrument only makes changes in legal definitions to address any inconsistent EU references retained in EU derived law that would prevent it from operating effectively after the withdrawal of the United Kingdom from the European Union.

63. The SI does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. For businesses and consumers, the law will continue to apply in the same way as it did before the UK exited the European Union. Businesses will experience no change resulting from the regulatory change and will therefore face negligible direct cost.

## **Amendment of the Consumer Rights (Payment Surcharges) Regulations 2012**

64. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments to the Consumer Rights (Payment Surcharges) Regulations 2012 to replace any reference to definitions in EU Directives. In effect, the statutory instrument only makes changes in legal definitions to address any inconsistent EU references retained in EU derived law that would prevent it from operating effectively after the withdrawal of the United Kingdom from the European Union.

65. The SI does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. For businesses and consumers, the law will continue to apply in the same way as it did before the UK exited the European Union. Businesses will experience no change resulting from the regulatory change and will therefore face negligible direct cost.

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

66. The Consumer Protection (Amendment) (EU Exit) Regulations make amendments in legal definitions of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to address any inconsistent EU references retained in EU

derived law that would prevent it from operating effectively after the withdrawal of the United Kingdom from the European Union.

67. The SI does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. For businesses and consumers, the law will continue to apply in the same way as it did before the UK exited the European Union. Businesses will experience no change resulting from the regulatory change and will therefore face negligible direct cost.

## **Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Regulation (EU) 524/2013**

68. We anticipate that businesses in scope of amendment to 2015 ADR Regulations will incur some small familiarisation and training costs. This is because senior staff members will have to review the amended regulation and train their staff so they stop informing consumers about the ODR as an out-of-court disputes resolution mechanism. Businesses that sell goods and services online will also incur a one-off cost of amending their websites to remove the link to the ODR platform that was introduced by the 2015 ADR Regulations.

69. The costs of familiarisation and of removing the link to the ODR platform are the only two impacts that businesses will encounter. Other than these, the remaining requirements introduced by the 2015 ADR Regulations will remain the same and will not be affected by this amendment. The familiarisation cost and that of removing the ODR websites are transition costs that the businesses will face only once. In consequence, this SI will result in no ongoing annual costs and no ongoing annual benefits to businesses.

70. Whilst existing businesses will face a one-off transition cost, the amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and the revocation of Regulation (EU) 524/2013 are considered as “deregulatory”. This is because any future new businesses trading online would no longer have to provide a link to the platform on their website, thereby reducing the regulatory burdens on future UK online traders.

### **Scope:**

71. The 2015 Impact Assessment for the implementation of the Alternative Dispute Regulation Directive<sup>2</sup> (“the 2015 ADR IA”) stated that the majority of businesses that sell goods and services are within scope of the regulation. The 2015 ADR IA defined the total number of businesses selling either goods or services to consumers as all retail, accommodation, automotive and personal service enterprises. This definition is the same used in the 2008 Impact Assessment for the implementation of the Consumer Protection from Unfair Trading Regulations<sup>3</sup>, which estimated the businesses in scope of the regulation are those using the 2003 SIC codes 50, 52, 55, 71.1, 71.4 and 93.

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<sup>2</sup> Department for Business, Innovation and Skills (2015) Impact Assessment for Alternative Dispute Resolution, available at: [https://www.legislation.gov.uk/ukia/2015/241/pdfs/ukia\\_20150241\\_en.pdf](https://www.legislation.gov.uk/ukia/2015/241/pdfs/ukia_20150241_en.pdf)

<sup>3</sup> Department for Business, Enterprise and Regulatory Reforms (2007) Impact Assessment: The Consumer Protection from Unfair Trading Regulations, available at: [https://www.legislation.gov.uk/ukia/2008/10/pdfs/ukia\\_20080010\\_en.pdf](https://www.legislation.gov.uk/ukia/2008/10/pdfs/ukia_20080010_en.pdf)



