

2015 No. 1392

CONSUMER PROTECTION

**The Alternative Dispute Resolution for Consumer Disputes
(Amendment) Regulations 2015**

<i>Made</i>	- - - -	<i>18th June 2015</i>
<i>Laid before Parliament</i>		<i>18th June 2015</i>
<i>Coming into force</i>		
<i>for the purpose of regulations</i>		
<i>2(5)(c), (13), (14) and (15)(j), and</i>		
<i>6 and 9</i>		<i>9th January 2016</i>
<i>Remainder</i>		<i>9th July 2015</i>

The Secretary of State, is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a), in relation to matters relating to consumer protection(b).

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and section 210(9) and 212(3) of the Enterprise Act 2002(c).

PART 1

General

Citation, commencement, transitional provision and extent

1.—(1) These Regulations may be cited as the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015.

(2) Regulations 2(5)(c), 2(13), (14) and (15)(j), 6 and 9 come into force on 9th January 2016 and all other regulations come into force on 9th July 2015.

(3) Regulations 3, 4, 5, 7 and 8 apply only where the contract to which the dispute relates was entered into on or after 9th July 2015.

(4) These Regulations have the same extent as the provisions that they amend.

(a) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by the Schedule to the European Union (Amendment) Act 2008 (c.7).

(b) S.I. 1993/2661.

(c) 2002 c.40; section 210 was amended by regulations 4 and 5 of S.I. 2006/3363 and article 4(1) of S.I. 2011/1043. Section 212 was amended by regulations 6 to 8 of S.I. 2006/3363 and regulation 2 of S.I. 2007/528.

PART 2

Amendments to the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

Amendments to the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

2.—(1) The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015(a) are amended as follows.

(2) For the word “body”, in each place it occurs, substitute “person” except in paragraph 3(h) of Schedule 3.

(3) In regulation 1(3) (citation and commencement), for “9th July 2015” substitute “1st October 2015”.

(4) In regulation 2 (review)—

- (a) in paragraph (1)(a), after “Regulations” insert “and the amendments to legislation made by Parts 3 and 4 of the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015”;
- (b) in paragraph (2), for “is implemented” substitute “, and Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC are implemented”;
- (c) in paragraph (3)(a), after “Regulations” insert “and the amendments to legislation made by Parts 3 and 4 of the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015”.

(5) In regulation 5 (other definitions)—

- (a) for the definition of “ADR official” substitute—

““ADR official” means an individual who (solely or with other persons) is involved in the provision of alternative dispute resolution procedures offered by an ADR entity, or ADR applicant, whether as a case handler or in a management capacity;”;
- (b) insert at the appropriate place—

““complete complaint file” means all the relevant information relating to a dispute”;

““EU listed body” means a person, other than an ADR entity, whose name appears on a list referred to in Article 20(2) of Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;”;
- (c) insert at the appropriate place—

““ODR platform” means a European online dispute resolution platform established under Article 5 of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes;”.

(6) In regulation 9 (assessment of application to become an ADR entity), omit paragraphs (4)(a) and (8).

(7) In regulation 14 (notification of the consolidated ADR entity list)—

- (a) the existing provision becomes paragraph (1);
- (b) after paragraph (1) insert—

“(2) An ADR entity must make the consolidated list of ADR entities published by the European Commission publicly available—

(a) S.I. 2015/542.

- (a) on its website by means of a link to the relevant European Commission website;
and
 - (b) wherever possible, at the ADR entity’s premises on a durable medium.”.
- (8) After regulation 14 (notification of the consolidated ADR entity list) insert—

“The ADR entity’s duty to cooperate

14A.—(1) The ADR entity must take reasonable steps to—

- (a) cooperate with other ADR entities in the resolution of cross-border disputes; and
- (b) conduct regular exchanges of best practices with other ADR entities regarding the settlement of both cross-border disputes and domestic disputes.

(2) The ADR entity must take such steps as it considers appropriate to cooperate with bodies or persons designated by the Secretary of State under Article 4(1) and 4(2) of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

(3) Cooperation under paragraph (2) includes, in particular, exchange of information on practices in specific business sectors about which consumers have repeatedly lodged complaints.

