

EXPLANATORY MEMORANDUM TO
THE CONSUMER PROTECTION (AMENDMENT ETC.) (EU EXIT)
REGULATIONS

2018 No. 1326

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument:
- a) makes amendments to EU derived consumer protection legislation which are necessary as a result of the decision to leave the European Union. This is to ensure that the legislation continues to operate effectively at the point the United Kingdom withdraws from the European Union;
 - b) revokes the EU Online Dispute Resolution Regulation;
 - c) makes amendments to EU derived consumer protection legislation to replace obsolete cross-references to EU law. These out-dated references were in place before the decision to leave the European Union and correcting them now ensures that the law will function properly after exit day.

Explanations

- 2.2 This instrument affects the following consumer protection legislation
- Amendment of Primary Legislation
 - The Consumer Rights Act 2015
 - Amendment of Subordinate Legislation
 - 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 Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015
 - Revocation of Retained Direct EU Legislation
 - Regulation (EU) 524/2013 – Online Dispute Resolution

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

- 2.3 The Footwear (Indication of Composition) Labelling Regulations 1995

- 2.4 These regulations contain definitions which cross refer to EU Directives that have been repealed. These amendments replace these cross references to refer instead to EU Regulations that will become retained EU law on exit day.

Amendments made under the European Union (Withdrawal) Act 2018

- 2.5 The Consumer Rights Act 2015

What did any relevant EU law do before exit day?

The Consumer Rights Act 2015 provides essential contractual rights and remedies for consumers when they transact with businesses and covers the sale of goods, services and digital content. It implements part of the Sale of Consumer Goods and Associated Guarantees Directive and the Unfair Terms in Consumer Contracts Directive.

The relevant sections provide that:

- When a sales or consumer contract has a close connection to the UK, certain protections in the Act have effect even if the parties choose the law of a non-EEA state.
- Contractual terms that reflect international conventions to which the UK or EU is a party are excluded from protections against unfair terms.
- Statements made by an importer into the EEA concerning goods or digital content are relevant in determining whether they are of satisfactory quality.

Why is it being changed?

On the UK's exit from the EU it will no longer be appropriate for UK law to give special treatment to contracts that choose the law of an EEA state. Nor will it be appropriate for the EU's membership of an international convention to be relevant to the fairness of contractual terms. As the UK will no longer be a member of the EU single market, it will no longer be appropriate for the statements of an importer into that market to be relevant to the implied term of satisfactory quality.

What will it now do?

Contracts where parties have chosen to use the law of an EEA state will now be treated in the same way as contracts where parties have chosen the law of other third countries. Only contract terms which reflect international conventions to which the UK is a party will be excluded from protection against unfair term. Statements made by an importer into the UK will be relevant to the implied term of satisfactory quality.

- 2.6 The Consumer Protection from Unfair Trading Regulations 2008

What did any relevant EU law do before exit day?

The Consumer Protection from Unfair Trading Regulations 2008 introduced a general prohibition on traders engaging in unfair commercial practices against consumers including misleading actions, misleading omissions and aggressive practices.

The relevant sections:

- provide that a consumer may have a right to redress where an importer into the EEA engages in prohibited practices;
- prohibit unfair practices, which include undertaking to provide an after-sales service to customers with whom the trader has communicated prior to a

transaction in a language which is not an official language of the EEA state where the trader is located, and then making such service available only in another language without clearly disclosing this to the consumer;

- prohibit a business from creating the false impression that after-sales service in relation to a product is available in an EEA State other than the state in which the product is sold.

Why is it being changed?

As the UK will no longer be a member of the EU single market, it will no longer be appropriate for the practices on an importer into the EEA to trigger a right to redress under UK law. The references to EEA states in the language requirements are being changed so that these requirements continue to operate as they do before exit day.

What will it now do?

- The consumer may have a right to redress when an importer into the UK engages in prohibited practices.
- The language requirements will continue to operate in the same way, despite the UK no longer being within the EEA.

2.7 Consumer Rights (Payment Surcharges) Regulations 2012

What did any relevant EU law do before exit day?

The Consumer Rights (Payment Surcharges) Regulations 2012 prohibit traders from imposing additional charges for the use of specific payment mechanisms.

The relevant sections define which contracts are excluded from the regulations by cross reference to EU Directives and prohibit payees from charging more than the cost to the payee when a payer uses a card and prohibit the payee from charging any fee to a consumer in most circumstances.

