Implementing the new Electromagnetic Compatibility (EMC) Directive 2004/108/EC in the United Kingdom

A Consultation Document

May 2006

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Implementing the new Electromagnetic Compatibility (EMC) Directive 2004/108/EC in the United Kingdom

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Introduction


Directive 2004/108/EC regulates the electromagnetic compatibility (EMC) of both apparatus and fixed installations. The Directive aims to reduce the regulatory burden on manufacturers as compared to the previous Directive. Notified Body involvement will be voluntary. There are new regulatory requirements for fixed installations.

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Respond by 3 August 2006
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1. Executive Summary

The draft Electromagnetic Compatibility Regulations 2006 (“EMC Regulations 2006”) are intended to implement the new Directive 2004/108/EC on Electromagnetic Compatibility (“EMCD”). This consultation does not seek views on the provisions of the Directive itself but on our proposed implementation of it.

The EMC Regulations 2006 apply to most electrical and electronic equipment (that is, finished apparatus and fixed installations). They seek to regulate the electromagnetic compatibility of equipment. The intention is to ensure, via appropriate protection requirements, that electromagnetic disturbance produced by such equipment does not affect the correct functioning of other equipment, including telecommunication and electricity distribution networks and that equipment has an appropriate level of immunity to electromagnetic disturbances so that it can function as intended.

There are specific exemptions from the Regulations for equipment covered by the Radio Equipment & Telecommunications Terminal Equipment Directive, certain aeronautical products, certain radio equipment used by radio amateurs, and electromagnetically benign equipment. In addition, the new Regulations maintain the disapplication in the previous Regulations for products covered by other, product-specific directives that make provision for EMC essential requirements, such as the Automotive EMC Directive and the Medical Devices Directive.

The EMC Regulations 2006 introduce a simplified regulatory procedure for manufacturers of apparatus. The conformity assessment procedure under the previous regulations required the mandatory involvement of an independent body in cases when manufacturers had not applied harmonised European standards in full. Under the new Regulations, manufacturers will themselves be able to establish the conformity of their products in all cases. However, if they wish, manufacturers will still be able to make use of the services of an independent body to assist them with the conformity assessment of their products.

The EMC Regulations 2006 introduce stricter requirements concerning information and documentation for products. They require manufacturers or their agents to provide enforcement authorities with additional means of control, such as clearer identification of a product and indication of the name and address of the manufacturer or his agent and, if necessary, of the importer established in the territory of the European Union. This will improve product traceability and make it easier for the authorities to monitor the market and ensure fair competition.

Fixed installations have been brought within the scope of the new regulations, but are subject to a separate regime from apparatus. A fixed installation is required to be installed applying good engineering practices, respecting the information on the intended use of components, with a view to meeting the protection requirements. These good engineering practices will have to be documented and the documentation held by the person responsible for the installation for as long as it is in operation. Apparatus incorporated within a fixed installation is not required to undergo conformity assessment unless it is separately commercially available.

The EMC Regulations 2006 do not affect the application of UK legislation regulating the safety of equipment.
2. How to respond

This consultation opened on 3 May 2006. The last date for responses is 3 August 2006.

Consultation responses should be sent by post, fax or e-mail to:

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Department of Trade and Industry 
Bay 280 
151 Buckingham Palace Road 
London 
SW1W 9SS 
Tel 020 7215 1774 
Fax 020 7215 1340 
E-mail kevin.lane@dti.gsi.gov.uk

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

An electronic version of the whole consultation document, including its annexes, is available in pdf format at http://www.dti.gov.uk/ccp/consultations.htm. A separate version of the consultation response form (Annex E of the consultation document) is also available from the same web site in Microsoft Word format. This may be used when providing responses to the consultation document.

A list of those organisations and individuals consulted is at Annex F. We would welcome suggestions of others who you think may wish to be involved in this consultation process.

3. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
4. Help with queries
Questions about the policy issues raised in the document can be addressed to:

Derek German
Department of Trade and Industry
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London SW1W 9SS

Tel: 020 7215 4176
Email: derek.german@dti.gsi.gov.uk

5. Complaints
If you have any comments or complaints about the way this consultation has been conducted, these should be sent to:

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Consultation Co-ordinator
Department of Trade and Industry
Room 723
1 Victoria Street
London
SW1H OET
E-mail Nick.vanbenschoten@dti.gsi.gov.uk
Tel: 020 7215 6206

6. Consultation questions

Q1. We would appreciate your general views on whether or not we have correctly identified the main issues for transposition and on our proposals for implementation of the EMC Directive.

Q2. Do you think the provision in the Regulations for Notified Bodies to be appointed from 20 January 2007 makes appropriate provision for manufacturers who wish to make use of the services of such bodies as soon as the Regulations come into force on 20 July 2007? If not, please provide reasons.

Q3. Do you agree that the definition of a responsible person in relation to a fixed installation is clear? If not, please provide reasons.

Q4. Do you think the draft guidance in Annex C is sufficiently clear to identify who may be considered, on a case-by-case basis, to be the responsible person for a specific fixed installation? If not, please provide reasons.

Q5. Do you agree with our interpretation in Annex C of the term “permanently” used in regulation 3 in relation to a fixed installation? If not, please provide reasons.

Q6. Do you agree with our interpretation in Annex C of the term “state of the art” used in regulation 4(2)? If not, please provide reasons.

Q7. Do you agree with our interpretation in Annex C of the term “Good Engineering Practices” used in regulation 5? If not, please provide reasons.
Q8. Do you agree that regulation 15 correctly consolidates and transposes the placing on the market requirements of the Directive? If not, please provide reasons.

Q9. In relation to regulations 15 and 16, where there is a duty on a person placing apparatus on the market or putting it into service to comply with the requirements of that regulation, do you agree that it is clear in each case who is responsible for meeting each requirement set out in that regulation? If not, please provide reasons.

Q10. Do you agree that Regulation 16 correctly consolidates and transposes the putting into service requirements of the Directive? If not, please provide reasons.

Q11. Do you agree that Regulation 19 correctly transposes the internal production control requirements of the Directive? If not, please provide reasons.

Q12. Do you agree with the Department’s interpretation of the role of a Notified Body? If not, please provide reasons.

Q13. Do you agree that regulation 35 correctly consolidates and transposes the exemption provided for in the Directive for apparatus intended for incorporation into a given fixed installation and which is otherwise not commercially available? If not, please provide reasons.

Q14. Do you agree with our interpretation in Annex C of the term “given fixed installation” that is used in regulation 35? If not, please provide reasons.

Q15. Do you agree with our interpretation in Annex C of the term “electromagnetic compatibility characteristics” that is used in Regulation 35? If not, please provide reasons.

Q16. Do you agree that regulation 36 correctly consolidates and transposes the putting into service requirements of the Directive. If not, please provide reasons

Q17. Do you consider that the draft guidance at Annex C on compliance of fixed installations is sufficiently clear to enable a responsible person for a specific fixed installation to determine what would be the appropriate documentation? If not, please provide reasons.

Q18. Do you consider that the draft guidance at Annex C sufficiently explains how it is expected that cases of reported interference will be resolved? If not, please provide reasons.

Q19. Do you agree that the enforcement provisions are appropriate? If not, please provide reasons.
7. The Proposals

Introduction


This consultation does not seek views on the provisions of the Directive itself but on our proposed implementation of it via the draft Regulations.

The Regulations cover all electrical and electronic equipment, apart from a few exemptions mentioned below. Equipment can either be classified as apparatus or fixed installations. “Apparatus” may be a finished appliance, a combination of finished appliances available as a single functional unit, a component or subassembly intended to be incorporated into another apparatus by the end user, or a mobile installation.