72. For consistency purposes, we use the same definitions of businesses as used in the two aforementioned impact assessments and assume that businesses in retail, accommodation, automotive and personal service enterprises are in scope of this SI. Using the ONS correlation between UK SIC 2003 codes and UK SIC 2007 codes<sup>4</sup>, we estimate that businesses in scope of the SI are those with the following SIC 2007 codes: 45, 47, 55, 56<sup>5</sup>, 77.1, 77.2, 85.5, 93.1, and 96<sup>6</sup>. Using this definition and the 2017 Business Population Estimates in the UK, we therefore estimate that there are approximately 879,670 businesses in scope of the 2015 ADR Regulations and therefore in scope of this amendment. The size of the business population breaks down as follows:

Table 1: Population and size of businesses in scope of 2015 ADR Regulations

	Number of businesses in scope of amendment to ADR and revocation of ODR regulations
Micro-businesses (no or 1 to 9 employees)	810,700
Small businesses (10 to 49 employees)	61,025
Medium (50 to 249 employees)	6,455
Large (250 or more employees)	1,490
<b>TOTAL</b>	<b>879,670</b>

73. The breakdown of the number of businesses in scope in each of the relevant sectors is as follows: 296,945 (34%) in retail sector; 202,055 (23%) in accommodation and food services; 106,860 (12%) in automotive sector; and 273,810 (31%) in personal services. A more detailed breakdown of the population and size of businesses in scope per sector is provided in Annex A.

### Familiarisation Cost:

74. The 2015 ADR Impact Assessment estimated that familiarisation would take approximately 1 hour of a staff member's time with consumer service staff receiving a short explanation of the additional information on ADR and ODR that they must provide to consumers. No responses were received for this estimate during their consultation. Under this SI, requirements introduced by the 2015 ADR Regulations would remain largely the same and the only change would be the removal of the ODR as an out-of-court dispute resolution mechanism. As a result, we assume it will take less than an hour for businesses to familiarise themselves with the changes in the regulation. As the requirements introduced by this SI are minimal compared to those introduced by the 2015 ADR Regulations<sup>7</sup>, we estimate that half an hour should be sufficient for businesses to familiarise themselves with the amended regulation. We understand that these

<sup>4</sup> Available at <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uksic2007>

<sup>5</sup> The 2003 SIC Code 55 includes both accommodation and food services whilst the two sectors are separated in the 2007 SIC codes (55 and 56 respectively). To maintain consistency with the methodology used in the previous 2015 ADR IA, we continue to include food services as businesses in scope for this SI.

<sup>6</sup> These SIC codes represent the following sectors: "wholesale and retail trade and repair of motor vehicles and motorcycles" (45), "retail trade, except of motor vehicles and motorcycles" (47), "accommodation" (55), "food and beverage service activities" (56), "renting and leasing of motor vehicles" (77.1), "rental and leasing of personal and household goods" (77.2), "other education" (85.5), "sport activities" (93.1), and "other personal services activities" (96).

<sup>7</sup> Under this SI, consumer service staff will receive a short explanation on the revocation of ODR instead of an explanation on the additional information on both ADR and ODR to be provided to consumers (as estimated in the 2015 ADR IA).

assumptions are uncertain and reliant on the analysis produced in the impact assessment accompanying the 2015 ADR Regulations. However, in the absence of new and robust material, these remain the best data available and there is no evidence to contradict these assumptions.