Agreement to submit disputes to an ADR entity

14B. An agreement between a consumer and a trader to submit a cross-border dispute or domestic dispute to an ADR entity is not binding on the consumer to the extent that the agreement—

- (a) was concluded before the cross-border dispute or domestic dispute materialised;
and
- (b) has the effect of depriving the consumer of the right to bring judicial proceedings in relation to the cross-border dispute or domestic dispute.

Binding outcome requirements

14C.—(1) Where an ADR entity aims at resolving a dispute by imposing a solution, the solution will not be binding on a party to the dispute unless—

- (a) the ADR entity notifies the party that the outcome will be binding; and
- (b) the party specifically accepts that the outcome will be binding.

(2) The requirements under paragraph (1) must be met before the ADR entity notifies the party of the outcome of the alternative dispute resolution procedure.

(3) Paragraph (1)(b) does not apply in relation to a trader where an enactment, the rules of a trade association, or term of a contract, provides that the solution will be binding on the trader.”.

- (9) In regulation 15 (fees)—

- (a) for the heading, substitute “Fees payable to the Secretary of State”;
- (b) in paragraph (4), for “Regulation” substitute “regulation”.

- (10) After regulation 15 (fees payable to the Secretary of State) insert—

“Fees payable to the Financial Conduct Authority

15A.—(1) The functions of the FCA under these Regulations are to be treated for the purposes of paragraph 23 of Schedule 1ZA to the 2000 Act (fees) as qualifying functions conferred on the FCA under that Act with the following modifications—

- (a) rules made under paragraph 23 by virtue of this regulation may not provide for payment of fees by any person other than the scheme operator as defined in section 225(2) of the 2000 Act (the ombudsman scheme);
- (b) rules made under paragraph 23 by virtue of this regulation are not to be treated as regulating provisions for the purposes of Chapter 4 of Part 9A of the 2000 Act (competition scrutiny);
- (c) in relation to the first rules made under paragraph 23 by virtue of this regulation, section 1381 of the 2000 Act (consultation by the FCA) does not apply.

(2) In this regulation—

“the 2000 Act” means the Financial Services and Markets Act 2000;

“the FCA” means the Financial Conduct Authority as defined in section 1A of the 2000 Act (the regulators).”.

(11) In regulation 18(1)(b) (functions of single point of contact), at the end insert “on the standardised electronic form provided by the European Commission.”.

(12) For regulation 19 (consumer information by traders) substitute—

“Consumer information by traders

19.—(1) Where, under an enactment, rules of a trade association, or term of a contract, a trader is obliged to use an alternative dispute resolution procedure provided by an ADR entity or EU listed body the trader must provide the name and website address of the ADR entity or EU listed body—

- (a) on the trader’s website, if the trader has a website; and
- (b) in the general terms and conditions of sales contracts or service contracts of the trader, where such general terms and conditions exist.

(2) Where a trader has exhausted its internal complaint handling procedure when considering a complaint from a consumer relating to a sales contract or a service contract, the trader must inform the consumer, on a durable medium—

- (a) that the trader cannot settle the complaint with the consumer;
- (b) of the name and website address of an ADR entity or EU listed body that would be competent to deal with the complaint; and
- (c) whether the trader is obliged, or prepared, to submit to an alternative dispute resolution procedure operated by an ADR entity or EU listed body.

(3) The trader information requirements set out in paragraphs (1) and (2) apply in addition to any information requirements applicable to traders regarding out-of-court redress procedures contained in any other enactment.”.

(13) After regulation 19 insert—

“Consumer information by online traders and online marketplaces regarding the ODR platform

19A.—(1) Where under an enactment, rules of a trade association, or term of a contract, an online trader is obliged to use an alternative dispute resolution procedure provided by an ADR entity or EU listed body, the trader must—

- (a) provide a link to the ODR platform in any offer made to a consumer by email; and
- (b) inform consumers of—

- (i) the existence of the ODR platform; and
- (ii) the possibility of using the ODR platform for resolving disputes.

(2) The information in (1)(b) must also be included in the general terms and conditions of online sales contracts and online service contracts of the trader, where such general terms and conditions exist.

(3) An online trader must on its website—

- (i) provide a link to the ODR platform; and
- (ii) state the online trader’s email address.

(4) An online marketplace must provide a link to the ODR platform on its website.

