



STATUTORY INSTRUMENTS.

S.I. No. 412 of 2018



EUROPEAN UNION (MARRAKESH TREATY) REGULATIONS 2018

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I, HEATHER HUMPHREYS, Minister for Business, Enterprise and Innovation, 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 effect to Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Marrakesh Treaty) Regulations 2018.

(2) These Regulations shall come into operation on 11 October 2018.

2. (1) In these Regulations, "Directive" means Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017¹ on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC² on the harmonisation of certain aspects of copyright and related rights in the information society.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

3. (1) (a) It shall be an exception that no authorisation of the rightholder of any copyright or related right in a work or other subject matter is required, in relation to an act referred to in subparagraph (b) pursuant to—

(i) Articles 5 and 7 of Directive 96/9/EC³,

(ii) Articles 2, 3 and 4 of Directive 2001/29/EC²,

(iii) Articles 1(1), 8(2) and (3) and 9 of Directive 2006/115/EC⁴, and

(iv) Article 4 of Directive 2009/24/EC⁵.

(b) Any act necessary for—

(i) a beneficiary person (or a person acting on his or her behalf) to make an accessible format copy of a work or other subject matter

¹OJ L 242, 20.9.2017, p. 6

²OJ L167, 22.6.2001, p.10

³OJ L77, 27.3.1996, p.20

⁴OJ L376, 27.12.2006, p.28

⁵OJ L111, 5.5.2009, p.16

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to which the beneficiary person has lawful access for the exclusive use of the beneficiary person, and

- (ii) an authorised entity to make an accessible format copy of a work or other subject matter to which it has lawful access, or to communicate, make available, distribute or lend an accessible format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

(2) Each accessible format copy shall respect the integrity of the work or other subject matter, with due consideration given to the changes required to make the work or other subject matter accessible in the alternative format.

(3) The exception provided for in paragraph (1) shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the rightholder.

(4) The first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC² shall apply to the exception provided for in paragraph (1).

(5) The exception provided for in paragraph (1) cannot be overridden by contract.

4. (1) An authorised entity established in the State may carry out the acts referred to in clause (ii) of Regulation 3(1)(b) for a beneficiary person or another authorised entity established in any Member State.

(2) A beneficiary person or an authorised entity established in the State may obtain or have access to an accessible format copy from an authorised entity established in any Member State.

5. (1) An authorised entity established in the State carrying out the acts referred to in Regulation 4 shall establish and follow its own practices to ensure that it:

- (a) distributes, communicates and makes available accessible format copies only to beneficiary persons or other authorised entities;
- (b) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;
- (c) demonstrates due care in, and maintains records of, its handling of works or other subject matter and of accessible format copies thereof; and
- (d) publishes and updates, on its website if appropriate, or through other online or offline channels, information on how it complies with the obligations laid down in subparagraphs (a) to (c).

(2) The practices referred to in paragraph (1) shall be established and followed in full respect of the rules applicable to the processing of personal data of beneficiary persons referred to in Article 7 of the Directive.

(3) An authorised entity established in the State carrying out the acts referred to in Regulation 4 shall provide the following information in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders:

- (a) the list of works or other subject matter for which it has accessible format copies and the available formats; and
- (b) the name and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to Regulation 4.



GIVEN under my Official Seal,
9 October 2018.

HEATHER HUMPHREYS,
Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to EU Directive 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society. These Regulations provide for the reproduction, communication to the public, distribution, lending and making available to the public of certain copyright protected works in formats designed to be accessible to the blind, visually impaired, or otherwise print-disabled, without the permission of the rightholder. The Regulations also provide that copies of works made available in accessible formats (for example, braille, large print or audiobook) in one Member State can be accessed throughout the EU without prior permission from rightholders.

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