Fixed installations may be equipment such as large electrical generating installations, railway stations or fixed telecommunication networks and are subject to a separate regime from apparatus. A fixed installation is required to be installed applying good engineering practices, respecting the information on the intended use of components, with a view to meeting the protection requirements. These good engineering practices will have to be documented and the documentation held by the person responsible for the installation for as long as it is in operation. Apparatus intended for incorporation into a fixed installation in not required to undergo conformity assessment unless it is otherwise available commercially.

The protection requirements of the new EMC Regulations are essentially unchanged from the current requirements, with two exceptions. It is now a requirement that equipment be designed and manufactured “having regard for the state of the art” and there is clarification in the immunity requirements that equipment shall be able to function without “unacceptable degradation”.

There are new requirements for fixed installations, in respect of the installation, intended use of components, and documentation.

There is a simplified regulatory procedure for manufacturers of apparatus, who will be able to self-assess the conformity of their products for all types of products and hold the declaration of conformity and technical documentation in support for the inspection of enforcement authorities.

The new Regulations have stricter requirements concerning information and documentation. This aims to improve product traceability to make it easier for the authorities to monitor the market. By eliminating products for which it is difficult at the moment to identify the origin, competition will be on a fairer basis.

The new EMCD specifically excludes safety issues from its scope, so the draft regulations therefore do not affect the application of UK legislation regulating the safety of equipment.
It is recognised that the new Regulations may raise some issues of interpretation of EMCD provisions. The Department will separately be issuing guidance on these issues later this year. However, for the assistance of stakeholders, some draft guidance on particular issues can be found in Annex C.

**Draft Regulations**

The draft Regulations are arranged in seven Parts. A copy of the draft regulations can be found at Annex B. These are discussed below in more detail under separate headings. Some elements of the draft 2006 Regulations are essentially unchanged from the existing EMC Regulations 2005. In general, we have therefore only commented where there are notable differences between the existing regime and the draft Regulations. It would be helpful if you were to focus your comments in the main on those new or revised elements.

We would also point out that where the wording of particular regulations reproduces the wording of the EMC Directive 2008/108/EC this cannot be changed.

**Q1. We would appreciate your general views on whether or not we have correctly identified the main issues for transposition and on our proposals for implementation of the EMC Directive.**

**PART I: PRELIMINARY**

**Regulation 1 – Citation and Commencement**

This regulation allows notified bodies to be appointed from 20 January 2007 onwards. However, notified bodies may not issue any statement to a manufacturer until 20 July 2007.

**Q2. Do you think the provision in the Regulations for Notified Bodies to be appointed from 20 January 2007 makes appropriate provision for manufacturers who wish to make use of the services of such Bodies as soon as the Regulations come into force on 20 July 2007? If not, please give reasons.**

**Regulation 2 - Repeal and disapplication**

Regulation 2 revokes the EMC Regulations 2005 on 20 July 2007. From that date, in accordance with Regulation 17, manufacturers may, before 20 July 2009, place apparatus on the market in accordance with the provisions of either the EMC Regulations 2005 or the EMC Regulations 2006. There is no restriction on when apparatus, placed on the market before 20 July 2009 in compliance with the foregoing, may be taken into service. Manufacturers should however note that, on the repeal of the EMC Regulations 2005, the role of Competent Bodies would cease to exist. Those manufacturers wishing to use the services of an independent body to assist them in the conformity assessment process can do so by applying the conformity assessment procedures of the EMC Regulations 2006. As fixed installations are not placed on the market, but only taken into service, new fixed installations will come within the scope of the EMC Regulations 2006 immediately they are applied from 20 July 2007 onwards. Such fixed installations may not be treated as “excluded installations” as under the previous EMC Regulations. However, existing fixed installations will become subject to the EMC Regulations
2006 only if they are modified in a way that could affect their electromagnetic compatibility characteristics.

Regulation 3 – Interpretation

The draft Regulations contain a definition of “responsible person” as applying specifically to a fixed installation.

**Q3. Do you agree that the definition of a responsible person in relation to a fixed installation is clear? If not, please provide reasons.**

This regulation interprets various terms used elsewhere in the regulations, about which comments and questions can be found below. However, we recognise that some stakeholders may like additional guidance on the meaning of some of the terms used. We have therefore prepared separate draft guidance on some of the terms used that can be found in Annex C. We should point out that although the Department intends to publish this guidance in due course, and it is the Department’s current view, the guidance is not legally binding, as only the Courts can give a definitive ruling.

The draft guidance in Annex C explains who may be the responsible person for a fixed installation.

**Q4. Do you think the draft guidance in Annex C is sufficiently clear to identify who may be considered, on a case-by-case basis, to be the responsible person for a specific fixed installation? If not please provide reasons.**

The definition of fixed installation” (meaning “a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, located and intended to be used permanently at a pre-defined location;”) follows that of the Directive. The interpretation of what constitutes “permanently” in the context of a fixed installation is dealt with in Annex C.

**Q5. Do you agree with our interpretation in Annex C of the term “permanently” used in regulation 3 in relation to a fixed installation? If not, please provide reasons.**

Regulation 4 - Essential requirements

This reflects the wording in the Annex I of the Directive. The draft guidance in Annex C gives the Department’s current view as to the interpretation of “state of the art” in the context of regulation 4(2).

**Q6. Do you agree with our interpretation in Annex C of the term “state of the art” used in regulation 4(2)? If not, please provide reasons.**

Regulation 5 - Specific essential requirements for fixed installations

The draft guidance in Annex C gives the Departments current view as to the interpretation of “good engineering practices”.

**Q7. Do you agree with our interpretation in Annex C of the term “Good Engineering Practices” used in Regulation 5? If not, please provide reasons.**
PART II APPLICATION

Regulation 7 – Existing Legislation

This regulation clarifies that the draft Regulations do not affect the application of UK legislation regulating the safety of equipment.

Regulation 12 - Equipment covered by other Directives

This clarifies that these regulations do not apply to equipment covered by the specific Directives listed in Schedule 4 of the Regulations.

PART III GENERAL REQUIREMENTS – APPARATUS

Regulation 15 - Requirements for placing on the market

Q8. Do you agree that regulation 15 correctly consolidates and transposes the placing on the market requirements of the Directive? If not, please provide reasons.

Q9. In relation to regulations 15 and 16, where there is a duty on a person placing apparatus on the market or putting it into service to comply with the requirements of that regulation, do you agree that it is clear in each case who is responsible for meeting each requirement set out in that regulation? If not, please provide reasons.

Regulation 16 - General duty for putting into service

Q10. Do you agree that Regulation 16 correctly consolidates and transposes the putting into service requirements of the Directive? If not, please provide reasons.

Regulation 17 – Exception from regulations 15 and 16

This regulation clarifies that the requirements in regulations 15 and 16 shall not apply to apparatus placed on the market before 20th July 2009, and the putting into service of apparatus placed on the market before 20th July 2009 that complies with the Electromagnetic Compatibility Regulations 2005.

Regulation 19 - The internal production control procedure

Q11. Do you agree that Regulation 19 correctly transposes the internal production control requirements of the Directive? If not, please provide reasons.

PART IV UNITED KINGDOM NOTIFIED BODIES

Regulation 25 Designation of United Kingdom Notified Bodies

It is the Department’s current view that as the role of a Notified Body in the new EMC Directive is substantially unchanged from that of a Competent Body in the previous EMC Directive, bodies that met the previous criteria for appointment may also be eligible for appointment under the new Regulations.
Q12. Do you agree with the Department’s interpretation of the role of a Notified Body? If not please provide reasons.

PART V GENERAL REQUIREMENTS – FIXED INSTALLATIONS

Regulation 35 – Exemption for certain apparatus from placing in the market requirements

Q13. Do you agree that regulation 35 correctly consolidates and transposes the exemption provided for in the Directive for apparatus intended for incorporation into a given fixed installation and which is otherwise not commercially available? If not, please provide reasons.

