Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Portability of Online Content Services Regulations 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2018 No. 249

INTELLECTUAL PROPERTY CONSUMER PROTECTION

The Portability of Online Content Services Regulations 2018

Made - - - -	*26th February 2018*
Laid before Parliament	*28th February 2018*
Coming into force - -	*1st April 2018*

The Secretary of State is a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to intellectual property and measures relating to consumer protection.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

F1 S.I. 2006/608 and S.I. 1993/2661.

F2 1972 (c.68), as amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)** and the European Union (Amendment) Act 2008, (c.7) section 3(3) and Part 1 of the Schedule.

Citation and commencement

1.—(1) These Regulations may be cited as the Portability of Online Content Services Regulations 2018.

(2) These Regulations come into force on 1st April 2018.

Interpretation

2.—(1) In these Regulations—

"provider" means a person who provides an online content service and—

(a) is required, under Regulation 2017/1128, to ensure that the service is portable; or

(b) opts, under that Regulation, to provide a service that is portable; and

"Regulation 2017/1128" means Regulation (EU) No 2017/1128 of the European Parliament and of the Council of 14th June 2017 on cross-border portability of online content services in the internal market [F3].

(2) Other words and expressions in these Regulations are to be construed in accordance with Regulation 2017/1128.

F3 OJ No L181, 30.06.2017, p.1.

Application

3.—(1) These Regulations apply to online content contracts concluded and online content rights acquired—

(a) on or after 1stApril 2018; or

(b) before 1st April 2018, where such contracts and rights subsist on or after 1st April 2018.

(2) In paragraph (1), a reference to online content contracts and online content rights is a reference to such contracts and rights which relate to the provision of, the access to, and the use of an online content service under Regulation 2017/1128.

Actionable breach

4.—(1) A breach of an obligation by a provider to comply with Article 3(1) (obligation to provide online content service), Article 3(3) (steps reducing quality of delivery) or Article 9(2) (verification) of Regulation 2017/1128 is a breach of a duty owed by that provider to a subscriber.

(2) Where the subscriber suffers loss or damage due to such a breach by the provider, that loss or damage is actionable by the subscriber against that provider.

Review

5.—(1) The Secretary of State must carry out a review of these Regulations.

(2) In carrying out the review, the Secretary of State must have regard to how, rights and obligations corresponding to rights and obligations in this instrument, operate in other member States.

(3) The Secretary of State must set out the conclusions of the review in a report.

(4) The report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

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

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(5) The Secretary of State must—

(a) publish the first such report before 1stApril 2023; and

(b) publish subsequent reports at intervals not exceeding five years.

Department for Business, Energy and Industrial Strategy
26th February 2018

Sam Gyimah
Minister of State