
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing [Directive 1999/93/EC](#) (the “eIDAS Regulation”) as retained by the European Union (Withdrawal) Act 2018. They revoke the provisions relating to electronic identification; they amend the provisions relating to trust services for electronic transactions.

Chapter II of the eIDAS Regulation provides for the mutual recognition and interoperability between EU Member States pertaining to the use of electronic identity schemes. It requires that public sector digital services using electronic identities above a described assurance level must accept electronic identities from ‘notified’ schemes in other EU Member States. Notification is a process whereby Member States choose to have their electronic identity scheme recognised and accepted by the other Member States.

These provisions are being revoked because Chapter II of the eIDAS Regulation establishes reciprocal arrangements between public bodies in the UK and EU Member States that will no longer be appropriate once the UK has withdrawn from the EU. The UK will no longer be an EU Member State following the UK’s withdrawal from the EU and will therefore no longer have access to the mutual recognition and interoperability framework for electronic identification provided by the eIDAS Regulation. Accordingly, the implementing legislation that gives effect to Chapter II of the eIDAS Regulation is also being revoked. These amendments are necessary in order to remove these deficient provisions from the UK statute book.

Chapter III provides for the mutual recognition and interoperability between EU Member States of trust services, encompassing electronic signatures, electronic seals, electronic time stamps, electronic registered delivery and website authentication. These Regulations retain and amend Chapter III so as to preserve the regulatory framework for UK trust services and to ensure that EU products and services will continue to be available for use in the UK, thus ensuring the effective operation of retained EU law.

In particular, these Regulations preserve the functions of the Information Commissioner’s Office (ICO), who is the supervisory body for trust services in the UK. Obligations on the ICO to share information and provide other forms of assistance to the ICO’s EU counterparts are revoked and replaced with a power to share information in the interests of effective regulation or supervision of trust services. Redundant provisions relating to intra-EU reciprocal arrangements as well as to recognition of trust services from third countries outside the EU are revoked. These amendments are necessary in order to remove the deficient provisions from the UK statute book and to ensure the effective operation of retained EU law.

The implementing legislation that gives effect to the eIDAS Regulation is also being revoked, with the exception of Commission Implementing Decisions 2015/1506 and 2016/650 which are being retained to ensure the effective operation of the retained trust services provisions. The revocations are necessary in order to remove deficient provisions from the UK statute book.

Chapter IV provides that electronic documents are not denied legal effect or admissibility as evidence in legal proceedings solely on the basis that they are in electronic form. Chapter IV is retained in order the effective operation of retained EU law.