Q14. Do you agree with our interpretation in Annex C of the term “given fixed installation” that is used in Regulation 35? If not, please provide reasons.

Q15. Do you agree with our interpretation in Annex C of the term “electromagnetic compatibility characteristics” that is used in Regulation 35? If not, please provide reasons.

Regulation 36 - General duty relating to the putting into service of fixed installations

Q16. Do you agree that regulation 36 correctly consolidates and transposes the putting into service requirements of the Directive? If not, please provide reasons.

Regulation 37 - Compliance with the essential requirements

This regulation provides that the responsible person for a fixed installation may demonstrate compliance with the essential requirements by providing documentation demonstrating the application of good engineering practice.

Q17. Do you consider that the draft guidance at Annex C on compliance of fixed installations is sufficiently clear to enable a responsible person for a specific fixed installation to determine what would be the appropriate documentation? If not please provide reasons.

Q18. Do you consider that the draft guidance at Annex C sufficiently explains how it is expected that cases of reported interference will be resolved? If not please provide reasons.

PART VI ENFORCEMENT

The draft Regulations provide for appropriate enforcement arrangements.

Q19. Do you agree that the enforcement provisions are appropriate? If not, please provide reasons.

8. What happens next?

8.1 The results of this consultation exercise, including a summary of the views expressed, will be published no more than three months after the close of the
exercise. The results of may be viewed on the DTI consultations home page at: 
http://www.dti.gov.uk/consultations/.

8.2 The Regulations will be approved and signed by the Parliamentary Under-
Secretary of State for Science and Innovation.

8.3 The Regulations will be published and may then be viewed on the OPSI (Office of 
of 15 December 2004
on the approximation of the laws of the Member States relating to electromagnetic compatibility
and repealing Directive 89/336/EEC
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EURO-
PEAN UNION,

Having regard to the Treaty establishing the European Comm-
unity, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and
Social Committee (1),

Acting in accordance with the procedure referred to in Article
251 of the Treaty (2),

Whereas:

approximation of laws of the Member States relating to
electromagnetic compatibility (3) has been the subject of
a review under the initiative known as Simpler Legisla-
tion for the Internal Market (SLIM). Both the SLIM
process and a subsequent in-depth consultation have
revealed the need to complete, reinforce and clarify the
framework established by Directive 89/336/EEC.

(2) The electromagnetic compatibility of equipment should
be regulated with a view to ensuring the functioning of
the internal market, that is to say, of an area without
internal frontiers in which the free movement of goods,
persons, services and capital is assured.

(3) Provisions of national law ensuring protection against
electromagnetic disturbance should be harmonised in
order to guarantee the free movement of electrical and
electronic apparatus without lowering justified levels of
protection in the Member States.

(4) Protection against electromagnetic disturbance requires
obligations to be imposed on the various economic
operators. Those obligations should be applied in a fair
and effective way in order to achieve such protection.

(5) The electromagnetic compatibility of equipment should
include both apparatus and fixed installations. However, separate
 provision should be made for each. This is so because,
whereas apparatus as such may move freely within the
Community, fixed installations on the other hand are
installed for permanent use at a predefined location, as
assemblies of various types of apparatus and, where
appropriate, other devices. The composition and func-
tion of such installations correspond in most cases to
the particular needs of their operators.

(6) Aircraft or equipment intended to be fitted into aircraft
should not be covered by this Directive, since they are
already subject to special Community or international
rules governing electromagnetic compatibility.

(7) Radio equipment and telecommunications terminal
equipment should not be covered by this Directive since
they are already regulated by Directive 1999/5/EC of the
European Parliament and of the Council of 9 March
1999 on radio equipment and telecommunications term-
inal equipment and the mutual recognition of their
conformity (4). The electromagnetic compatibility
requirements in both Directives achieve the same level
of protection.

(8) This Directive need not regulate equipment which is
inherently benign in terms of electromagnetic compat-
ibility.

(9) Where this Directive regulates apparatus, it should refer
to finished apparatus commercially available for the first
time on the Community market. Certain components or
sub-assemblies should, under certain conditions, be
considered to be apparatus if they are made available to
the end-user.

(10) This Directive should not deal with the safety of equip-
ment, since that is dealt with by separate Community or
national legislation.

(11) This Directive should not regulate apparatus, it should refer
to finished apparatus commercially available for the first
time on the Community market. Certain components or
sub-assemblies should, under certain conditions, be
considered to be apparatus if they are made available to
the end-user.

(2) Opinion of the European Parliament of 9 March 2004 (not yet
published in the Official Journal) and Council Decision of 29
November 2004.
The principles on which this Directive is based are those set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonization and standards (1). In accordance with that approach, the design and manufacture of equipment is subject to essential requirements in relation to electromagnetic compatibility. Those requirements are given technical expression by harmonised European standards, to be adopted by the various European standardisation bodies, European Committee for Standardisation (CEN), European Committee for Electro-technical Standardisation (CENELEC) and European Telecommunications Standards Institute (ETSI). CEN, CENELEC and ETSI are recognised as the competent institutions in the field of this Directive for the adoption of harmonised standards, which they draw up in accordance with the general guidelines for cooperation between themselves and the Commission, and with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (2).

Harmonised standards reflect the generally acknowledged state of the art as regards electromagnetic compatibility matters in the European Union. It is thus in the interest of the functioning of the internal market to have standards for the electromagnetic compatibility of equipment which have been harmonised at Community level. Once the reference to such a standard has been published in the Official Journal of the European Union, compliance with it should raise a presumption of conformity with the relevant essential requirements, although other means of demonstrating such conformity should be permitted. Compliance with a harmonised standard means conformity with its provisions and demonstration thereof by the methods the harmonised standard describes or refers to.

Manufacturers of equipment intended to be connected to networks should construct such equipment in a way that prevents networks from suffering unacceptable degradation of service when used under normal operating conditions. Network operators should construct their networks in such a way that manufacturers of equipment liable to be connected to networks do not suffer a disproportionate burden in order to prevent networks from suffering an unacceptable degradation of service. The European standardisation organisations should take due account of that objective (including the cumulative effects of the relevant types of electromagnetic phenomena) when developing harmonised standards.

It should be possible to place apparatus on the market or put it into service only if the manufacturers concerned have established that such apparatus has been designed and manufactured in conformity with the requirements of this Directive. Apparatus placed on the market should bear the 'CE' marking attesting to compliance with this Directive. Although conformity assessment should be the responsibility of the manufacturer, without any need to involve an independent conformity assessment body, manufacturers should be free to use the services of such a body.

The conformity assessment obligation should require the manufacturer to perform an electromagnetic compatibility assessment of apparatus, based on relevant phenomena, in order to determine whether or not it meets the protection requirements under this Directive.

Where apparatus is capable of taking different configurations, the electromagnetic compatibility assessment should confirm whether the apparatus meets the protection requirements in the configurations foreseeable by the manufacturer as representative of normal use in the intended applications; in such cases it should be sufficient to perform an assessment on the basis of the configuration most likely to cause maximum disturbance and the configuration most susceptible to disturbance.

Fixed installations, including large machines and networks, may generate electromagnetic disturbance, or be affected by it. There may be an interface between fixed installations and apparatus, and the electromagnetic disturbances produced by fixed installations may affect apparatus, and vice versa. In terms of electromagnetic compatibility, it is irrelevant whether the electromagnetic disturbance is produced by apparatus or by a fixed installation. Accordingly, fixed installations and apparatus should be subject to a coherent and comprehensive regime of essential requirements. It should be possible to use harmonised standards for fixed installations in order to demonstrate conformity with the essential requirements covered by such standards.

Due to their specific characteristics, fixed installations need not be subject to the affixation of the 'CE' marking or to the declaration of conformity.