75. Most (92%) goods and services firms are micro businesses with 9 or fewer staff members. As in the 2015 ADR IA, we assume that consumer complaints for these micro businesses are typically handled by a senior staff member (often the owner or proprietor). Using the same methodology as in the 2015 ADR IA, we use the gross hourly wages data from the 2017 Annual Survey of Hours and Earnings (ASHE) to estimate the median wage for Customer Service Managers and Supervisors, at £14.17 per hour. We then uprate this by 20.66% to take into account the non-wage costs of labour<sup>8</sup> (such as social security contributions employers are required to provide), so that the hourly labour cost is £17.10.
76. As it will take half an hour of a senior staff member's time to become familiar with the new regulation, the cost per business is estimated as £8.55. As established in table 1, 810,700 micro-businesses will have to familiarise with the SI and will experience this £8.55 cost. As a result, **we estimate that the cost to micro-businesses of familiarising themselves with the new regulation is £6.9 million**<sup>9</sup>.
77. For larger firms with 10 or more employees, the 2015 ADR IA estimated that a staff member at management level would be familiarised with the reforms and would then train 20 frontline staff members on the reforms for half an hour. For consistency, we follow the same assumptions but since the familiarisation requirements in this amendment are fewer than for the 2015 ADR Regulations (see paragraph 74), we assume that the 20 frontline staff members would require less training time. We estimate that 15 minutes of training should be sufficient for the frontline staff member to become familiar with the fact that the ODR should no longer be used as an out-of-court dispute resolution mechanism.
78. Following the same methodology as in the 2015 ADR IA, we assume that a staff member at management level with an hourly cost of £17.10 will require half an hour to become familiar with the new regulation – as estimated in paragraphs 75 and 76<sup>10</sup>. We estimate that, in addition, there would also be familiarisation costs in training 20 frontline staff members on the reforms for 15 minutes. As in the 2015 ADR IA, we use the gross hourly wage data from the 2017 ASHE to estimate the median wage for a Customer Service Occupations, at £10.22 per hour. We then uprate this by 20.66% to take into account the non-wage costs of labour so that the hourly labour cost is £12.33.
79. As it will take half an hour for a senior staff member and 15 minutes for 20 frontline staff members to become familiar with the new regulation, the cost per business is estimated as £70.21. As established in table 1, 68,970 businesses will have to familiarise with the SI and will experience this £70.21 cost. As a result, **we estimate that the cost to SMEs and large firms of familiarising themselves with the new regulation is £4.8 million**<sup>11</sup>.

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<sup>8</sup> Eurostat wage data, 2017

<sup>9</sup> 810,700 \* £8.55

<sup>10</sup> This will be the same wage cost as estimated for customer service managers and supervisors in paragraphs 75 and 76.

<sup>11</sup> 68,970 \* £70.21

80. Total familiarisation costs to business are therefore estimated to be approximately £11.7 million<sup>12</sup> (one-time cost). As done for the 2015 ADR IA, we allow for uncertainty in this estimate of +/- 20% giving a range of £9.4 million to £14.1 million.

### Cost of removing link to ODR platform:

81. Businesses that sell goods and services online will incur a one-off cost of changing websites to remove the link to the ODR platform. Using the 2015 research on digital capabilities of SMEs by the Department for Business, Innovation and Skills<sup>13</sup>, we estimate the proportion of businesses with an online presence given their size. The survey estimates that the proportion of businesses with online presence is as follows: 59% of businesses with no employees, 78% of micro-businesses, 86% of small businesses, and 94% of medium-sized businesses. The research does not estimate the proportion of large businesses with a website but the 2015 ADR IA estimated that 100% of large businesses have a website. In the absence of further evidence, we replicate this assumption in this impact assessment. Using these ratios and the number of businesses in scope for this SI (see paragraph 72 and table 1), we estimate that 600,511 businesses will have to update their website and remove the link to the ODR platform. The breakdown is as follows:

Table 2: Proportion and number of businesses with a website, based on the size of the business

	Proportion of businesses with a website	Number of businesses in scope of regulation with a website
No employees	59%	285,295
Micro (1 - 9 employees)	78%	255,177
Small (10 - 49 employees)	86%	52,482
Medium (50 - 249 employees)	94%	6,068
Large (250 or more employees)	100%	1,490
<b>TOTAL</b>		<b>600,511</b>

82. The 2015 ADR IA estimated it would take an IT programmer one hour to make the changes to the websites introduced by the 2015 regulation, that is, to change the websites to include a link to the ODR platform and to provide information about an ADR body available for consumers to use. The only change needed under the Consumer Protection (Amendment) (EU Exit) Regulations is to remove the link to the ODR platform from the businesses' website and no other changes to the website will be necessary to abide to the SI. Removing the link to the ODR platform is relatively minor and will take less time than estimated under 2015 ADR IA. In light of this, we assume it will take an IT programmer half an hour to remove the link to the ODR website.

