
STATUTORY INSTRUMENTS

2003 No. 2426

**The Privacy and Electronic Communications
(EC Directive) Regulations 2003**

Interpretation

2.—(1) In these Regulations—

“bill” includes an invoice, account, statement or other document of similar character and “billing” shall be construed accordingly;

“call” means a connection established by means of a telephone service available to the public allowing two-way communication in real time;

“communication” means any information exchanged or conveyed between a finite number of parties by means of a public electronic communications service, but does not include information conveyed as part of a programme service, except to the extent that such information can be related to the identifiable subscriber or user receiving the information;

“communications provider” has the meaning given by section 405 of the Communications Act 2003(1);

“corporate subscriber” means a subscriber who is—

- (a) a company within the meaning of section 735(1) of the Companies Act 1985(2);
- (b) a company incorporated in pursuance of a royal charter or letters patent;
- (c) a partnership in Scotland;
- (d) a corporation sole; or
- (e) any other body corporate or entity which is a legal person distinct from its members;

“the Directive” means Directive [2002/58/EC](#) of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)(3);

“electronic communications network” has the meaning given by section 32 of the Communications Act 2003(4);

“electronic communications service” has the meaning given by section 32 of the Communications Act 2003;

“electronic mail” means any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient’s terminal equipment until it is collected by the recipient and includes messages sent using a short message service;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

(1) [2003 c. 21](#); for the commencement of section 405, see section 411(2) and (3) of the same Act.

(2) [1985 c. 6](#).

(3) OJ No L 201, 31.07.02, p. 37.

(4) For the commencement of section 32, see article 2(1) of [S.I.2003/1900 \(C. 77\)](#).

“individual” means a living individual and includes an unincorporated body of such individuals;

“the Information Commissioner” and “the Commissioner” both mean the Commissioner appointed under section 6 of the Data Protection Act 1998⁽⁵⁾;

“information society service” has the meaning given in regulation 2(1) of the Electronic Commerce (EC Directive) Regulations 2002⁽⁶⁾;

“location data” means any data processed in an electronic communications network indicating the geographical position of the terminal equipment of a user of a public electronic communications service, including data relating to—

- (f) the latitude, longitude or altitude of the terminal equipment;
- (g) the direction of travel of the user; or
- (h) the time the location information was recorded;

“OFCOM” means the Office of Communications as established by section 1 of the Office of Communications Act 2002⁽⁷⁾;

“programme service” has the meaning given in section 201 of the Broadcasting Act 1990⁽⁸⁾;

“public communications provider” means a provider of a public electronic communications network or a public electronic communications service;

“public electronic communications network” has the meaning given in section 151 of the Communications Act 2003⁽⁹⁾;

“public electronic communications service” has the meaning given in section 151 of the Communications Act 2003;

“subscriber” means a person who is a party to a contract with a provider of public electronic communications services for the supply of such services;

“traffic data” means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing in respect of that communication and includes data relating to the routing, duration or time of a communication;

“user” means any individual using a public electronic communications service; and

“value added service” means any service which requires the processing of traffic data or location data beyond that which is necessary for the transmission of a communication or the billing in respect of that communication.

(2) Expressions used in these Regulations that are not defined in paragraph (1) and are defined in the Data Protection Act 1998 shall have the same meaning as in that Act.

(3) Expressions used in these Regulations that are not defined in paragraph (1) or the Data Protection Act 1998 and are defined in the Directive shall have the same meaning as in the Directive.

(4) Any reference in these Regulations to a line shall, without prejudice to paragraph (3), be construed as including a reference to anything that performs the function of a line, and “connected”, in relation to a line, is to be construed accordingly.

(5) 1998 c. 29; section 6 was amended by section 18(4) of and paragraph 13(1) and (2) of Part 1 of Schedule 2 to the Freedom of Information Act 2000 (c. 36).

(6) S.I. 2002/2013.

(7) 2002 c. 11.

(8) 1990 c. 42; section 201 was amended by section 148(1) of and paragraph 11 of Schedule 10 to the Broadcasting Act 1996 (c. 55).

(9) For the commencement of section 151, see article 2(1) of S.I. 2003/1900 (C. 77).