It is not pertinent to carry out the conformity assessment of apparatus placed on the market for incorporation into a given fixed installation, and otherwise not commercially available, in isolation from the fixed installation into which it is to be incorporated. Such apparatus should therefore be exempted from the conformity assessment procedures normally applicable to apparatus. However, such apparatus should not be permitted to compromise the conformity of the fixed installation into which it is incorporated. Should apparatus be incorporated into more than one identical fixed installation, identifying the electromagnetic compatibility characteristics of these installations should be sufficient to ensure exemption from the conformity assessment procedure.
A transitional period is necessary in order to ensure that manufacturers and other concerned parties are able to adapt to the new regulatory regime.

Since the objective of this Directive, namely to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility, cannot be sufficiently achieved by Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Directive 89/336/EEC should therefore be repealed.

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject matter and scope

1. This Directive regulates the electromagnetic compatibility of equipment. It aims to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility. This Directive applies to equipment as defined in Article 2.

2. This Directive shall not apply to:
(a) equipment covered by Directive 1999/5/EC;
(b) aeronautical products, parts and appliances as referred to in Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (1);
(c) radio equipment used by radio amateurs within the meaning of the Radio Regulations adopted in the framework of the Constitution and Convention of the ITU (2), unless the equipment is available commercially. Kits of components to be assembled by radio amateurs and commercial equipment modified by and for the use of radio amateurs are not regarded as commercially available equipment.

3. This Directive shall not apply to equipment the inherent nature of the physical characteristics of which is such that:
(a) it is incapable of generating or contributing to electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and
(b) it will operate without unacceptable degradation in the presence of the electromagnetic disturbance normally consequent upon its intended use.

4. Where, for the equipment referred to in paragraph 1, the essential requirements referred to in Annex I are wholly or partly laid down more specifically by other Community directives, this Directive shall not apply, or shall cease to apply, to that equipment in respect of such requirements from the date of implementation of those directives.

5. This Directive shall not affect the application of Community or national legislation regulating the safety of equipment.

Definitions

1. For the purposes of this Directive, the following definitions shall apply:
(a) ‘equipment’ means any apparatus or fixed installation;
(b) ‘apparatus’ means any finished appliance or combination thereof made commercially available as a single functional unit, intended for the end user and liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance;
(c) ‘fixed installation’ means a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, installed and intended to be used permanently at a predefined location;
(d) ‘electromagnetic compatibility’ means the ability of equipment to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to other equipment in that environment;
(e) ‘electromagnetic disturbance’ means any electromagnetic phenomenon which may degrade the performance of equipment. An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;


(2) Constitution and Convention of the International Telecommunication Union adopted by the Additional Plenipotentiary Conference (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994).
(f) 'immunity' means the ability of equipment to perform as intended without degradation in the presence of an electromagnetic disturbance;

(g) 'safety purposes' means the purposes of safeguarding human life or property;

(h) 'electromagnetic environment' means all electromagnetic phenomena observable in a given location.

2. For the purposes of this Directive the following shall be deemed to be an apparatus within the meaning of paragraph 1(b):

(a) 'components' or 'sub-assemblies' intended for incorporation into an apparatus by the end user, which are liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance;

(b) 'mobile installations' defined as a combination of apparatus and, where applicable, other devices, intended to be moved and operated in a range of locations.

Article 3

Placing on the market and/or putting into service

Member States shall take all appropriate measures to ensure that equipment is placed on the market and/or put into service only if it complies with the requirements of this Directive when properly installed, maintained and used for its intended purpose.

Article 4

Free movement of equipment

1. Member States shall not impede, for reasons relating to electromagnetic compatibility, the placing on the market and/or the putting into service in their territory of equipment which complies with this Directive.

2. The requirements of this Directive shall not prevent the application in any Member State of the following special measures concerning the putting into service or use of equipment:

(a) measures to overcome an existing or predicted electromagnetic compatibility problem at a specific site;

(b) measures taken for safety reasons to protect public telecommunications networks or receiving or transmitting stations when used for safety purposes in well-defined spectrum situations.

Without prejudice to Directive 98/34/EC, Member States shall notify those special measures to the Commission and to the other Member States.

The special measures which have been accepted shall be published by the Commission in the Official Journal of the European Union.

3. Member States shall not create any obstacles to the display and/or demonstration at trade fairs, exhibitions or similar events of equipment which does not comply with this Directive, provided that a visible sign clearly indicates that such equipment may not be placed on the market and/or put into service until it has been brought into conformity with this Directive. Demonstration may only take place provided that adequate measures are taken to avoid electromagnetic disturbances.

Article 5

Essential requirements

The equipment referred to in Article 1 shall meet the essential requirements set out in Annex I.

Article 6

Harmonised standards

1. ‘Harmonised standard’ means a technical specification adopted by a recognised European standardisation body under a mandate from the Commission in conformity with the procedures laid down in Directive 98/34/EC for the purpose of establishing a European requirement. Compliance with a ‘harmonised standard’ is not compulsory.

2. The compliance of equipment with the relevant harmonised standards whose references have been published in the Official Journal of the European Union shall raise a presumption, on the part of the Member States, of conformity with the essential requirements referred to in Annex I to which such standards relate. This presumption of conformity is limited to the scope of the harmonised standard(s) applied and the relevant essential requirements covered by such harmonised standard(s).

3. Where a Member State or the Commission considers that a harmonised standard does not entirely satisfy the essential requirements referred to in Annex I, it shall bring the matter before the Standing Committee set up by Directive 98/34/EC (hereinafter ‘the Committee’), stating its reasons. The Committee shall deliver an opinion without delay.

4. Upon receipt of the Committee’s opinion, the Commission shall take one of the following decisions with regard to the references to the harmonised standard concerned:

(a) not to publish;

(b) to publish with restrictions;

(c) to maintain the reference in the Official Journal of the European Union;

(d) to withdraw the reference from the Official Journal of the European Union.

The Commission shall inform the Member States of its decision without delay.
CHAPTER II

APPARATUS

Article 7

Conformity assessment procedure for apparatus

Compliance of apparatus with the essential requirements referred to in Annex I shall be demonstrated by means of the procedure described in Annex II (internal production control). However, at the discretion of the manufacturer or of his authorised representative in the Community, the procedure described in Annex III may also be followed.

Article 8

‘CE’ marking

1. Apparatus whose compliance with this Directive has been established by means of the procedure laid down in Article 7 shall bear the ‘CE’ marking which attests to that fact. The affixing of the ‘CE’ marking shall be the responsibility of the manufacturer or his authorised representative in the Community. The ‘CE’ marking shall be affixed in accordance with Annex V.

2. Member States shall take the necessary measures to prohibit the affixing to the apparatus, or to its packaging, or to the instructions for its use, of marks which are likely to mislead third parties in relation to the meaning and/or graphic form of the ‘CE’ marking.

3. Any other mark may be affixed to the apparatus, its packaging, or the instructions for its use, provided that neither the visibility nor the legibility of the ‘CE’ marking is thereby impaired.

4. Without prejudice to Article 10, if a competent authority establishes that the ‘CE’ marking has been unduly affixed, the manufacturer or his authorised representative in the Community shall bring the apparatus into conformity with the provisions concerning the ‘CE’ marking under conditions imposed by the Member State concerned.

Article 9

Other marks and information

1. Each apparatus shall be identified in terms of type, batch, serial number or any other information allowing for the identification of the apparatus.

2. Each apparatus shall be accompanied by the name and address of the manufacturer and, if he is not established within the Community, the name and address of his authorised representative or of the person in the Community responsible for placing the apparatus on the Community market.

3. The manufacturer shall provide information on any specific precautions that must be taken when the apparatus is assembled, installed, maintained or used, in order to ensure that, when put into service, the apparatus is in conformity with the protection requirements set out in Annex I, point 1.

4. Apparatus for which compliance with the protection requirements is not ensured in residential areas shall be accompanied by a clear indication of this restriction of use, where appropriate also on the packaging.