<sup>12</sup> £11.7 million = £6.9 million + £4.8 million

<sup>13</sup> Department for Business, Innovation and Skills (2015) "Digital Capabilities in SMEs: Evidence Review and Re-survey of 2014 Small Business Survey respondents ", available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457750/BIS-15-509-digital-capabilities-in-SMEs-evidence-review-and-re-survey-of-2014-small-business-survey-respondents.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457750/BIS-15-509-digital-capabilities-in-SMEs-evidence-review-and-re-survey-of-2014-small-business-survey-respondents.pdf)

83. We use the gross hourly wages data from the 2017 Annual Survey of Hours and Earnings (ASHE) to estimate the median wage for an IT programmer<sup>14</sup>, which is £20.87. We then uprate this by 20.66% to take into account the non-wage costs of labour, so that the hourly labour cost is £25.18.
84. As it will take half an hour of an IT programmer's time to remove the link to the ODR platform, the cost per business is estimated as £12.59. As established in paragraph 81, 600,511 businesses with a website will have to remove the link and experience this £12.59 cost. As a result, **we estimate that the total cost to businesses with a website of removing the link to the ODR platform is £7.6 million**<sup>15</sup>. This is a one-off transitional cost that businesses will face in order to abide with the changes in the regulation. As done in the 2015 ADR IA, we allow for uncertainty in this estimate of +/- 20%, thereby giving a range of £6.0 million to £9.1 million.

### Impact on UK Consumers:

85. Between February 2016 and February 2018, UK consumers made 12,685 complaints via the ODR platform. Of these, 9,658 (76%) were about traders based in the UK. We do not have data on the proportion of complaints that were successfully resolved and the benefits that consumers have experienced as a result of resolving their complaints at the UK level.
86. The European Commission however published a report on the functioning of the ODR platform<sup>16</sup>. This report states that, across the EU, only 2% of complaints raised on the ODR platform were submitted to a specific ADR body. Out of all the complaints made to the ODR from consumers across the EU, 85% of cases complaints automatically closed within 30 calendar days after submission (i.e. deadline for the consumer and trader to agree on a competent ADR body). A further 9% of complaint cases were not accepted by the trader and 4% were closed as either party withdrew from the procedure before their agreement to use a specific ADR body.
87. The report also suggests that the ADR procedure reached a final outcome in less than 1% of cases submitted through the ODR platform. This is because out of the 2% of complaints submitted to a specific ADR body, in around half of these cases the ADR bodies refused to deal with the case on procedural grounds such as lack of competence or the consumer's failure to attempt to contact the trader first. Furthermore, either consumers or traders in some instances withdrew from the procedure before it was completed. No data is provided on what outcome was reached or on the monetary benefit consumers experienced for >1% of cases submitted through the ODR for which ADR procedure reached a final outcome. As a result, we are unable to monetise the impact that access to the ODR platform had for such cases.
88. Whilst this data is not specific to the United Kingdom, it shows that a very limited number of complaints made to the ODR platform are actually successful in solving consumer issues. Other than the report published by the European Commission, there is no other source of data on the performance of the ODR platform. In the absence of further information, it seems that the benefits of access to the ODR platform for UK consumers are very limited. As a result, **we assume that the impacts on UK consumers of losing access to the ODR platform are negligible.**

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<sup>14</sup> SOC Code Used: 2136

<sup>15</sup> 600,511 \* £12.59

<sup>16</sup> Available at [https://ec.europa.eu/info/sites/info/files/first\\_report\\_on\\_the\\_functioning\\_of\\_the\\_odr\\_platform.pdf](https://ec.europa.eu/info/sites/info/files/first_report_on_the_functioning_of_the_odr_platform.pdf)

## Summary of costs:

89. The total costs that businesses will experience will be the familiarisation cost and the cost of removing the link to the ODR platforms for businesses that have a website. Using the estimates above, the one-off transition costs arising from the SI total to £19.3 million. As discussed in paragraph 69, the amendment to the 2015 ADR Regulations will lead to no ongoing costs and no ongoing benefits. A breakdown of the costs per size of businesses (rounded to the nearest thousand) is provided in table 3. The impacts on UK consumers of losing access to the ODR platform are negligible.

