



STATUTORY INSTRUMENTS.

**S.I. No. 709 of 2011**



EUROPEAN COMMUNITIES (ARTIST'S RESALE RIGHT)  
(AMENDMENT) REGULATIONS 2011

**(Prn. A11/2412)**

EUROPEAN COMMUNITIES (ARTIST'S RESALE RIGHT)  
(AMENDMENT) REGULATIONS 2011

I, RICHARD BRUTON, Minister for Jobs, 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 further effect to Council Directive No. 2001/84/EC of the European Parliament and of the Council of 27 September 2001<sup>1</sup>, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Artist's Resale Right) (Amendment) Regulations 2011.

(2) These Regulations come into operation on 1 January 2012.

2. The European Communities (Artist's Resale Right) Regulations 2006 (S.I. No. 312 of 2006) are amended—

(a) in paragraph (1) of Regulation 3, by the substitution of “The author of an original work of art or a person to whom a resale right is transmitted pursuant to Regulation 4A” for “The author of an original work of art”,

(b) by the insertion of the following Regulation after Regulation 4:

*“Transmission of resale right.*

4A. Notwithstanding Regulation 4, resale right is transmissible by testamentary disposition or in accordance with the rules of intestate succession as personal or moveable property.”,

(c) by the substitution of the following Regulation for Regulation 6:

*“Nationality of author.*

6. The resale right may only be exercised in respect of a sale-

(a) if the author of the work sold is, on the contract date of the sale, a national of a Member State, Iceland, Liechtenstein or Norway,

(b) where on the contract date of the sale the author is deceased, if the author was, at the time of his or her death, a national of a Member State, Iceland, Liechtenstein or Norway,

(c) if, on the contract date of the sale, the author is a national of a country whose legislation permits resale right protection

<sup>1</sup>O.J. No. L272, 13.10.01, p.32

in that country for authors from the Member States, Iceland, Liechtenstein or Norway and their successors in title, or

(d) where on the contract date of the sale the author is deceased, if the author was, at the time of his or her death, a national of a country whose legislation permits resale right protection in that country for authors from the Member States, Iceland, Liechtenstein or Norway and their successors in title.”,

(d) in Regulation 8, by the insertion of the following paragraph after paragraph (4):

“(5) In this Regulation “author” includes a person to whom a resale right is transmitted pursuant to Regulation 4A.”, and

(e) by the substitution of the following Regulation for Regulation 10:

*“Duration of resale right.*

10. (1) Resale right in an original work of art subsists during the lifetime of the author and for 70 years after his or her death.

(2) Paragraph (1) shall not operate to confer an entitlement to a resale royalty on a person to whom a resale right is transmitted pursuant to Regulation 4A in relation to a sale where the contract date was before 1 January 2012.”.



GIVEN under my Official Seal,  
22 December 2011.

RICHARD BRUTON,  
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

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

These Regulations extend the artist's resale right to those to whom a resale right is transmitted (or deemed to be transmitted) after the death of the author of an original work of art. The right is extended for a period of 70 years after the death, in respect of sales whose contract date is on or after the 1 January 2012.

The artist's resale right allows the creators of original works of visual and plastic art, through a system of royalty payments, to benefit from resales of those works when they are sold through the professional art market.

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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