5. The information required to enable apparatus to be used in accordance with the intended purpose of the apparatus shall be contained in the instructions accompanying the apparatus.

Article 10

Safeguards

1. Where a Member State ascertains that apparatus bearing the ‘CE’ marking does not comply with the requirements of this Directive, it shall take all appropriate measures to withdraw the apparatus from the market, to prohibit its placing on the market or its putting into service, or to restrict the free movement thereof.

2. The Member State concerned shall immediately inform the Commission and the other Member States of any such measure, indicating the reasons and specifying, in particular, whether non-compliance is due to:

(a) failure to satisfy the essential requirements referred to in Annex I, where the apparatus does not comply with the harmonised standards referred to in Article 6;

(b) incorrect application of the harmonised standards referred to in Article 6;

(c) shortcomings in the harmonised standards referred to in Article 6.

3. The Commission shall consult the parties concerned as soon as possible, following which it shall inform the Member States whether or not it finds the measure to be justified.

4. Where the measure referred to in paragraph 1 is attributed to a shortcoming in harmonised standards, the Commission, after consulting the parties, shall, if the Member State concerned intends to uphold the measure, bring the matter before the Committee and initiate the procedure laid down in Article 6(3) and (4).

5. Where the non-compliant apparatus has been subject to the conformity assessment procedure referred to in Annex III, the Member State concerned shall take appropriate action in respect of the author of the statement referred to in Annex III, point 3, and shall inform the Commission and the other Member States accordingly.
Article 11

Decisions to withdraw, prohibit or restrict the free movement of apparatus

1. Any decision taken pursuant to this Directive to withdraw apparatus from the market, prohibit or restrict its placing on the market or its putting into service, or restrict the free movement thereof, shall state the exact grounds on which it is based. Such decisions shall be notified without delay to the party concerned, who shall at the same time be informed of the remedies available to him under the national law in force in the Member State in question and of the time limits to which such remedies are subject.

2. In the event of a decision as referred to in paragraph 1, the manufacturer, his authorised representative, or any other interested party shall have the opportunity to put forward his point of view in advance, unless such consultation is not possible because of the urgency of the measure to be taken as justified in particular with respect to public interest requirements.

Article 12

Notified bodies

1. Member States shall notify the Commission of the bodies which they have designated to carry out the tasks referred to in Annex III. When determining the bodies to be designated, Member States shall apply the criteria laid down in Annex VI. Such notification shall state whether the bodies are designated to carry out the tasks referred to in Annex III for all apparatus covered by this Directive, and/or the essential requirements referred to in Annex I or whether the scope of designation is limited to certain specific aspects and/or categories of apparatus.

2. Bodies which comply with the assessment criteria established by the relevant harmonised standards shall be presumed to comply with the criteria set out in Annex VI covered by such harmonised standards. The Commission shall publish in the Official Journal of the European Union the references of those standards.

3. The Commission shall publish in the Official Journal of the European Union a list of notified bodies. The Commission shall ensure that the list is kept up to date.

4. If a Member State finds that a notified body no longer meets the criteria listed in Annex VI, it shall inform the Commission and the other Member States accordingly. The Commission shall withdraw the reference to that body from the list referred to in paragraph 3.

CHAPTER III

FIXED INSTALLATIONS

Article 13

Fixed installations

1. Apparatus which has been placed on the market and which may be incorporated into a fixed installation is subject to all relevant provisions for apparatus set out in this Directive. However, the provisions of Articles 5, 7, 8 and 9 shall not be compulsory in the case of apparatus which is intended for incorporation into a given fixed installation and is otherwise not commercially available. In such cases, the accompanying documentation shall identify the fixed installation and its electromagnetic compatibility characteristics and shall indicate the precautions to be taken for the incorporation of the apparatus into the fixed installation in order not to compromise the conformity of that installation. It shall furthermore include the information referred to in Article 9(1) and (2).

2. Where there are indications of non-compliance of the fixed installation, in particular, where there are complaints about disturbances being generated by the installation, the competent authorities of the Member State concerned may request evidence of compliance of the fixed installation, and, when appropriate, initiate an assessment.

Where non-compliance is established, the competent authorities may impose appropriate measures to bring the fixed installation into compliance with the protection requirements set out in Annex I, point 1.

3. Member States shall set out the necessary provisions for identifying the person or persons responsible for the establishment of compliance of a fixed installation with the relevant essential requirements.

CHAPTER IV

FINAL PROVISIONS

Article 14

Repeal


References to Directive 89/336/EEC shall be construed as references to this Directive and should be read in accordance with the correlation table set out in Annex VII.
Article 15

Transitional provisions

Member States shall not impede the placing on the market and/or the putting into service of equipment which is in compliance with the provisions of Directive 89/336/EEC and which was placed on the market before 20 July 2009.

Article 16

Transposition

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 20 January 2007. They shall forthwith inform the Commission thereof. They shall apply those provisions as from 20 July 2007. When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 17

Entry into force

This Directive shall enter into force on the twentieth day after its publication in the Official Journal of the European Union.

Article 18

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 15 December 2004.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
A. NICOLAI
ANNEX I

ESSENTIAL REQUIREMENTS REFERRED TO IN ARTICLE 5

1. Protection requirements

Equipment shall be so designed and manufactured, having regard to the state of the art, as to ensure that:

(a) the electromagnetic disturbance generated does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended;

(b) it has a level of immunity to the electromagnetic disturbance to be expected in its intended use which allows it to operate without unacceptable degradation of its intended use.

2. Specific requirements for fixed installations

Installation and intended use of components

A fixed installation shall be installed applying good engineering practices and respecting the information on the intended use of its components, with a view to meeting the protection requirements set out in Point 1. Those good engineering practices shall be documented and the documentation shall be held by the person(s) responsible at the disposal of the relevant national authorities for inspection purposes for as long as the fixed installation is in operation.
ANNEX II

CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 7

(internal production control)

1. The manufacturer shall perform an electromagnetic compatibility assessment of the apparatus, on the basis of the relevant phenomena, with a view to meeting the protection requirements set out in Annex I, point 1. The correct application of all the relevant harmonised standards whose references have been published in the Official Journal of the European Union shall be equivalent to the carrying out of the electromagnetic compatibility assessment.

2. The electromagnetic compatibility assessment shall take into account all normal intended operating conditions. Where the apparatus is capable of taking different configurations, the electromagnetic compatibility assessment shall confirm whether the apparatus meets the protection requirements set out in Annex I, point 1, in all the possible configurations identified by the manufacturer as representative of its intended use.

3. In accordance with the provisions set out in Annex IV, the manufacturer shall draw up technical documentation providing evidence of the conformity of the apparatus with the essential requirements of this Directive.

4. The manufacturer or his authorised representative in the Community shall hold the technical documentation at the disposal of the competent authorities for at least ten years after the date on which such apparatus was last manufactured.

5. The compliance of apparatus with all relevant essential requirements shall be attested by an EC declaration of conformity issued by the manufacturer or his authorised representative in the Community.

6. The manufacturer or his authorised representative in the Community shall hold the EC declaration of conformity at the disposal of the competent authorities for a period of at least ten years after the date on which such apparatus was last manufactured.

7. If neither the manufacturer nor his authorised representative is established within the Community, the obligation to hold the EC declaration of conformity and the technical documentation at the disposal of the competent authorities shall lie with the person who places the apparatus on the Community market.

8. The manufacturer must take all measures necessary to ensure that the products are manufactured in accordance with the technical documentation referred to in point 3 and with the provisions of this Directive that apply to them.

