
STATUTORY INSTRUMENTS

1998 No. 2868

COMMERCIAL AGENTS

The Commercial Agents (Council Directive) (Amendment) Regulations 1998

<i>Made</i>	- - - -	<i>19th November 1998</i>
<i>Laid before Parliament</i>		<i>19th November 1998</i>
<i>Coming into force</i>	- -	<i>16th December 1998</i>

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to relations between commercial agents and their principals, in the exercise of the powers conferred on him by that section, hereby makes the following Regulations:

1. These Regulations may be cited as the Commercial Agents (Council Directive) (Amendment) Regulations 1998 and shall come into force on 16th December 1998.

2. The Commercial Agents (Council Directive) Regulations 1993⁽³⁾ shall be amended—

(a) in regulation 1 by deleting paragraph (3) and substituting—

“(3) A court or tribunal shall:

(a) apply the law of the other member State concerned in place of regulations 3 to 22 where the parties have agreed that the agency contract is to be governed by the law of that member State;

(b) (whether or not it would otherwise be required to do so) apply these regulations where the law of another member State corresponding to these regulations enables the parties to agree that the agency contract is to be governed by the law of a different member State and the parties have agreed that it is to be governed by the law of England and Wales or Scotland.”;

(b) in regulation 2 by the insertion in paragraph (1) after the definition of “commission” of the following definitions—

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

(1) S.I. 1989/1327.

(2) 1972 c. 68.

(3) S.I. 1993/3053, amended by S.I. 1993/3173.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“member State” includes a State which is a contracting party to the EEA Agreement;” and

- (c) in regulation 17 by the substitution in paragraph (2) of the word “contract” for the word “contact”.

19th November 1998

Kim Howells
Parliamentary Under Secretary of State for
Competition and Consumer Affairs,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the [Commercial Agents \(Council Directive\) Regulations 1993 \(S.I. 1993 No. 3053\)](#) (“the earlier regulations”), which implemented Council Directive [86/653/EEC](#) on the co-ordination of the laws of member states relating to self-employed commercial agents (OJ No. L.382, 31 December 1986, p. 17) (“the directive”).

Following representations made by the EC Commission to the effect that the earlier regulations did not deal with the case where the parties had expressly agreed that the law of any part of the United Kingdom was to apply to the contract between them and that a court in the United Kingdom was to have jurisdiction but the activities of the agent were to be carried out elsewhere in the Community, these regulations seek to put the matter beyond doubt in relation to Great Britain. Whether or not it would otherwise be required to do so, a court or tribunal is required to apply the regulations in the case mentioned above, provided that the law of the other member state so permits. The earlier regulations already made provision for the converse case, thus permitting agents in Great Britain to agree to the application of the law of another member state. The amendment restates this provision.

The Explanatory Note to the earlier regulations drew attention to the fact that the directive was within the scope of the Agreement on the European Economic Area by virtue of paragraph 30 of Annex VII to that agreement. These regulations take the opportunity to insert appropriate references in the earlier regulations. They also correct a misspelling in regulation 17.