

**2011 No. 2059**

**INTELLECTUAL PROPERTY**

**PATENTS**

**The Patents Act 1977 (Amendment) Regulations 2011**

*Made* - - - - *19th August 2011*

*Laid before Parliament* *22nd August 2011*

*Coming into force* - - *1st October 2011*

The Secretary of State for Business, Innovation and Skills, who is designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(a)</sup> in relation to measures relating to copyright<sup>(b)</sup>, makes the following Regulations in exercise of the powers conferred by that subsection.

**Citation and commencement**

1. These Regulations may be cited as the Patents Act 1977 (Amendment) Regulations 2011 and come into force on 1st October 2011.

**Amendment of Patents Act 1977**

2. After section 118 of the Patents Act 1977<sup>(c)</sup> insert—

**“Copyright in documents made available electronically for inspection under section 118(1)**

**118A.**—(1) This section applies to documents made available for inspection under section 118(1).

(2) Any copyright in the documents is not infringed by—

- (a) the making available to the public of the documents by electronic transmission in such a way that members of the public may access the documents from a place and at a time individually chosen by them, or
- (b) copying the documents for the purpose of facilitating the making available to the public of the documents as mentioned in paragraph (a).

(3) Nothing in this section is to be read as affecting the generality of any provision made by Chapter 3 of Part 1 of the Copyright, Designs and Patents Act 1988.”

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(a) 1972 c.68.  
(b) S.I. 1993/595.  
(c) 1977 c.37.

19th August 2011

*Judith Wilcox*  
Parliamentary Secretary for Business, Innovation and Skills  
Department for Business, Innovation and Skills

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Patents Act 1977 (“the Act”).

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L17 22/6/2001, p 10) (“the Directive”) is concerned with the legal protection of copyright and related rights in the framework of the internal market. Article 5(3)(e) permits a Member State to provide for exceptions and limitations to the authors’ rights of reproduction and communication to the public of their works provided for by articles 2 and 3 of the Directive to ensure the proper performance of administrative proceedings. Any such limitation must comply with the three step test set out in article 5(5).

Regulation 2 inserts a new section 118A into the Act which contains an exception from copyright. This provides that copyright is not infringed in a copyright work when a document is copied or made available electronically to the public for the purpose of inspection in accordance with section 118 of the Act. The exception from the right to communicate the work to the public does not extend to broadcasting the work.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Patents Legal Section, Intellectual Property Office, Concept house, Cardiff Road, Newport, NP10 8QQ and is annexed to the Explanatory Memorandum (together with a transposition note) which is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk)

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