9. The technical documentation and the EC declaration of conformity shall be drawn up in accordance with the provisions set out in Annex IV.
ANNEX III

CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 7

1. This procedure consists of applying Annex II, completed as follows:
2. The manufacturer or his authorised representative in the Community shall present the technical documentation to the notified body referred to in Article 12 and request the notified body for an assessment thereof. The manufacturer or his authorised representative in the Community shall specify to the notified body which aspects of the essential requirements must be assessed by the notified body.
3. The notified body shall review the technical documentation and assess whether the technical documentation properly demonstrates that the requirements of the Directive that it is to assess have been met. If the compliance of the apparatus is confirmed, the notified body shall issue a statement to the manufacturer or his authorised representative in the Community confirming the compliance of the apparatus. That statement shall be limited to those aspects of the essential requirements which have been assessed by the notified body.
4. The manufacturer shall add the statement of the notified body to the technical documentation.
ANNEX IV

TECHNICAL DOCUMENTATION AND EC DECLARATION OF CONFORMITY

1. Technical documentation

The technical documentation must enable the conformity of the apparatus with the essential requirements to be assessed. It must cover the design and manufacture of the apparatus, in particular:

— a general description of the apparatus;
— evidence of compliance with the harmonised standards, if any, applied in full or in part;
— where the manufacturer has not applied harmonised standards, or has applied them only in part, a description and explanation of the steps taken to meet the essential requirements of the Directive, including a description of the electromagnetic compatibility assessment set out in Annex II, point 1, results of design calculations made, examinations carried out, test reports, etc.;
— a statement from the notified body, when the procedure referred to in Annex III has been followed.

2. EC declaration of conformity

The EC declaration of conformity must contain, at least, the following:

— a reference to this Directive,
— an identification of the apparatus to which it refers, as set out in Article 9(1),
— the name and address of the manufacturer and, where applicable, the name and address of his authorised representative in the Community,
— a dated reference to the specifications under which conformity is declared to ensure the conformity of the apparatus with the provisions of this Directive,
— the date of that declaration,
— the identity and signature of the person empowered to bind the manufacturer or his authorised representative.
ANNEX V

‘CE’ MARKING REFERRED TO IN ARTICLE 8

The ‘CE’ marking shall consist in the initials ‘CE’ taking the following form:

The ‘CE’ marking must have a height of at least 5 mm. If the ‘CE’ marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

The ‘CE’ marking must be affixed to the apparatus or to its data plate. Where this is not possible or not warranted on account of the nature of the apparatus, it must be affixed to the packaging, if any, and to the accompanying documents.

Where the apparatus is the subject of other Directives covering other aspects and which also provide for the ‘CE’ marking, the latter shall indicate that the apparatus also conforms with those other Directives.

However, where one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the ‘CE’ marking shall indicate conformity only with the Directives applied by the manufacturer.

In that case, particulars of the Directives applied, as published in the Official Journal of the European Union, must be given in the documents, notices or instructions required by the Directives and accompanying such apparatus.
ANNEX VI

CRITERIA FOR THE ASSESSMENT OF THE BODIES TO BE NOTIFIED

1. The bodies notified by the Member States shall fulfil the following minimum conditions:
   (a) availability of personnel and of the necessary means and equipment;
   (b) technical competence and professional integrity of personnel;
   (c) independence in preparing the reports and performing the verification function provided for in this Directive;
   (d) independence of staff and technical personnel in relation to all interested parties, groups or persons directly or indirectly concerned with the equipment in question;
   (e) maintenance of professional secrecy by personnel;
   (f) possession of civil liability insurance unless such liability is covered by the Member State under national law.

2. Fulfilment of the conditions laid down in point 1 shall be verified at intervals by the competent authorities of the Member State.
## ANNEX VII

### CORRELATION TABLE

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The Secretary of State is a Minister been designated(a) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to apparatus which is liable to cause electromagnetic disturbance and to apparatus the performance of which is liable to be affected by such disturbance.

The Secretary of State makes the following Regulations under the powers conferred on him by section 2(2) of that Act.

PART 1
PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Electromagnetic Compatibility Regulations 2006.

   (2) This regulation, regulations 3, 25 and 26 and Schedule 5 shall come into force on 20th January 2007.

   (3) The remaining regulations shall come into force on 20th July 2007.

Revocation and disapplication

2.—(1) The Electromagnetic Compatibility Regulations 2005(e) (“the 2005 Regulations”) are revoked.

(a) S.I. 1989/2393.

(c) S.I. 2005/281
(2) The regulations made under section 10 of the Wireless Telegraphy Act 1949(a) (“the WTA Regulations”) listed in Schedule 1, to the extent that they impose electromagnetic compatibility requirements which must be complied with if apparatus is—

(a) to be supplied or taken into service or
(b) used for the purpose for which it was intended,

shall cease to have effect, but nothing in these Regulations shall affect the WTA Regulations to the extent that they impose requirements for radio frequency spectrum planning or for the prevention of undue interference to wireless telegraphy from apparatus in use.

**Interpretation**

3.—(1) In these Regulations,

“apparatus” means any finished appliance or combination of appliances made commercially available as a single functional unit, intended for the end user and liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance and, for the purposes of these Regulations, includes—

(a) components or sub-assemblies intended for incorporation into an apparatus by an end-user, which are liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance;

(b) mobile installations defined as a combination of apparatus, and where applicable, other devices, intended to be moved and operated in a range of locations.

“authorised representative” means a person established within the Community and appointed by the manufacturer (whether or not established in the Community) to act on his behalf;

(a) “CE marking” shall be construed in accordance with regulation 21.

“the Commission” means the European Commission;

“the Community” means the European Community;

“EC declaration of conformity” has the meaning given in regulation 22;


“enforcement authority” means any person who is, pursuant to regulation 38, authorised to enforce these Regulations;

“essential requirements” means the requirements set out in regulation 4;

“equipment” means any apparatus or fixed installation.

“fixed installation” means a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, located and intended to be used permanently at a pre-defined location;

“harmonised standard” means a technical specification adopted by a recognised European standardisation body under a mandate from the Commission in conformity with the procedures laid down in Directive 98/34/EC of the European Parliament and of the Council of 22nd June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services(c), as amended by Directive 98/48/EC(d) for the purpose of establishing a European requirement, the reference of which is published by the Commission in the Official Journal of the European Union;

(a) 1949 c.54.
(c) OJ No. L204, 21.7.98, p.37.
(d) OJ No. L217, 5.8.98, p.18.
“immunity” means the ability of equipment to perform as intended without degradation in the presence of an electromagnetic disturbance;

“notified body” means—
(a) a United Kingdom notified body appointed under regulation 25;
(b) a notified body of a member State other than the United Kingdom pursuant to Article 12.3 of the EMC Directive; or
(c) recognised for the purpose of carrying out those functions by inclusion in a mutual recognition agreement relating to the EMC Directive or a similar agreement (including a Protocol to the Europe Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the Community and a State other than an EEA State.

“OFCOM” means the Office of Communications established under the Office of Communications Act 2002(a);

“protection requirements” has the meaning given by regulation 4;

“radio amateur apparatus” means wireless telegraphy apparatus designed or adapted for use in the amateur service, but excludes citizens’ band apparatus, and in this definition—
(a) ‘amateur service’ has the meaning given by Article 1, definition 1.56 of the 2001 edition of the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union 1992 (b) pursuant to Articles 4 and 54 of that Constitution; and
(b) ‘citizen’s band apparatus’ means wireless telegraphy apparatus designed or adapted exclusively for the provision of voice radiocommunication in the frequency bands 26.960 MHz to 27.410 MHz and 27.60125 MHz to 27.99125 MHz;

“relevant requirements” means the requirements of these Regulations for which a statement has been requested from a notified body;

“responsible person” means—
(a) in relation to apparatus
(i) the manufacturer established in the Community;
(ii) the manufacturer’s authorised representative; or
(iii) where the manufacturer is not established in the Community and he has not appointed an authorised representative, the person who places the apparatus on the market;
(b) in relation to a fixed installation, the person who, by virtue of their ownership or control of the relevant fixed installation is able to determine that the configuration of the installation is such that when used it complies with the protection requirements;

“statement” in respect of apparatus means a statement of compliance with the essential requirements issued by a notified body;

“technical documentation” shall be construed in accordance with Schedule 3; and

“wireless telegraphy”, “wireless telegraphy apparatus” and “station for wireless telegraphy” have the meanings given respectively by section 19(1) of the WTA.