(5) The online trader requirements set out in paragraphs (1) to (3) apply in addition to the trader information requirements set out in regulation 19.

(6) The online trader and online marketplace requirements in paragraphs (1) to (4) apply in addition to any information requirements regarding out-of-court redress procedures contained in any other enactment.

(7) In this regulation—

“online marketplace” has the meaning given in Article 4(f) of the Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;

“online sales contract” means a sales contract where the trader, or the trader’s intermediary, has offered goods on a website or by other electronic means and the consumer has ordered such goods on that website or by other electronic means;

“online service contract” means a service contract where the trader, or the trader’s intermediary, has offered services on a website or by other electronic means and the consumer has ordered such services on that website or by other electronic means;

“online trader” means a trader who intends to enter into online sales contracts or online service contracts with consumers.”

(14) In regulation 20 (amendment to Schedule 13 to the Enterprise Act 2002), omit paragraph (2) and Schedule 8.

(15) In Schedule 3 (requirements that a competent authority must be satisfied that the person meets)—

(a) for paragraph 6(c) substitute—

“(c) notifies the parties to a dispute as soon as it has received the complete complaint file, unless the person has already notified the parties that it refuses to deal with the dispute in accordance with paragraph 15;”;

(b) in paragraph 6(d), for “has received the complete complaint file substitute “issues the notice under sub-paragraph (c)”;

(c) for paragraph 9(b) substitute—

“(b) obliged under an enactment, rules of a trade association, or term of a contract, to participate in an alternative dispute resolution procedure.”;

(d) for paragraph 10(b) substitute—

“(b) obliged under an enactment, rules of a trade association, or term of a contract, to accept the solution proposed by the person if the consumer accepts the solution.”;

(e) for paragraph 13(e) substitute—

“(e) the consumer has not submitted the complaint to the person within the time period specified by the person, which shall not be less than the prescribed period.”;

(f) after paragraph 13 insert—

“13A.—(1) Subject to sub-paragraph (2), the “prescribed period” is 12 months from the date on which the trader informs the consumer that the trader is unable to resolve the consumer’s complaint (the “notice date”).

(2) Where the notice date occurred prior to the date on which the relevant competent authority approved the person as an ADR entity, under regulation 9(4), the “prescribed period” is the time period for submission of complaints as set out in the rules operated by that person on the notice date.”;

(g) after paragraph 14 insert—

“14A. The decision in paragraph 13 can be made at any time prior to the expiry of three weeks of the date upon which the person received the final submissions of the parties, but it cannot be made after the person has notified the parties under paragraph 6(c) that it has received the complete complaint file.”;

(h) for paragraph 15 substitute—

“15. Where a person decides to refuse to deal with a dispute, the person must as soon as reasonably practicable, provide the parties with a reasoned explanation of the grounds for not considering the dispute.”;

(i) for paragraph 16 substitute—

“16. Where, following the expiry of the period referred to in paragraph 14A, it appears to the person that one of the parties has sought to mislead the person as regards the existence or non-existence of one of the grounds for it to refuse to deal with a dispute, the person may immediately refuse to deal further with the dispute.”;

(j) after paragraph 16 insert—

“Compliance with the Online Dispute Resolution Regulation

17. The person ensures that on receipt of a complaint transmitted to it by the ODR platform it informs the parties, without delay, whether it agrees or refuses to deal with the dispute.

18. Where the person agrees to deal with a dispute transmitted to it by the ODR platform, it ensures that it—

- (a) informs the parties of the procedural rules of the alternative dispute resolution procedure operated by it;
- (b) informs the parties of the costs, if any, to be borne by a party, including the rules, if any, on costs awarded by the person at the end of the alternative dispute resolution procedure;
- (c) does not require the physical presence of the parties or their representatives, unless its procedural rules provide for the possibility and the parties agree;
- (d) transmits, without delay, the following information to the ODR platform—
 - (i) the date it received all the documents containing the relevant information relating to the dispute constituting the complete complaint file;
 - (ii) the subject-matter of the dispute;
 - (iii) the date of conclusion of the alternative dispute resolution procedure;
 - (iv) the result of the alternative dispute resolution procedure.

19. Where the person refuses to deal with a dispute transmitted to it by the ODR platform, it ensures that it transmits, without delay, the refusal to the ODR platform.”.

