
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Electronic Commerce Directive
(Miscellaneous Provisions) Regulations 2018**

Non-UK service providers – restriction on institution of proceedings

6.—(1) Proceedings for an offence specified in paragraph (2) may not be instituted against a non-UK service provider in respect of anything done in the course of provision of information society services unless the derogation condition is satisfied.

(2) The offences referred to in paragraph (1) are—

- (a) the children’s hearings publishing restrictions offence;
- (b) the extended children’s hearings publishing restrictions offence;
- (c) the extended fatal accident inquiries publishing restrictions offence;
- (d) the fatal accident inquiries publishing restrictions offence;
- (e) the human trafficking offence;
- (f) the human trafficking (Northern Ireland) offence;
- (g) the human trafficking (Scotland) offence;
- (h) the intimate images offence;
- (i) the threatening communications offence;
- (j) the traffic in prostitution offence.

(3) The derogation condition is satisfied where the institution of proceedings—

- (a) is necessary for the purposes of the public interest objective;
- (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to it; and
- (c) is proportionate to that objective.

(4) The public interest objective means the pursuit of public policy.

(5) In this regulation “non-UK service provider” means a service provider who is established in an EEA state other than the United Kingdom.