(2) For the purposes of these Regulations—
(a) “electromagnetic compatibility” (“EMC”) is the ability of equipment to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbance to other equipment in that environment;
(b) “electromagnetic disturbance” means any electromagnetic phenomenon which may degrade the performance of equipment. An electromagnetic disturbance may include:

(a) 2002 c.11
(b) The Constitution and Convention of the International Telecommunication Union was adopted by the Additional Plenipotentiary Conference (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994).
(i) electromagnetic noise,
(ii) an unwanted signal, or
(iii) a change in the propagation medium itself;
(c) “electromagnetic environment” means all electromagnetic phenomena observable at a given location.

(3) In these Regulations, with respect to matters arising on and after 1st January 1994, a reference to the Community includes a reference to a member state, Norway, Iceland and Liechtenstein(a).

Essential requirements

4.—(1) A reference to “essential requirements” in relation to equipment is a reference to the protection requirements set out in the following provisions of this regulation and in the case of fixed installations shall include the requirements set out in regulation 5.

(2) Equipment shall be designed and manufactured, having regard to the state of the art, so as to ensure that—

(a) the electromagnetic disturbance it generates does not exceed a level above which radio and telecommunications equipment or other equipment cannot operate as intended; and

(b) it has a level of immunity to the electromagnetic disturbance to be expected in its intended use which allows it to operate without unacceptable degradation of its intended use.

Specific essential requirements for fixed installations

5. (1) A fixed installation shall be installed—

(a) applying good engineering practices; and

(b) respecting the information on the intended use of its components with a view to meeting the protection requirements set out in regulation 4.

(2) Such good engineering practices shall be documented.

(3) The responsible person in relation to a fixed installation shall hold such documentation at the disposal of the enforcement authority for as long as the fixed installation is in operation.

PART II
APPLICATION

General conditions of application

6.—(1) These Regulations apply to equipment placed on the market and put into service, or both, unless, pursuant to regulations 8 to 14 and regulation 17, it falls outside the scope of these Regulations.

(2) In the case of a fixed installation put into service before 20th July 2007, these Regulations shall apply if it is modified after that date in a way that may affect its electromagnetic compatibility.

Existing legislation

7. Nothing in these Regulations shall affect the application of Community legislation and national legislation as regards the safety of equipment.

(a) The application of the EMC Directive was extended in 1994 to the European Economic Area by Decision 3/2006 of 27 January 2006 amending Annex II to the EEA Agreement.
Exclusions

Electromagnetically benign equipment

8. These Regulations do not apply to equipment the inherent qualities of which are such that—
   (a) it is incapable of generating or contributing to electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and
   (b) it will operate without unacceptable degradation in the presence of electromagnetic disturbance normally consequent upon its intended use.

Regulation establishing common rules in the field of civil aviation


Radio equipment and telecommunications terminal equipment Directive


Radio amateur apparatus

11. These Regulations do not apply to radio amateur apparatus used by radio amateurs which is not available commercially.

Equipment covered by other Directives

12. These Regulations do not apply to equipment to which the Directives specified in Schedule 4 apply, to the extent that those Directives specifically lay down, in whole or part, the essential requirements in relation to such equipment.

Measuring Instruments Directive

13. These Regulations do not apply to a measuring instrument or sub-assembly covered by Directive 2004/22/EC of the European Parliament and of the Council on measuring instruments which bear the
   (i) CE marking;
   (ii) M marking; and
   (iii) identification number of the notified body responsible for carrying out the conformity assessment of the instrument or sub-assembly in accordance with the requirements of that Directive, as regards the immunity of such instrument or sub-assembly.
   (2) For the purposes of this regulation, “measuring instrument” and “sub-assembly” have the meanings defined in that Directive.

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(a) OJ No. L135, 30.4.04, p.1.
Equipment presented at trade fairs

14. (1) These Regulations do not apply to equipment which is not compliant with the essential requirements and which is displayed or presented at any trade fair, exhibition or demonstration if a sign displayed visibly on or near the equipment clearly indicates that it—

(a) is not compliant with these Regulations; and
(b) cannot be placed on the market or put into service until it is made compliant with these Regulations.

(2) Demonstration may only take place provided that adequate measures are taken to avoid electromagnetic disturbance.

PART III
GENERAL REQUIREMENTS – APPARATUS

Requirements for placing on the market

15. (1) No person shall place on the market apparatus unless the following requirements, or the corresponding requirements of the EMC Directive as implemented under the law of another member State, are met—

(a) the apparatus is compliant with the protection requirements referred to in regulation 4;
(b) compliance with the essential requirements has been demonstrated in accordance with regulation 18;
(c) the technical documentation has been prepared and is available;
(d) the CE marking has been properly affixed by the manufacturer or his authorised representative in accordance with regulation 21;
(e) an EC declaration of conformity has been issued in accordance with the requirements of regulation 22 and 23;
(f) each apparatus shall be identified in terms of type, batch, serial number or any information allowing for identification of the apparatus;
(g) each apparatus shall be accompanied by the name and address of the manufacturer and if he is not established in the Community, the name and address of the responsible person;
(h) the manufacturer has provided information on any specific precautions that must be taken when the apparatus is assembled, installed, maintained or used in order to ensure that when put into service the apparatus complies with the protection requirements;
(i) apparatus for which compliance with the protection requirements is not ensured in residential areas shall be accompanied by a clear indication of this restriction of use and where appropriate this indication is also on the packaging; and
(j) the information required to enable the apparatus to be used in accordance with its intended purpose shall be contained in the instructions accompanying the apparatus.

(2) For the purposes of this regulation “clear indication” shall mean the provision of information that is easily understood by the intended user.

General duty for putting into service

16. No person shall put into service apparatus unless it complies with the protection requirements in regulation 4 when properly installed, maintained and used for its intended purpose.

Exception from regulations 15 and 16

17. The requirements in regulations 15 and 16 shall not apply to—
(a) apparatus placed on the market before 20th July 2009; and
(b) the putting into service of apparatus placed on the market before 20th July 2009,
which comply with any provisions with which it would have been required to comply for it to
be placed on the market or put into service, or both, in the United Kingdom on or before 19th

Compliance with the essential requirements

18. Compliance with the essential requirements shall be demonstrated—
(a) by the internal production control procedure set out in regulation 19; or
(b) through the involvement of a notified body as set out in regulation 20.

The internal production control procedure

19. (1) The manufacturer shall perform an electromagnetic compatibility assessment of the
apparatus, on the basis of the relevant phenomena, with a view to meeting the protection
requirements set out in regulation 4.

(2) The requirements of paragraph (1) shall be complied with if the manufacturer correctly
applied a relevant harmonised standard or standards which make complete provision in respect of the
apparatus.

(3) Apparatus which complies with the applicable relevant harmonised standard or standards shall
be presumed to comply with the essential requirements. Where the apparatus complies only in part
with the relevant harmonised standard or standards, it shall be presumed to comply only with
those parts of the essential requirements which correspond to the elements of the relevant
harmonised standard or standards with which the apparatus complies.

(4) The electromagnetic compatibility assessment shall take into account all normal intended
operating conditions. Where the apparatus is capable of taking different configurations, the
electromagnetic compatibility assessment shall confirm that the apparatus meets the protection
requirements in all the possible configurations identified by the manufacturer as representative of
its intended use.

(5) The manufacturer shall draw up technical documentation in accordance with the provisions of
Schedule 3 providing evidence of the compliance of the apparatus with the essential requirements.