PART 3

Amendments to Primary Legislation

Amendments to the Prescription and Limitation (Scotland) Act 1973

3.—(1) The Prescription and Limitation (Scotland) Act 1973(a) is amended as follows.

(2) In section 14 (computation of prescriptive periods)(b)—

(a) after subsection (1C) insert—

“(1D) The prescriptive period calculated in relation to a relevant consumer dispute for the purposes of any provision of this Part of this Act is extended where the last day of the period would, apart from this subsection fall—

- (a) after the date when the non-binding ADR procedure starts but before the date that such a procedure ends;
- (b) on the date that a non-binding ADR procedure in relation to the dispute ends; or
- (c) in the 8 weeks after the date that a non-binding ADR procedure in relation to the dispute ends.

(1E) Where subsection (1D) applies, the prescriptive period is extended so that it expires on the date falling 8 weeks after the date on which the non-binding ADR procedure ends.

(1F) For the purposes of subsections (1D)(a) and (1E), a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.

(1G) For the purposes of subsections (1D) and (1E), a non-binding ADR procedure ends on the date that any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the relevant consumer dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant consumer dispute;
- (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
- (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.”;

(b) in subsection (2), at the relevant places insert the following definitions—

““ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;”;

““ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;”;

““ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;”;

(a) 1973 c. 52.

(b) Section 14 was amended by paragraph 6 of Schedule 1 to the Prescription and Limitation Act 1984 (c.45) and regulation 5(2), (3)(a) and (b) of S.I. 2011/234.

““ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive; ”;

““non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;”;

““qualifying request” is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure;”;

““relevant consumer dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader);”.

Amendments to the Limitation Act 1980

4.—(1) The Limitation Act 1980(a) is amended as follows.

(2) In section 12(3) (special time limit for actions under Fatal Accidents legislation)(b), after “33A”, insert “, 33B”.

(3) After section 33A (extension of time limits because of mediation in certain cross-border disputes)(c), insert—

“Alternative Dispute Resolution in certain cross border or domestic contractual disputes

33B Extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes

(1) In this section—

- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
- (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;
- (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;
- (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
- (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
- (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).

(2) Subsection (3) applies where—

- (a) a time limit under this Act relates to the subject of the whole or part of a relevant dispute;
- (b) a non-binding ADR procedure in relation to the relevant dispute starts before the time limit expires; and
- (c) if not extended by this section, the time limit would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings, the time limit expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).

(a) 1980 c. 58.

(b) Section 12 was amended by section 6(6) and paragraph 2 of Schedule 1 to the Consumer Protection Act 1987 (c.43) and regulation 24 of S.I. 2011/1133.

(c) Section 33A was inserted by regulation 26 of S.I. 2011/1133.

(4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).

(5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.

(6) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity's rules regarding the submission of complaints.

(7) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
- (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
- (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.

(8) For the purpose of subsection (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.

(9) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.”

Amendments to the Foreign Limitation Periods Act 1984

5.—(1) The Foreign Limitation Periods Act 1984(a) is amended as follows.

(2) In section 1(1)(a) (application of foreign limitation law)(b), for “section 1A” substitute “sections 1A and 1B”.

(3) After section 1A (extension of limitation periods because of mediation of certain cross-border disputes)(c), insert—

“1B Extension of limitation periods because of alternative dispute resolution in certain cross-border or domestic contractual disputes

(1) In this section—

- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
- (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;
- (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;

(a) 1984 c.16.

(b) Section 1 was amended by regulation 28 of S.I. 2011/1133.

(c) Section 1A was inserted by regulation 29 of S.I. 2011/1133.

- (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
 - (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
 - (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).
- (2) Subsection (3) applies where—
- (a) a limitation period prescribed by any law applicable by virtue of section 1(1)(a) relates to the subject of the whole or part of a relevant dispute;
 - (b) a non-binding ADR procedure in relation to the relevant dispute starts before the period expires; and
 - (c) if not extended by this section, the period would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.
- (3) For the purposes of initiating judicial proceedings, the limitation period expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).
- (4) If a limitation period has been extended by this section, subsections (2) and (3) apply to the extended limitation period as they apply to a limitation period mentioned in subsection (2)(a).
- (5) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.
- (6) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—
- (a) the parties reach an agreement in resolution of the relevant dispute;
 - (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
 - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
 - (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
 - (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
 - (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.
- (7) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.
- (8) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.
- (9) This section is without prejudice to any enactment which has effect for the purposes of provisions—
- (a) relating to limitation or prescription periods, and
 - (b) contained in an international agreement to which the United Kingdom is a party.”.

