



STATUTORY INSTRUMENTS.

S.I. No. 305 of 2023

EUROPEAN COMMUNITIES (ELECTRONIC COMMUNICATIONS
NETWORKS AND SERVICES) (PRIVACY AND ELECTRONIC
COMMUNICATIONS) (AMENDMENT) REGULATIONS 2023

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I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002¹ as amended by Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006² and Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009³, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) (Amendment) Regulations 2023.

(2) These Regulations shall come into operation on 9 June 2023.

2. The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011) are amended -

(a) by the deletion of Regulations 30(6) and 31,

(b) in Regulation 20 -

(i) by the insertion of "(1)" before "Any", and

(ii) by the insertion of the following paragraph after subparagraph (ii) of paragraph (b):

"(2) In this Regulation, a company within the meaning of the Companies Acts is deemed to be ordinarily resident at its registered office and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.",

(c) in Regulation 30, by the substitution of the following paragraphs for paragraph (5) -

"(5) Where the Regulator issues a direction under this Regulation, such direction shall –

¹ OJ No. L 201, 31.7.2002, p. 37

² OJ No. L 105, 13.04.2006, p. 54

³ OJ No. L 337, 18.12.2009, p. 11, as affected by Corrigendum of 10 September 2013 (OJ No. L241, 10.9.2013, p.9).

- (a) be in writing,
- (b) state the reasons on which it is based,
- (c) be addressed to the undertaking or provider concerned, and
- (d) be sent or given as soon as practicable.

(5A)Section 60(1) of the Act of 2002 shall apply to a direction issued by the Regulator under this Regulation as if it were a notice referred to in that section.”, and

- (d) by the substitution of the following Regulation for Regulation 32 -

“Appeals

32. (1) A decision, designation, determination, specification, requirement, direction, notification and notice or any other act of an equivalent nature of the Regulator under these Regulations (referred to in this Regulation as a ‘decision or requirement under these Regulations’) shall not be challenged, including as to its validity, other than by way of an appeal in accordance with subsections (2), (4) and (7) to (17) of section 17 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023, subject to the modifications specified in paragraph (4) (referred to in this Regulation as an ‘appeal’).

(2) A person affected by a decision or requirement under these Regulations may, not later than 28 days after the person receives notice of the decision or requirement under these Regulations, appeal the decision to the High Court.

(3) The respondent to an appeal shall be the Regulator.

(4) The modifications referred to in paragraph (1) are the following:

- (a) a reference to “a decision” or to “a requirement” shall be read as a reference to a decision or requirement under these Regulations;
- (b) a reference to “the Commission” or to “the Minister” shall be read as a reference to the Regulator.”.

GIVEN under my Official Seal,
6 June, 2023.

EAMON RYAN,
Minister for the Environment, Climate and
Communications.

L.S.

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