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STATUTORY INSTRUMENTS

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**2002 No. 318**

**The Electronic Signatures Regulations 2002**

**Liability of certification-service-providers**

**4.—(1) Where—**

- (a) a certification-service-provider either—
  - (i) issues a certificate as a qualified certificate to the public, or
  - (ii) guarantees a qualified certificate to the public,
- (b) a person reasonably relies on that certificate for any of the following matters—
  - (i) the accuracy of any of the information contained in the qualified certificate at the time of issue,
  - (ii) the inclusion in the qualified certificate of all the details referred to in Schedule 1,
  - (iii) the holding by the signatory identified in the qualified certificate at the time of its issue of the signature-creation data corresponding to the signature-verification data given or identified in the certificate, or
  - (iv) the ability of the signature-creation data and the signature-verification data to be used in a complementary manner in cases where the certification-service-provider generates them both,
- (c) that person suffers loss as a result of such reliance, and
- (d) the certification-service-provider would be liable in damages in respect of any extent of the loss—
  - (i) had a duty of care existed between him and the person referred to in subparagraph (b) above, and
  - (ii) had the certification-service-provider been negligent,

then that certification-service-provider shall be so liable to the same extent notwithstanding that there is no proof that the certification-service-provider was negligent unless the certification-service-provider proves that he was not negligent.

(2) For the purposes of the certification-service-provider's liability under paragraph (1) above there shall be a duty of care between that certification-service-provider and the person referred to in paragraph (1)(b) above.

**(3) Where—**

- (a) a certification-service-provider issues a certificate as a qualified certificate to the public,
- (b) a person reasonably relies on that certificate,
- (c) that person suffers loss as a result of any failure by the certification-service-provider to register revocation of the certificate, and
- (d) the certification-service-provider would be liable in damages in respect of any extent of the loss—
  - (i) had a duty of care existed between him and the person referred to in subparagraph (b) above, and

(ii) had the certification-service-provider been negligent,

then that certification-service-provider shall be so liable to the same extent notwithstanding that there is no proof that the certification-service-provider was negligent unless the certification-service-provider proves that he was not negligent.

(4) For the purposes of the certification-service-provider's liability under paragraph (3) above there shall be a duty of care between that certification-service-provider and the person referred to in paragraph (3)(b) above.