Amendments to Schedule 13 to the Enterprise Act 2002

6. In Part 2 of Schedule 13 to the Enterprise Act 2002 (provisions of Directives)(a)—

- (a) in the heading, after “Directives” insert “and Regulations”;
- (b) after paragraph 13 insert—

“14. Article 14 of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) 2006/2004 and Directive 2009/22/EC.”.

Amendments to the Equality Act 2010

7.—(1) The Equality Act 2010(b) is amended as follows.

(2) In section 118(1) (time limits)(c) for “section 140A” substitute “sections 140A and 140AA”.

(3) After 140A (extension of time limits because of mediation in certain cross-border disputes) (d) insert—

“140AA Extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes

(1) In this section—

- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
- (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;
- (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;
- (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
- (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
- (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).

(2) Subsection (3) applies where—

- (a) a time limit is set by section 118(1)(a) and (2) in relation to the whole or part of a relevant dispute;
- (b) a non-binding ADR procedure in relation to the relevant dispute starts before the time limit expires; and
- (c) if not extended by this section, the time limit would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings, the time limit expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).

(4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).

(a) 2002 c.40. Part 2 of Schedule 13 was amended by paragraph 19 of Schedule 1 to S.I. 2005/2759, paragraph 70(c) of Part 2 of Schedule 2 to S.I. 2008/1277, regulation 16(b) of S.I. 2011/1208 and regulation 20(1) of S.I. 2015/542.

(b) 2010 c.15.

(c) Section 118 was amended by section 64(13) of the Enterprise and Regulatory Reform Act 2013 (c.24) and regulation 55 of S.I. 2011/1133.

(d) Section 140A was inserted by regulation 58 of S.I. 2011/1133.

(5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.

(6) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity's rules regarding the submission of complaints.

(7) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) that the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
- (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
- (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.

(8) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.

(9) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.

(10) Where a court or tribunal has power under section 118(1)(b) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this section.”.

PART 4

Amendments to other Secondary Legislation

Amendments to the Limitation (Northern Ireland) Order 1989

8. After Article 51A of the Limitation (Northern Ireland) Order 1989(a) insert—

“Extension of time limits: Non-binding ADR procedure

51B.—(1) Paragraph (2) applies where—

- (a) there is a non-binding ADR procedure in relation to a relevant dispute giving rise to an action for which a time limit is fixed by this Order; and
- (b) the time limit would, apart from this Article, expire—
 - (i) after the date on which the non-binding ADR procedure starts but before the date that such a procedure ends;
 - (ii) on the date on which the non-binding ADR procedure ends; or

(a) S.I. 1989/1339 (N.I. 11), amended by S.R. (N.I.) 2011 No 157; there are other amending instruments but none is relevant.

(iii) in the period of 8 weeks after the date on which the non-binding ADR procedure ends.

(2) Where this paragraph applies, the time limit is extended so that it expires on the date falling 8 weeks after the date on which the non-binding ADR procedure ends.

(3) For the purposes of this Article, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity's rules regarding the submission of complaints.

(4) For the purposes of this Article, the non-binding ADR procedure ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
- (d) that the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
- (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
- (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.

(5) In this Article—

“ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;

“ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;

“ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;

“ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;

“non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;

“qualifying request” is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure;

“relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).”

Amendments to the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003

9.—(1) The Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003(a) is amended as follows.

- (2) In the heading before article 2, after “Directives” insert “, Regulations”.
- (3) In article 3 after “Directives” insert “, listed Regulations”.
- (4) In the Schedule (listed Directives)—

(a) S.I. 2003/1374; amended by S.I. 2004/2095, 2005/2418, 2008/1277, 2008/1816, 2010/1010, 2010/2960, 2011/1208, 2012/1916 and 2013/472.

