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STATUTORY INSTRUMENTS

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**2018 No. 1243**

**EXITING THE EUROPEAN UNION  
ELECTRONIC COMMUNICATIONS**

The Open Internet Access (Amendment  
etc.) (EU Exit) Regulations 2018

<i>Sift requirements satisfied</i>	<i>6th November 2018</i>
<i>Made - - - -</i>	<i>26th November 2018</i>
<i>Laid before Parliament</i>	<i>28th November 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (1) (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of that Act.

**PART 1**

**Introduction**

**Citation and commencement**

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

## PART 2

### Amendment of subordinate legislation

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

- 2.—(1) The Open Internet Access (EU Regulation) Regulations 2016<sup>(2)</sup> are amended as follows.
- (2) In regulation 1, after paragraph (2), insert—
- “(3) In these Regulations, references to OFCOM’s functions under the EU Regulation should be read as references to OFCOM’s functions for the purposes of Articles 3, 4 and 5 of the EU Regulation.”.
- (3) Omit regulation 4 (National Regulatory Authority).
- (4) Omit regulation 5 (BEREC guidelines).
- (5) In regulation 7—
- (a) in paragraph (1), before “OFCOM shall” insert “Subject to paragraph (2A),”;
- (b) after paragraph (2) insert—
- “(2A) A requirement imposed under paragraph (1) must be concerned with—
- (a) technical characteristics;
- (b) minimum quality of service requirements;
- (c) any other measure that is appropriate and necessary for either or both of the purposes in paragraph (2).”.

## PART 3

### Amendment of retained direct EU legislation

#### Amendment of Regulation (EU) 2015/2120

- 3.—(1) Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending [Directive 2002/22/EC](#) on universal service and users’ rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union is amended as follows.
- (2) In Article 1(1) omit “common”.
- (3) In Article 2, in the second paragraph, after subparagraph (2), insert—
- “(3) ‘OFCOM’ means the Office of Communications as established by the Office of Communications Act 2002<sup>(3)</sup>.”.
- (4) In Article 3—
- (a) in paragraph 1, for “Union law, or national law that complies with Union law”, substitute “national law”;
- (b) in paragraph 3, for subparagraph (a), substitute—
- “(a) comply with national legislation, to which the provider of internet access services is subject, or with measures giving effect to such national legislation,

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(2) [S.I. 2016/607](#).

(3) [2002 c. 11](#).

including with orders by courts or public authorities vested with relevant powers;”.

- (5) In Article 4—
  - (a) in paragraph 3—
    - (i) omit “are in addition to those provided for in [Directive 2002/22/EC](#) and”;
    - (ii) for “Member States”, substitute “the Secretary of State or OFCOM”;
    - (iii) for “the relevant provisions of Directives [2002/21/EC](#) and [2002/22/EC](#)”, substitute “the relevant provisions of domestic legislation implementing Directives [2002/21/EC](#) and [2002/22/EC](#)”;
  - (b) in paragraph 4, for “the national regulatory authority”, substitute “OFCOM”.
- (6) In Article 5—
  - (a) in paragraph 1, for “national regulatory authorities”, in each place it occurs, substitute “OFCOM”;
  - (b) in paragraph 1, omit the words “For those purposes...” to “...including providers of internet access services.”;
  - (c) in paragraph 1, omit the words “, and provide those reports to the Commission and to BEREC”;
  - (d) in paragraph 2, for “the national regulatory authority”, in each place it occurs, substitute “OFCOM”;
  - (e) in paragraph 2, for “that national regulatory authority”, substitute “OFCOM”;
  - (f) omit paragraph 3;
  - (g) omit paragraph 4.
- (7) Omit Article 6 (Penalties).
- (8) Omit Article 8 (Amendment to [Directive 2002/22/EC](#)).
- (9) Omit Article 9 (Review clause).
- (10) In Article 10—
  - (a) in paragraph 2, omit sub-paragraph (c);
  - (b) omit paragraph 3.
- (11) After Article 10, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

*Margot James*  
Minister for Digital and the Creative Industries  
Department for Digital, Culture, Media and  
Sport

26th November 2018

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation relating to open internet access. Part 2 amends the Open Internet Access (EU Regulation) Regulations 2016, and Part 3 amends Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25th November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union.

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