Table 3: Total costs of the SI for businesses

	<b>Familiarisation Cost</b>	<b>Cost of removing link to ODR platform from businesses' website</b>	<b>TOTAL</b>
No employees	£4,134,000	£3,592,000	£7,726,000
Micro (1 - 9 employees)	£2,797,000	£3,213,000	£6,010,000
Small (10 - 49 employees)	£4,284,000	£661,000	£4,945,000
Medium (50 - 249 employees)	£453,000	£76,000	£529,000
Large (250 or more employees)	£105,000	£19,000	£124,000
<b>TOTAL</b>	<b>£11,773,000</b>	<b>£7,561,000</b>	<b>£19,334,000</b>

# Risks and Assumptions:

Table 4: Main assumptions within this impact assessment

Key assumptions	Source
Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Regulation (EU) 524/2013	
Familiarisation time in micro businesses: half an hour of one senior staff member (often the owner or proprietor)	2015 ADR Impact Assessment with amendment as the requirements introduced by the Consumer Protection (Amendment) (EU Exit) Regulations are less burdensome than those introduced by the 2015 ADR Regulations.
Familiarisation time in larger businesses (10 or more employees): half an hour of one senior staff member (often the owner or proprietor) and 15 minutes of training for 20 frontline staff members	2015 ADR Impact Assessment with amendment as the requirements introduced by the Consumer Protection (Amendment) (EU Exit) Regulations are less burdensome than those introduced by the 2015 ADR Regulations.
It will take an IT programmer half an hour to remove the link to the ODR website	2015 ADR Impact Assessment with amendment as the requirements introduced by the Consumer Protection (Amendment) (EU Exit) Regulations are less burdensome than those introduced by the 2015 ADR Regulations.

# Analytical Notes

## Direct Costs to Businesses

90. Section 21 of the Small Business, Enterprise and Regulatory Reform Act 2015 (SBEE) established a duty on the Secretary of State to publish a target for Government in respect of the economic impact on business activities of qualifying regulatory provisions which come in or cease during the relevant time period. The Business Impact Target (BIT) established in June 2018 is for a saving of £9bn for business and voluntary or community bodies from qualifying measures that come in to force or cease during the Parliament<sup>17</sup>.
91. “Qualifying regulatory provisions” are broadly defined as provisions concerning the regulation of activities of business and voluntary or community bodies, except where they are undertaken by public bodies or as part of delivery of public services. The proposals outlined in this impact assessment are regulatory provisions that deal with deficiencies in retained EU Law under the European Union (Withdrawal) Act 2018. Under the recent communication by the Better Regulation Executive<sup>18</sup>, this EU Exit SI is a Non-Qualifying-Regulatory-Provision (NQRP) and therefore the EANDCB will not score against the Business Impact Target.
92. An EANDCB of £1.9 million has nonetheless been calculated for this impact assessment. It is estimated that the Consumer Protection (Amendment) (EU Exit) Regulations will result in a familiarisation cost of £11.8 million and in a one-off transitional cost of £7.6 million. There will be no ongoing annual cost for any business and no annual benefits for existing businesses, although it will result in a small reduction in regulatory burden for future businesses that wish to enter the market, as they will no longer be required to add a link to the ODR Platform. Whilst there will be an impact on consumers as they will no longer be able to submit a complaint via the ODR platform, our data shows that a very limited number of complaints made to the ODR are actually successful in solving consumer issues, so that the impact on UK consumers of losing access to the ODR platform is considered as negligible.