Why is it being changed?

The definitions of excluded contracts are amended so that they will operate effectively after exit. After exit it will no longer be appropriate to impose restrictions on payees where a payment service provider is based in the EEA which are not also imposed where a payment service provider is in another third country.

What will it now do?

The definitions of excluded contracts are amended to replace a cross reference to an EU Directive with a cross reference to the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 which will remain in force in the UK after exit, and replaces the words “EEA State” with “the United Kingdom” which means that the protections against payment surcharges will now apply only where a payment service provider (or in some cases both relevant payment service providers) is located in the United Kingdom.

2.8 The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

What did any relevant EU law do before exit day?

This Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 implement part of the Consumer Rights Directive which aims to encourage growth and consumer confidence through the harmonisation of rules in a limited number of areas so that traders and consumers face only one set of requirements wherever they sell or buy in the EU. The Regulations 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. They also provide rules governing delivery and in distance contracts a right to reject within 14 days.

The relevant sections define which contracts are excluded from these provisions and set out the currency in euros in the model instructions for cancellation.

Why is it being changed?

The legislation is being changed so that it will operate effectively after exit and to remove an inappropriate reference to euros.

What will it now do?

It will define excluded contracts by cross referencing to UK statutory instruments. In addition, references in the model instructions for cancellation will be in pounds and no longer Euros.

2.9 Crystal Glass (Descriptions) Regulations 1973

What did any relevant EU law do before exit day?

The Crystal Glass (Descriptions) Regulations 1973 implement in the UK the provisions of the Council Directive 69/493/EEC on the approximation of the laws of the Member States relating to crystal glass.

The Regulations prohibit the supply or offer to supply of crystal glass where that glass does not meet the relevant standard or grade as set down in the relevant British Standard.

The relevant provisions specify that the glass descriptions do not apply to glass intended for export to the EU if the description is in the language of that EU state, and that the Regulations do not apply to glass intended for export to a country other than an EU member state.

Why is it being changed?

It will no longer be appropriate to differentiate between glass intended for export to the EU and glass intended for export to another third country when the UK is no longer a member of the EU.

What will it now do?

The effect of the amendment is that glass intended for export to the EU will be exempt from the requirements under UK law in the same way as glass intended for export to the rest of the world.

2.10 Footwear (Indication of Composition) Labelling Regulations 1995

What did any relevant EU law do before exit day?

The Footwear (Indication of Composition) Labelling Regulations 1995 implemented Directive 94/11/EC which mandated a common labelling system for footwear applying across the EU. This informs consumers of the main materials used in the composition of footwear. The Regulations also set out categories of footwear which are exempt from these requirements.

The relevant provisions define the ‘responsible person’ who has responsibilities in respect of labelling under these regulations as the manufacturer, their agent in the EU or the person who first places footwear on the market in the EU.

Why is it being changed?

The legislation is being changed because after the UK exists the EU it will no longer be appropriate for an agent in the EU, or an importer into the EU, to have responsibilities under UK law.

What will it now do?

The responsibilities for labelling that are imposed on the ‘responsible person’ will now be imposed on the manufacturer, their agent in the UK or the person who first places footwear on the market in the UK.

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

What did any relevant EU law do before exit day?

The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (“the 2015 Regulations”) implement in the UK the provisions of the EU Directive 2013/11/EU on alternative dispute resolution. Alternative Dispute Resolution (ADR) enables disputes between a consumer and business to be settled more quickly and cheaply than using the courts.

The 2015 Regulations designate the competent authorities that are responsible for approving and monitoring certain entities (“ADR entities”) which provide ADR services. The instrument also places obligations on competent authorities to send a list of ADR entities to the single point of contact and publish the list of ADR entities published by the European Commission. The 2015 Regulations oblige the single point of contact to send the list of ADR entities and a report on detailing their best practices and shortcomings to the European Commission.

The relevant provisions concern cross-border disputes (disputes between a trader established in the UK and a consumer resident in another member state), the online dispute resolution (ODR) platform and the single point of contact.

The EU Regulation on online dispute resolution for consumer disputes (Regulation (EU) 524/2013) establishes an online tool that allows consumers to make a complaint against a trader where goods or services have been bought online. This was set up and is maintained by the European Commission.