- (a) in the title after “Directives” insert “and Regulations”;
- (b) in the heading for the first column after “Directives” insert “and Regulations”;
- (c) at the end insert—

“Article 13 of Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) 2006/2004 and Directive 2009/22/EC	Regulation 19(1) and (2) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015
Article 14 of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) 2006/2004 and Directive 2009/22/EC	Regulation 19A(1) to (4) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015”

18th June 2015

Nick Boles
Minister of State for Skills
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542) (“the ADR Regulations”) and make amendments to certain other Acts and Statutory Instruments.

The purpose of these Regulations is four-fold: (i) to implement those provisions of Directive 2013/11/EU of the European Parliament and of the Council of 21st May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165 18.6.2013, p.63) (“the Directive”) that were not implemented by the ADR Regulations; (ii) to implement those provisions of Regulation (EU) No 524/ 2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) 2006/2004 and Directive 2009/22/EC(OJ L 165 18.6.2013, p.1) (“the ODR Regulation”) which need specific transposition into domestic law in order to make the obligations they contain enforceable; (iii) to make certain corrections to the ADR Regulations; and (iv) to postpone the coming into force of Parts 4 and 5 of the ADR Regulations to 1st October 2015.

Those regulations that implement the Directive or make corrections to the ADR Regulations come into force on 9th July 2015. Those regulations that implement the ODR Regulation come into force on 9th January 2016.

Part 2 makes amendments to the ADR Regulations.

Regulation 2(2) corrects terminology. Regulation 2(3) substitutes a new coming into force date for Parts 4 and 5, the effect of which is to postpone the commencement of the trader information requirements until 1st October 2015. Regulation 2(4) amends the review clause to include a duty to review the amendments made by Parts 3 and 4 of these Regulations. Regulation 2(5)(a) substitutes a definition, and regulation 2(5)(b) and (c) inserts three additional definitions. Regulation 2(6) removes the requirement for an ADR entity to be established in the UK.

Regulations 2(7) and 2(8) place various obligations on ADR entities as regards information they must publish, information they must give a party if the outcome of the alternative dispute resolution procedure is to have binding effect on a party and requirements for cooperation with other bodies. Regulation 2(8) also contains a provision which sets out when an agreement between a consumer and trader to submit a dispute to an ADR entity is to be considered non-binding on the consumer. Regulation 2(10) contains a provision to enable the Financial Conduct Authority to charge fees for the functions it discharges under the ADR Regulations. The amendment contained in regulation 2(11) clarifies that the single point of contact must send the consolidated list of ADR entities to the European Commission on the standardised electronic form provided by the European Commission. Regulation 2(12) substitutes revised drafting of the provisions which set out what information traders must give consumers, and regulation 2(13) adds a provision regarding what information online traders must give consumers. The effect of regulation 2(14) and regulation 9 is that as of 9th January 2016 a breach of Article 13 of the Directive (implemented as regulation 19(1) and (2) of the ADR Regulations) is enforceable in the UK under Part 8 of the Enterprise Act 2002 (c.40) because the Directive is listed in the Schedule to the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003 (S.I. 2003/1374) rather than by virtue of being specified in regulation 20(2) and Schedule 8 of the ADR Regulations. Regulation 2(15)(a) to (i) makes various clarifications to the drafting of certain paragraphs of Schedule 3. Regulation 2(15)(j) imposes additional obligations on ADR entities when dealing with complaints it receives through the platform for online dispute resolution.

Regulations 3, 4, 5 and 7 of Part 3, and regulation 8 of Part 4, make amendments to various Acts and Statutory Instruments to transpose Article 12 of the Directive.

Regulation 6 of Part 3 amends Schedule 13 to the Enterprise Act 2002, and regulation 9 of Part 4 amends the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003 to ensure that a breach of Article 14 of the ODR Regulation is enforceable in the UK under Part 8 of the Enterprise Act 2002.

The Regulations have the same extent as the provisions that they amend.

An impact assessment of the effect that the ADR Regulations (as amended by these Regulations) will have on the costs of business, the voluntary sector and the public sector is available from the European Consumer Policy Team, Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

A transposition note setting out how the ADR Regulations and this instrument and the other provisions of these Regulations, transpose the provisions of the Directive and the ODR Regulation is available on www.gov.uk/government/publications.

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