

2003 No. 2500

ELECTRONIC COMMUNICATIONS

**The Electronic Commerce (EC Directive) (Extension) (No. 2)
Regulations 2003**

Made 29th September 2003

Laid before Parliament 3rd October 2003

Coming into force in accordance with regulation 1(2)

The Secretary of State for Trade and Industry, being the Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to information society services, in exercise of the powers conferred on her by the said section 2(2) hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Electronic Commerce (EC Directive) (Extension) (No. 2) Regulations 2003.

(2) These Regulations shall come into force on 31st October 2003 immediately after the Copyright (Visually Impaired Persons) Act 2002 (Commencement) Order 2003^(c) has come into force.

Application of the E-Commerce Regulations

2. The Electronic Commerce (EC Directive) Regulations 2002^(d) (“the E-Commerce Regulations”) shall apply to—

- (a) the enactments listed in Part 1 of the Schedule, as amended by the Copyright and Related Rights Regulations 2003^(e); and
- (b) the enactments listed in Part 2 of the Schedule,

notwithstanding regulation 3(2) of the E-Commerce Regulations.

29th September 2003

Sainsbury of Turville,
Parliamentary Under Secretary of State for Science and Innovation,
Department of Trade and Industry

(a) S.I. 2001/2555.
(b) 1972 c.68.
(c) S.I. 2003/2499 (C. 93).
(d) S.I. 2002/2013.
(e) S.I. 2003/2498.

SCHEDULE

Regulation 2

PART 1

ENACTMENTS AMENDED BY THE COPYRIGHT AND RELATED RIGHTS REGULATIONS 2003

Acts

- Copyright, Designs and Patents Act 1988 (c. 48)
- Olympic Symbol etc (Protection) Act 1995 (c. 32)
- Copyright (Visually Impaired Persons) Act 2002 (c.33)

Instruments

- Copyright (Recording of Folksongs for Archives) (Designated Bodies) Order 1989 (SI 1989/1012)
- Copyright (Application of Provisions relating to Educational Establishments to Teachers) (No. 2) Order 1989 (SI 1989/1067)
- Copyright Tribunal Rules 1989 (SI 1989/1129)
- Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989 (SI 1989/1212)
- Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts and Cable Programmes) (Educational Recording Agency Limited) Order 1990 (SI 1990/879)
- Copyright (Recording for Archives of Designated Class of Broadcasts and Cable Programmes) (Designated Bodies) Order 1993 (SI 1993/74)
- Copyright and Related Rights Regulations 1996 (SI 1996/2967)
- Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Open University) Order 2003 (SI 2003/187)

PART 2

OTHER ENACTMENTS

- Performances (Reciprocal Protection) (Convention Countries and Isle of Man) Order 2003 (SI 2003/773)
- Copyright (Application to Other Countries) (Amendment) Order 2003 (SI 2003/774)

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002/2013) (“the E-Commerce Regulations”) transpose into national law Articles 3, 5, 6, 7(1), 10 to 14, 18(2) and 20 of Directive 2000/31/EC of the European Parliament and of the Council of 8th June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (“the Directive”) (O.J. L178, 17. 7. 2000, p.1). However, regulation 3(2) of the E-Commerce Regulations provides that those Regulations do not apply in relation to any Act passed on or after the date on which they were made, or in exercise of a power to legislate after that date (30th July 2002). This means the E-Commerce Regulations lack prospective effect.

These Regulations ensure that the E-Commerce Regulations apply to the legislation that was amended by the Copyright and Related Rights Regulations 2003. The Copyright and Related Rights Regulations 2003 came into force immediately before the Copyright (Visually Impaired Persons) Act 2002 (Commencement) Order 2003 which came into force immediately before these Regulations. These Regulations also apply the E-Commerce Regulations to the Performances (Reciprocal Protection) (Convention Countries and Isle of Man) Order 2003 (SI 2003/773) and the Copyright (Application to Other Countries) (Amendment) Order 2003 (SI 2003/774).

The effect of these Regulations is that the Copyright, Designs and Patents Act 1988 (as amended) and the other enactments listed in the Schedule to these Regulations must be read in a way that is compatible with the requirements of the E-Commerce Regulations. Where a provision in those enactments is in conflict with any of the requirements of the E-Commerce Regulations, the latter will prevail.

A transposition note setting out how the main elements of the Directive are transposed into law has been placed in the libraries of both Houses of Parliament. Copies are also available from the International Communications Unit, Department of Trade and Industry, Bay 206, 151 Buckingham Palace Road, London SW1W 9SS.

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