Why is it being changed?

UK consumers will no longer have access to the ODR platform which is operated by the European Commission after the UK leaves the EU. In addition, it will no longer be appropriate for ADR entities to be required to resolve cross-border disputes involving residents of other member states, or for competent authorities to make available lists of ADR entities published by the European Commission, or for the Secretary of State to be required to send reports and lists of ADR entities to the European Commission when the UK is not a member of the EU.

What will it now do?

The requirement for competent authorities to make available the list of ADR entities published by the European Commission is replaced with a requirement to make available a list published by the Secretary of State. The requirement for the Secretary of State to send a consolidated list of ADR entities and report on their functioning to the European Commission is removed and instead the Secretary of State is required to publish the list of ADR entities. The requirement for ADR entities to offer cross border dispute resolution is removed.

The EU Regulation on Online Dispute Resolution is revoked.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument was laid for sifting on the 29th October 2018. The Sifting Committees considered the instrument and both confirmed on the 15th November 2018 that they are content for it to remain subject to the negative procedure.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding Human Rights:

“In my view the provisions of The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument amends primary and subordinate legislation and revokes an EU Regulation to address deficiencies and ensure that they will operate effectively after the withdrawal of the United Kingdom from the European Union.

- 6.2 This instrument relies on the European Union (Withdrawal) Act 2018 to amend legislation to ensure that EU retained law will operate effectively after exit and section 2(2) European Communities Act 1972 to correct obsolete cross references in legislation that were in place before the decision to leave the EU to ensure they function correctly after exit day.

7. Policy background

What is being done and why?

All the amendments proposed in this Statutory Instrument (“SI”) are intended to ensure the continued effective and appropriate operation of the existing consumer protection regime following EU Exit.

- 7.1 The changes reflect EU exit by:
- moving responsibilities from importers to the EEA on to importers to the UK;
 - placing contracts choosing EEA state law onto the same footing as contracts choosing the law of other third countries;
 - placing users of EEA-based payment service providers in the same position as users of payment service providers in other third countries;
 - placing crystal glass intended for export to the EEA in the same position as crystal glass intended for export to other third countries
 - removing obligations on UK ADR providers to deal with disputes involving consumers resident in EU member states

7.2 Regulation (EU) 524/2013 – Online Dispute Resolution

The ODR platform is a website maintained by the European Commission which consumers and traders can use to seek out-of-court resolution of disputes. Competent authorities and UK traders selling goods or services online must carry a link to the ODR platform, but following the UK’s departure, the ODR platform will no longer be available, so traders in the UK who sell goods and services online will no longer be required to carry this link on their website.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- 8.2 In addition, the instrument is also being made under section 2(2) of the European Communities Act 1972 and these powers are being used to correct out-dated cross-references to EU legislation that has already been repealed.

9. Consolidation

- 9.1 There are no current plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

- 10.1 No consultation was required as the instrument makes only minor changes and does not represent a policy change.

11. Guidance

- 11.1 Footwear (Indication of Composition) Labelling Regulations 1995
- 11.2 Existing guidance for businesses will be updated to explain the changes that this instrument makes. This instrument will have no impact on the enforcement provisions including sanctions available for the enforcement of the the Footwear (Indication of Composition) Labelling Regulations 1995. Consequently, there is no need to produce specific guidance for enforcement agencies.
- 11.3 No guidance has been produced for the rest of the measures in this instrument.

12. Impact

- 12.1 Amendment of the Consumer Rights Act 2015
- There is no significant impact on business, charities or voluntary bodies.
 - There is no, or no significant impact on the public sector.
 - An Impact Assessment has not been prepared for the amendments to this legislation as these amendments do not represent a policy change. As these aspects of the instrument have a net direct impact on business of less than £5 million annually, they qualify for the *de minimis* threshold and a full regulatory Impact Assessment is not required.
- 12.2 Amendment of the Consumer Protection from Unfair Trading Regulations 2008
- There is no significant impact on business, charities or voluntary bodies.
 - There is no, or no significant impact on the public sector.
 - An Impact Assessment has not been prepared for the amendments to this legislation as these amendments do not represent a policy change. As these aspects of the instrument have a net direct impact on business of less than £5 million annually, they qualify for the *de minimis* threshold and a full regulatory Impact Assessment is not required.
- 12.3 Amendment of the Consumer Rights (Payment Surcharges) Regulations 2012
- There is no significant impact on business, charities or voluntary bodies.
 - There is no, or no significant impact on the public sector.
 - An Impact Assessment has not been prepared for the amendments to this legislation as these amendments do not represent a policy change. As these aspects of the instrument have a net direct impact on business of less than £5 million annually, they qualify for the *de minimis* threshold and a full regulatory Impact Assessment is not required.
- 12.4 Amendment of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- There is no significant impact on business, charities or voluntary bodies.
 - There is no, or no significant impact on the public sector.

