

Transposition Note For The Electronic Signatures Directive  
[\(Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures\)](#)

Article	Objective	Implementation	Responsibility
3.3	Requires member states to establish an appropriate system for supervision of certification-service-providers	Regulation 3 of the Electronic Signatures Regulations 2002 implements article 3.3 by imposing a duty on the Secretary of State to keep under review the carrying on of activities of certification-service providers specified in that article and the persons by whom they are carried on, to establish, maintain and publish a register of these certification service providers and to have regard to any evidence of their conduct which is detrimental to users of qualified certificates with a view to publication of any of this evidence	Secretary of State
5.1(a)	Requires member states to ensure that certain advanced electronic signatures satisfy the legal requirements of a signature in relation to data in electronic form in the same manner as a hand written signature.	No specific provision is needed to implement this as under the law in England and Wales, Scotland and Northern Ireland where there is a signature requirement in relation to data in electronic form this is already capable of being satisfied by an electronic signature including the type of electronic signature referred to in this article	Secretary of State, Scottish and Northern Irish Executives

Article	Objective	Implementation	Responsibility
5.1(b)	Requires member states to ensure that certain advanced electronic signatures are admissible in legal proceedings	This has been implemented through section 7 Electronic Communications Act 2000 (2000 c.7)	Secretary of State, Scottish and Northern Irish Executives
5.2	Requires member states to ensure that electronic signatures are not denied legal effectiveness and admissibility in evidence for certain reasons	This has been implemented through section 7 Electronic Communications Act 2000 (2000 c.7)	Secretary of State, Scottish and Northern Irish Executives
6.1 & 6.2	Requires member states to ensure that certification-service-providers are liable for damage in certain circumstances even though there is no proof of negligence unless the certification-service-provider proves he was not negligent	Regulation 4 imposes liability on certification-service-providers in specified circumstances notwithstanding there is no proof of negligence unless the certification-service-provider proves he was not negligent	Secretary of State

Article	Objective	Implementation	Responsibility
6.3 & 6.4	Requires member states to ensure that certification-service-providers can exclude liability in certain conditions for limitations on the use of qualified certificates or the value of transactions for which the certificate can be used	Specific provision to implement is not necessary as certification-service-providers can already exclude liability under tort and delict for these matters subject to the applicable laws on the exclusion or limitation of liability	Secretary of State
7.1	Requires member states to ensure that in certain circumstances qualified certificates which are issued to the public by a certification-service-provider established in third countries are legally equivalent to certificates issued by a certification-service-provider established within the Community	Specific provision to implement is not necessary as the definition of qualified certificate in the Regulations does not depend on where the certification-service-provider who issues the certificate is established	Secretary of State

Article	Objective	Implementation	Responsibility
8.2	Requires member states to ensure that certain certification-service providers are subject to specified data protection requirements	Regulation 5 imposes a duty on certification-service-providers in certain circumstances to comply with specified data protection requirements. Breach of that duty is actionable by a data subject who suffers loss and compliance with the requirements can also be enforced by civil proceedings by the Crown.	Secretary of State

To see the Statutory Instrument no 2002/ 318 (The Electronic Signatures Regulations 2002) [CLICK HERE](#).

To see the Electronic Communications Act 2000 [CLICK HERE](#).

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