*This Statutory Instrument has been made in consequence of defects and errors in SI 2018/506, and is being issued free of charge to all known recipients of that Statutory Instrument.*

STATUTORY INSTRUMENTS

# 2018 No. 629

# ELECTRONIC COMMUNICATIONS

## The Network and Information Systems (Amendment) Regulations 2018

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| *Made - - - -* | *23rd May 2018* |
| *Laid before Parliament* | *24th May 2018* |
| *Coming into force - -* | *20th June 2018* |

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) ("the 1972 Act") in relation to electronic communications.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(**3**) of Schedule 2 to, the 1972 Act.

### Citation and commencement

**1.** These Regulations may be cited as the Network and Information Systems (Amendment) Regulations 2018 and come into force on 20th June 2018.

### Amendment of the Network and Information Systems Regulations 2018

**2.**—(1) The Network and Information Systems Regulations 2018(**4**) are amended as follows.

(2) For paragraph (a) of regulation 1(3) (interpretation), substitute—

(**1**) S.I. 2001/3495. See article 2 of, and Schedule 1, to these Regulations. There are amendments not relevant to these Regulations.
(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). In so far as these Regulations deal with matters that are within the devolved competence of Scottish Ministers, the power of the Secretary of State to make regulations in relation to those matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c. 46).
(**3**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006, and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008, and by article 3 of, and paragraph 1 to, Schedule 1 to S.I. 2007/1388.
(**4**) S.I. 2018/506.

"(a) an Article, Annex or paragraph of an Article or Annex is a reference to the Article, Annex or paragraph as numbered in Directive 2016/1148.".

(3) For paragraph (c) of regulation 1(3) (interpretation), for "and" substitute "or".

(4) In paragraph (5) of regulation 3 (designation of national competent authorities), omit "by".

(5) In paragraphs (1) and (3)(a) of regulation 8 (identification of operators of essential services), omit "paragraphs 1 to 9 of".

(6) In paragraph (11) of regulation 8, for "the "notification" date means" substitute "the "notification date" means".

(7) In regulation 12 (relevant digital service providers)—

(a) in paragraph (7)(b), before "situations" add "the";

(b) in paragraph (11), for "paragraph (9)" substitute "paragraph (10)"; and

(c) in paragraph (14)(c), for "paragraph (11)(b)" substitute "paragraph (12)(b)".

(8) In paragraph (1)(a) of regulation 15 (information notices), omit "paragraphs 1 to 9 of".

(9) In regulation 18—

(a) in paragraph (3)(e), after "process", insert "which may be"; and

(b) for paragraph (7)(a), substitute—

"(a) "a material contravention" means—

(i) a failure to take steps, or any adequate steps, within the stipulated time period to rectify a failing that is described in regulation 17(1)(a) to (d) or (2)(a) to (d); or

(ii) where no steps were required to be taken, a failing that is described in regulation 17(1)(a) to (d) or (2)(a) to (d);".

(10) In paragraph 19, for "reviews" substitute "a review".

(11) For paragraphs (3) to (5) of regulation 25 (review and report), substitute—

"(3) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(**5**) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how Directive 2016/1148(**6**) is implemented in other Member States.

(4) Section 30(4) of that Act requires that reports published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation "regulatory provision" has the same meaning as in sections 28 to 32 of that Act.".

(12) In Schedule 2—

(a) in sub-paragraph (a) of paragraph 5(6), insert "as" after "meaning"; and

(b) in sub-paragraph (a) of paragraph 7(3), insert "as" after "meaning".

(**5**) 2015 c. 26.
(**6**) Directive 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union, OJ No. L 194, 19.7.2016, p. 1.