## Small and Micro Business Assessment

93. Under the Government’s Better Regulation Framework, the default option for new domestic regulatory measures is for small and micro businesses to be exempted. The purpose of this regulation is however to amend existing UK legislation to ensure the continued effective operation of the existing consumer protection regime following EU Exit. The SI is not intended as a vehicle for reforming the existing regime. Exempting small and micro businesses is therefore not possible as it puts the UK at risk of have an ineffective legal framework that protects the rights and interests of consumers, which could make it easier for rogue businesses to target consumers. Small and micro businesses represent 99% (or 871,725) of all businesses that sell goods and services. They however cannot be exempted from this regulation as exempting them would not achieve the Government’s objective of withdrawing from the European Union whilst ensuring that UK law continues to be operable at the point of exiting the EU.

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<sup>17</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>

<sup>18</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>

94. The regulation will apply to all businesses in scope in the same way. However, small and micro businesses may face a greater exposure relative to their size with regards to the requirement of removing the link to the ODR platform and the cost incurred. This is because small businesses may not have the available knowledge and the dedicated IT teams to remove the link to the ODR platform that larger businesses may have. As a result, they may take longer than large businesses to do so and may be more likely to be deterred from removing the link to the ODR platform. Existing guidance for businesses will be updated to explain the changes that this instrument makes. Specific guidance for competent authorities and entities who want to get approved as certified ADR provider is available on The Chartered Trading Standards Institute (CTSI) website. The Department for Business, Energy and Industrial Strategy will be informing stakeholders of the impact of this statutory instrument as the policy progresses.

## **Wider Impacts**

### **Equalities Impact**

95. The cost and benefit of this statutory instrument would not be expected to fall disproportionately on any of the protected groups.

### **Family Test**

96. The cost and benefits of this statutory instrument would not be expected to affect families or their formation.



# Annex A – Breakdown of population and size of businesses in scope of Amendment of the 2015 ADR Regulations and Revocation of ODR Regulations.

## Retail:

Table 5: Population and size of businesses in scope of 2015 ADR Regulations in 2007 SIC Code 47

	Number of businesses in scope of Amendment to ADR and Revocation of ODR regulations
Micro-businesses (no or 1 to 9 employees)	278,480
Small businesses (10 to 49 employees)	16,395
Medium (50 to 249 employees)	1,595
Large (250 or more employees)	475
<b>TOTAL</b>	<b>296,945</b>

## Accommodation:

Table 6: Population and size of businesses in scope of 2015 ADR Regulations in 2007 SIC Code 55 and 56

	Number of businesses in scope of Amendment to ADR and Revocation of ODR regulations
Micro-businesses (no or 1 to 9 employees)	168,955
Small businesses (10 to 49 employees)	29,470
Medium (50 to 249 employees)	3,040
Large (250 or more employees)	590
<b>TOTAL</b>	<b>202,055</b>

## Automotive:

Table 7: Population and size of businesses in scope of 2015 ADR Regulations in 2007 SIC Code 45

	Number of businesses in scope of Amendment to ADR and Revocation of ODR regulations
Micro-businesses (no or 1 to 9 employees)	100,395
Small businesses (10 to 49 employees)	5,520
Medium (50 to 249 employees)	760
Large (250 or more employees)	185
<b>TOTAL</b>	<b>106,860</b>

## Personal Services:

Table 8: Population and size of businesses in scope of 2015 ADR Regulations in 2007 SIC Code 77.1, 77.2, 85.5, 93.1, and 96

	Number of businesses in scope of Amendment to ADR and Revocation of ODR regulations
Micro-businesses (no or 1 to 9 employees)	262,870
Small businesses (10 to 49 employees)	9,640
Medium (50 to 249 employees)	1,060
Large (250 or more employees)	240
<b>TOTAL</b>	<b>273,810</b>

# Annex B – Median hourly wage costs of different professions involved in the regulations

## Amendment of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and Revocation of Regulation (EU) 524/2013

	SOC 2010 code	Description	Median hourly wage cost 2017 ASHE (£)
Customer service managers and supervisors	7220	Customer service managers and supervisors	£14.17
Customer service occupations	7219	Frontline staff member	£10.22
Programmers and software development professionals	2136	IT programmer	£20.87