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STATUTORY INSTRUMENTS

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**2005 No. 281**

**The Electromagnetic Compatibility Regulations 2005**

**PART III**

**GENERAL REQUIREMENTS**

**General duty for supply**

**30.** No person shall supply relevant apparatus unless the requirements of regulation 32 below are complied with in relation to such apparatus.

**General duty for taking into service**

**31.** No person shall take into service relevant apparatus unless that apparatus conforms with the protection requirements.

**Requirements for supply**

**32.** The requirements of this regulation are that—

- (a) the relevant apparatus conforms with the protection requirements;
- (b) the conformity assessment requirements have been complied with;
- (c) the CE marking has been properly affixed by the manufacturer or his authorised representative in relation to the relevant apparatus in accordance with regulation 35 below; and
- (d) the manufacturer or his authorised representative has properly issued an EC declaration of conformity in respect of the relevant apparatus in accordance with the requirements of regulation 36 below.

**Conformity assessment requirements—the three routes to compliance**

**33.** The conformity assessment requirements are that—

- (a) in the case of relevant apparatus other than radiocommunication transmission apparatus, the requirements of—
  - (i) Part IV (in these Regulations referred to as “the standards route to compliance”); or
  - (ii) Part V (in these Regulations referred to as “the technical construction file route to compliance”)of these Regulations are complied with; and
- (b) in the case of radiocommunication transmission apparatus, the requirements of Part VI (in these Regulations referred to as “the EC type-examination route to compliance”) of these Regulations are complied with.

**Presumption of conformity**

34. Where in relation to any relevant apparatus—

- (a) such apparatus conforms to the applicable EMC standard, or all applicable EMC standards, which make provision for that apparatus; or
- (b) the conformity assessment requirements are complied with pursuant to the technical construction file route to compliance,

there shall be a presumption (“the presumption of conformity”) that, until the contrary is proved, that relevant apparatus complies with the protection requirements.

**The CE marking**

35.—(1) For the purposes of these Regulations, the CE marking shall be regarded as properly affixed in relation to relevant apparatus if the requirements of this regulation are complied with.

(2) The CE marking shall be affixed in relation to any relevant apparatus by being affixed to one of the following—

- (a) the apparatus; or
- (b) the apparatus'—
  - (i) packaging;
  - (ii) instructions for use; or
  - (iii) guarantee certificate.

(3) Subject to paragraph (4) below, where the apparatus is the subject of other Community Directives covering other aspects and which also provide for the CE conformity marking, the latter shall indicate that the apparatus is also presumed to conform to those other Directives.

(4) Where one or more of the other Directives referred to in paragraph (3) above allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only to the Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the Directives and accompanying such apparatus.

(5) No person shall affix to relevant apparatus, its packaging, the instructions for use or the guarantee certificate any marking which is likely to deceive third parties as to the meaning and form of the CE marking. Any other marking may be affixed to the apparatus, its packaging, the instructions for use or the guarantee certificate provided that the visibility and legibility of the CE marking are not thereby reduced.

(6) No person shall affix the CE marking, or any other inscription liable to be confused with it, in relation to any relevant apparatus, unless—

- (a) the apparatus complies with the protection requirements; and
- (b) the conformity assessment requirements have been complied with.

(7) Except as provided in paragraph (3) above, no person shall affix the CE marking, or any other inscription liable to be confused with it, to any electrical apparatus other than relevant apparatus.

(8) The CE marking shall comply with the form requirements set out in Schedule 4 to these Regulations.

(9) In these Regulations, “CE marking” means the CE conformity marking, being a mark—

- (a) consisting of the initials “CE”;
- (b) taking the form set out in paragraph 1 of Schedule 4 hereto; and

- (c) which, when used in relation to the EMC Directive, indicates conformity to all the provisions of that Directive, including the conformity assessment requirements.

### **EC declaration of conformity**

**36.**—(1) For the purposes of these Regulations, an EC declaration of conformity is a declaration which indicates that apparatus conforms with the protection requirements of the EMC Directive (howsoever expressed).

(2) For the purposes of these Regulations, an EC declaration of conformity shall be regarded as properly issued in relation to relevant apparatus if the following requirements are complied with—

- (a) the apparatus conforms with the protection requirements;
- (b) the conformity assessment requirements are complied with;
- (c) in the case of a declaration issued in the United Kingdom—
  - (i) in the case of a declaration issued pursuant to the standards route to compliance, it complies with the requirements of regulation 42 below;
  - (ii) in the case of a declaration issued pursuant to the technical construction file route to compliance, it complies with the requirements of regulation 59 below;
  - (iii) in the case of a declaration issued pursuant to the EC type-examination route to compliance, it complies with the requirements of regulation 72 below;
- (d) in the case of a declaration issued other than in the United Kingdom, the declaration is issued by the manufacturer or his authorised representative and contains the following—
  - (i) a description of the apparatus to which it refers;
  - (ii) reference to the specifications or harmonised standards or both under which conformity is declared, and where appropriate, to the national measures or recognised national standards or both, as the case may be, implemented to ensure the conformity of the apparatus with the provisions of the EMC Directive;
  - (iii) identification of the signatory empowered to bind the manufacturer or his authorised representative; and
  - (iv) where appropriate, reference to the EC type-examination certificate issued by a notified body.

(3) No person shall (in the United Kingdom) issue an EC declaration of conformity in relation to relevant apparatus unless—

- (a) the apparatus to which it relates conforms with the protection requirements;
- (b) the conformity assessment requirements have been complied with; and
- (c) the requirements of paragraph (2)(c) above are complied with.

(4) No person shall (in the United Kingdom) issue an EC declaration of conformity in relation to any electrical apparatus other than relevant apparatus.

### **Retention of documentation**

**37.**—(1) A responsible person shall hold an EC declaration of conformity in relation to relevant apparatus at the disposal of the Secretary of State for ten years beginning with the date on which the latest item of relevant apparatus to be supplied in the Community to which the declaration relates was so supplied.

(2) Where the EC declaration of conformity is made pursuant to Part V or VI of these Regulations, the responsible person shall hold the technical construction file, or EC type-examination certificate, as the case may be, at the disposal of the Secretary of State for ten years beginning with the date on

which the latest item of relevant apparatus to be supplied in the Community to which the technical construction file or EC type-examination certificate relates was so supplied.

(3) Any documentation to be retained by the responsible person pursuant to the requirements of paragraphs (1) and (2) above may be kept by recording the matters in question in any form, provided that adequate precautions shall be taken for guarding against falsification.

(4) The power conferred on a responsible person in paragraph (3) above includes power to keep the documentation by recording those matters otherwise than in legible form, so long as the recording is capable of being reproduced in a legible form.

(5) If the responsible person records the documentation in question otherwise than in a legible form, any duty imposed on him by these Regulations to allow inspection of, or to furnish a copy of, the documentation or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the document or of the relevant part of it in legible form.