
STATUTORY INSTRUMENTS

2002 No. 1775

**The Electronic Commerce Directive (Financial
Services and Markets) Regulations 2002**

PART 5

AMENDMENT OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

Amendment of sections 417 and 418 of the 2000 Act

13.—(1) The Financial Services and Markets Act 2000⁽¹⁾ is amended as follows.

(2) In section 417—

(a) after the definition of “documents”, insert—

““electronic commerce directive” means Directive [2000/31/EC](#) of the European Parliament and the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);”;

(b) after the definition of “industrial and provident society”, insert—

““information society service” means an information society service within the meaning of Article 2(a) of the electronic commerce directive;”;

(c) after subsection (3), insert—

“(4) For the purposes of this Act—

- (a) an information society service is provided from an EEA State if it is provided from an establishment in that State;
- (b) an establishment, in connection with an information society service, is the place at which the provider of the service (being a national of an EEA State or a company or firm as mentioned in Article 48 of the Treaty) effectively pursues an economic activity for an indefinite period;
- (c) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute that place as an establishment of the kind mentioned in paragraph (b);
- (d) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment where the provider has the centre of his activities relating to the service.”.

(3) In section 418—

(a) in subsection (1), for “four” substitute “five”;

(b) after subsection (5), insert—

- “(5A) The fifth case is any other case where the activity—
- (a) consists of the provision of an information society service to a person or persons in one or more EEA States; and
 - (b) is carried on from an establishment in the United Kingdom.”;
- (c) in subsection (6), for “(5)” substitute “(5A)”.