

EXPLANATORY MEMORANDUM TO
THE SINGLE DIGITAL GATEWAY REGULATION (REVOCATION) (EU EXIT)
REGULATIONS 2020

2020 No. [XXXX]

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 Sifting Committees.

2. Purpose of the instrument

- 2.1 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures, and to assistance and problem-solving services, and amending Regulation (EU) No 1024/2012 (“the SDGR”), is a directly applicable European Union (EU) Regulation. Certain provisions of the SDGR will constitute retained EU law in accordance with section 3 of the European Union (Withdrawal) Act 2018 (“EUWA”). The purpose of this instrument is to revoke those provisions of the SDGR that will constitute retained EU law on and after 31 December 2020, so that the United Kingdom (UK) is no longer legally bound by the SDGR once the Transition Period ends.

Explanations

What did any relevant EU law do before exit day?

- 2.2 The SDGR provides online access to the information, administrative procedures and assistance services that citizens and businesses need to live in, or conduct their business in, another EU country’. It provides for the creation of a single EU web access point, “the Gateway”, which will link EU and national websites and portals and provide individuals and businesses with information relating to Single Market rights and rules. The SDGR contains staggered application dates for the obligations it introduces. Some obligations applied when the SDGR entered into force in 2018. For example, the requirement for each Member State to nominate a National Co-ordinator (which the UK has done). Other obligations apply from 12 December 2020. Subsequent requirements under the SDGR apply from 12 December 2023.

Why is it being changed?

- 2.3 When the Transition Period ends on 31 December 2020 the UK will cease to be part of the Single Market. For this reason, the UK does not wish to be bound by those provisions of the SDGR that will constitute retained EU law at the end of the Transition Period.

What will it now do?

- 2.4 To ensure that the UK is no longer bound by the SDGR after the Transition Period ends, this instrument revokes those articles of the SDGR which are in force and apply immediately before 31 December 2020, and would therefore constitute retained EU

law. Future obligations (e.g. applying from 2023) will not constitute retained EU law and so do not need to be revoked.

3. Matters of special interest to Parliament

Matters of special interest to the Sifting Committees

3.1 The instrument is being laid for sifting by the Sifting Committees.

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 UK.

4.2 The territorial application of this instrument is the UK.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is being made to address failures of retained EU law to operate effectively as a result of the withdrawal of the UK from the EU. Under section 3 of the EUWA, provisions of direct EU legislation (such as the SDGR) which are in force and apply immediately before 31 December 2020 will constitute retained EU law on and after 31 December 2020. The instrument revokes those provisions of the SDGR that will constitute retained EU law on the basis that they will have no practical application in relation to the UK and will otherwise be redundant, that they confer functions on EU entities which will no longer apply in relation to the UK, and that they make provision for arrangements which are dependent on the UK's membership of the EU Single Market which would no longer be appropriate when the UK is no longer a member of the EU. The instrument also revokes the reference to the SDGR in Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') as it appears at paragraph 12 of the Annex to that Regulation. The SDGR reference in the IMI Regulation will be redundant text.

7. Policy background

What is being done and why?

7.1 The UK has now left the EU and will be leaving the Single Market at the end of the Transition Period at which point the UK and EU will separate into two autonomous legal and regulatory systems. The SDGR applies wholly within the EU Single Market and as such, it would not be in the UK's interest to be bound by the SDGR once the Transition Period has ended. The instrument revokes those articles of the SDGR that

will constitute retained EU law on and after 31 December 2020. As a result, the UK will no longer be legally bound by the SDGR's obligations.

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 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU. 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.

9. Consolidation

9.1 This instrument does not amend another instrument except in the case of the SDGR reference in the IMI Regulation as referred to at paragraph 6.1. Consolidation is not being done for these instruments.

10. Consultation outcome

10.1 The Devolved Administrations of Northern Ireland, Scotland and Wales have been sighted on the legal text of this instrument. No other consultation has been necessary as the instrument is a simple mechanism to revoke those SDGR obligations that would constitute retained EU law. These obligations will no longer be relevant as a result of the UK leaving the EU Single Market at the end of the Transition Period.

11. Guidance

11.1 The instrument revokes obligations, rather than creates new ones, so no guidance is required.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is positive, in that the instrument will remove from Government departments and agencies the burden of compliance with the SDGR after the Transition Period, resulting in significant cost and resource savings for Government.

12.3 An Impact Assessment has not been prepared for this instrument because there is expected to be low to no impact on business.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The instrument revokes provisions of an EU Regulation that will constitute retained EU law at the end of the Transition Period. As such no monitoring is needed.

14.2 As this instrument is made under the EUWA, no review clause is required.

15. Contact

- 15.1 Martin Rodgers at the Department for Business, Energy and Industrial Strategy Telephone: 0207 215 6218 or email: martin.rodgers@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Tim Abraham, Deputy Director for European Engagement and Transition, at the Department for Business, Energy and Industrial Strategy can confirm that this explanatory memorandum meets the required standard.
- 15.3 Lord Callanan 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 Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Single Digital Gateway Regulation (Revocation) (EU Exit) Regulations 2020 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: these Regulations do not fall into the category of provisions identified at Schedule 7 Part 1 Paragraph 1 (2) of the EUWA as requiring approval in draft by resolution of both Houses of Parliament. These Regulations revoke obligations under EU and domestic law that will have no practical application in relation to the UK after the withdrawal of the UK from the EU. We do not consider that there is any reason why they should not be subject to the negative resolution procedure.

2. Appropriateness statement

- 2.1 The Minister for Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Single Digital Gateway Regulation (Revocation) (EU Exit) Regulations 2020 does no more than is appropriate”.

- 2.2 This is the case because: these Regulations revoke references to obligations under EU law that will have no practical application in relation to the UK after the withdrawal of the UK from the EU. These Regulations do not change current policy nor impose any new liabilities or obligations on any relevant persons.

3. Good reasons

- 3.1 The Minister for Climate Change and Corporate Responsibility, Lord Callanan, 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 These are: because these Regulations address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU. These Regulations do not change current policy nor impose any new liabilities or obligations on any relevant persons. The policy rationale for the changes is set out at Section 7, Policy Background, to this explanatory memorandum.

4. Equalities

- 4.1 The Minister for Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement:

“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 Climate Change and Corporate Responsibility, Lord Callanan, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lord Callanan 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.”

- 4.3 The amendments made by these Regulations do not raise any issues relevant to the public sector equality duty under section 149 (1) of the Equality Act 2010 because they are of a technical nature and do not change current policy nor impose any new liabilities or obligations on any relevant persons.

5. **Explanations**

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