- An Impact Assessment has not been prepared for the amendments to this legislation as these amendments do not represent a policy change. As these aspects of the instrument have a net direct impact on business of less than £5 million annually, they qualify for the *de minimis* threshold and a full regulatory Impact Assessment is not required.

12.5 Crystal Glass (Descriptions) Regulations 1973

- There is no significant impact on business, charities or voluntary bodies.
- There is no, or no significant impact on the public sector.
- An Impact Assessment has not been prepared for the amendments to this legislation as these amendments do not represent a policy change. As these aspects of the instrument have a net direct impact on business of less than £5 million annually, they qualify for the *de minimis* threshold and a full regulatory Impact Assessment is not required.

12.6 Footwear (Indication of Composition) Labelling Regulations 1995

The impact on businesses of the amendments to this legislation is that their responsibilities under the regulation may change. Specifically, an importer to the UK from the EEA (who may be a retailer) may become a ‘responsible person’ under the regulation. The practical impact of such a business becoming a responsible person is that they would become responsible for the accuracy of the footwear label and for supplying the labelling to be conveyed upon the footwear, rather than having to ensure the footwear is labelled in accordance with the requirements of the Regulations when it is offered to sale for consumers.

There is no impact on charities or voluntary bodies unless they are ‘importers’ of footwear; in which case they may become a ‘responsible person’ under the regulation. The impact of this is described above. There is no impact on the public sector.

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

An Impact Assessment is required as businesses will experience a direct cost to comply with the changes introduced by this instrument.

In terms of online dispute resolution (ODR), businesses will no longer be required to post a link to the European Commission on the website. For ODR, businesses who sell goods and/or services online will need to remove the link to the ODR platform from their website which will come at a one-off cost. We anticipate that businesses in scope of the ADR Regulations amendment may incur some small familiarisation and training cost.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No steps have been taken to minimise the impact of the requirements on small businesses (employing up to 50 people. The purpose of the instrument is simply to retain existing requirements where possible to ensure they are operable after EU exit.

14. Monitoring & review

- 14.1 Since the instrument merely amends other Regulations it does not contain a review provision

15. Contact

- 15.1 Sandra McNeish at the Department for Business Energy and Industrial Strategy Telephone: 020 7215 6439 or email: Sandra.mcneish@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Sarah Mackintosh, Deputy Director for European Policy at the Department for Business, Energy Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kelly Tolhurst, Minister for Small Business, Consumers and Corporate Responsibility, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Consumer Protection (Amendment etc.) (EU exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

- 1.2 This is the case because this instrument mainly seeks to ensure legislation continues to be effective and does not amount to a substantive policy change in relation to consumer protection. It amends consumer protection legislation as necessary to retain effective and appropriate operation after exit day and revokes the EU Regulation on Online Dispute Resolution (ODR) to which UK consumers will no longer have access. It also makes consequential amendments to EU derived consumer protection legislation to omit or replace references to the European Commission, the EEA, EU currency and Member States, where the references are no longer relevant post EU Exit.

2. Appropriateness statement

- 2.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 does no more than is appropriate”.

- 2.2 This is the case because the changes made by this instrument are limited to changes considered appropriate to deal with deficiencies outlined in paragraph 1.2 and do not bring about a wider policy change or impose any significant new liabilities or obligations on any relevant persons.

3. Good reasons

- 3.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 3.2 The reasons are the instrument addresses failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU outlined in paragraph 1.2. The changes made by this instrument are considered appropriate as explained in paragraph 2.2 to 2.11 of the Explanatory Memorandum. The Department has therefore concluded that the making of this instrument constitutes a reasonable course of action.

4. Equalities

4.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

4.2 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

5.1 The explanations statement has been made in paragraph 2 of the main body of this explanatory memorandum.