(6) The compliance of apparatus with all relevant essential requirements shall be attested by an EC
declaration of conformity issued by the manufacturer or his authorised representative in the
Community in accordance with regulations 22 and 23.

(7) The manufacturer shall take all measures necessary to ensure that the apparatus shall be
manufactured in accordance with the technical documentation referred to in paragraph (5) and
with the provisions of these Regulations that apply to it.

Involvement of a notified body

20. (1) The manufacturer or his authorised representative may involve a notified body in order to
demonstrate compliance with all or the essential requirements.

(2) Having completed the internal production control procedure in respect of those aspects to be
assessed by the notified body, the manufacturer or his authorised representative shall present the
appropriate technical documentation to a notified body and request the notified body for an
assessment of such documentation. The manufacturer or his authorised representative shall specify
to the notified body which aspects of the essential requirements must be assessed by the notified
body.

(3) The notified body shall review the technical documentation and assess whether the technical
documentation properly demonstrates that the requirements of these Regulations that it has to
assess are met.
(4) The notified body shall, if satisfied that the apparatus is compliant with the essential requirements, issue a statement to the manufacturer or his authorised representative confirming the compliance of the apparatus. The statement shall be limited to those aspects of the essential requirements which have been assessed by the notified body.

(5) The manufacturer shall hold the statement of the notified body with the technical documentation.

The CE marking

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

(2) No person shall affix the CE marking to any apparatus, unless—
   (a) the apparatus complies with the protection requirements; and
   (b) the responsible person has demonstrated conformity with the essential requirements in accordance with regulation 18.

(3) The CE marking shall be affixed to the apparatus or to its data plate.

(4) Where this is not possible or not warranted on account of the nature of the apparatus, it shall be affixed to the apparatus’ packaging, if any, and to accompanying documents.

(5) Subject to paragraph (6), where the apparatus is the subject of other directives covering other aspects and which also provide for the CE marking, the CE marking shall indicate that the apparatus also conforms to those other Directives.

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

(7) No person shall affix to apparatus, its packaging or the instructions for use 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 or the instructions for use provided that the visibility and legibility of the CE marking are not reduced as a result of such additional marking.

EC declaration of conformity

22.—(1) An EC declaration of conformity is a declaration which indicates that apparatus conforms with the protection requirements of the EMC Directive.

(2) An EC declaration of conformity shall be regarded as properly issued in relation to apparatus if the following requirements are complied with—
   (a) the apparatus conforms with the protection requirements;
   (b) the declaration is issued by the manufacturer or his authorised representative and contains the following—
      (i) a reference to the EMC Directive
      (ii) an identification of the apparatus to which it refers;
      (iii) the name and address of the manufacturer and where applicable, the name and address of his authorised representative in the Community;
      (iv) a dated reference to the specifications under which conformity is declared to ensure the conformity of the apparatus with the provisions of the EMC Directive;
      (v) the date of that declaration; and
      (vi) the identity and signature of the person empowered to bind the manufacturer or his authorised representative.
EC declaration of conformity issued in the United Kingdom

23. In addition, where the declaration is issued in the United Kingdom, it shall—
   (a) be in English;
   (b) give the name and address of the responsible person if that person is not the manufacturer;
   (c) be signed by or on behalf of the manufacturer or his authorised representative and identify
       that signatory;
   (d) state the numbers and titles of the relevant harmonised standards, if any, applied by the
       manufacturer; and
   (g) certify that the apparatus to which it relates conforms with the protection requirements.

Retention of documentation

24.—(1) The responsible person shall retain an EC declaration of conformity and the technical
       documentation in relation to apparatus for ten years after the date on which such apparatus was
       last manufactured.

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

       (3) The power conferred on a responsible person in paragraph (2) 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.

       (4) 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.

PART IV

UNITED KINGDOM NOTIFIED BODIES

Designation of United Kingdom notified bodies

25.—(1) Subject to the following provisions of this regulation, the Secretary of State may, on
       the application of a person resident, incorporated or carrying on business in the United Kingdom,
       designate that person to be a United Kingdom notified body under these Regulations.

       (2) The Secretary of State shall not make a designation under paragraph (1) unless he is satisfied
           that the applicant satisfies the minimum criteria set out in Schedule 5 (“the minimum criteria”).

       (3) A person who complies with the assessment criteria fixed by a standard which is a relevant
           harmonised standard within the meaning of Article 12.2 of the EMC Directive shall be presumed
           to meet the minimum criteria covered by such harmonised standard.

       (4) A designation under paragraph (1)—
           (a) shall be in writing;
           (b) may be made subject to such conditions as may be specified in the designation, which
               may include conditions which —
               (i) are to apply upon or following termination of the designation; and
               (ii) limit the description of apparatus for which the person is designated;
           (c) shall specify the tasks (which may be framed by reference to any circumstances) and
               categories of apparatus which the person has been designated to assess;
(d) subject to regulation 26, may last for such period as may be specified in the designation; and

(e) may include a requirement to publish from time to time the scale of fees which the person charges pursuant to regulation 27 or such information about the basis of calculation of such fees as may be specified.

(5) In exercising the power conferred on him by paragraph (1) the Secretary of State may (in addition to the matters of which he is required to satisfy himself pursuant to paragraph (2)) have regard to any matter appearing to him to be relevant.

(6) The Secretary of State shall, from time to time, publish a list of UK notified bodies.

(7) The Secretary of State shall, from time to time, carry out an inspection of each United Kingdom notified body with a view to verifying that it—

(a) meets the minimum criteria;

(b) complies with any condition to which its designation is subject; and

(c) complies with these Regulations.

**Variation and termination**

26.—(1) The Secretary of State may vary a designation made under regulation 25—

(a) the notified body so requests; or

(b) it appears to him necessary or expedient to do so.

(2) Subject to paragraph (4), the Secretary of State may terminate a designation made under regulation 25—

(a) on the expiry of 90 days’ notice in writing given by the notified body; or

(b) if it appears to the Secretary of State that condition of the designation is not complied with; or

(c) if in his opinion the notified body ceases to satisfy the minimum criteria.

(3) Where the Secretary of State is minded to—

(a) Vary a designation pursuant to paragraph (1)(b); or

(b) Terminate a designation pursuant to paragraph (2)(b) or (c);

he shall—

(a) give such directions (either to the notified body the subject of the termination or to another notified body) for the purposes of making arrangements for the determination of outstanding applications as he considers appropriate; and

(b) notwithstanding sub-paragraph (a), authorise another notified body to take over the functions of the notified body the subject of the termination in respect of such cases as he may specify.

**Fees**

27.—(1) Subject to paragraph (2), a notified body may charge such fees in connection with, or incidental to, carrying out the specified tasks as it may determine.

(2) The fees referred to in paragraph (1) shall not exceed the following—

(a) the costs incurred or to be incurred by the notified body in performing the relevant function; and

(b) an amount on account of profit which is reasonable in the circumstances having regard to—

(i) the character and extent of the work done or to be done by the notified body on behalf of the applicant; and
(ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

(4) Where any fees payable to a notified body pursuant to this regulation remain unpaid 28 days after either the work has been completed or payment of the fees has been requested in writing, whichever is the later, the body may by 14 days’ notice in writing provide that, unless the fees are paid before the expiry of the notice, the statement in relation to the conformity assessment procedure may be suspended until payment of the fees has been received.

Functions of notified body

28. —(1) A notified body shall carry out the functions set out in this regulation.

(2) Subject to regulation 29, a notified body shall assess an application made by a manufacturer for the issue of a statement.

(2) In determining such an application, the notified body—

(a) shall have regard to the actual or usual electromagnetic environment of the apparatus when properly installed, maintained and used for its intended purpose; and

(b) may have regard to any standards or technical criteria appearing to it to be relevant.

(3) Where in the opinion of the notified body the apparatus to which an application relates is compliant with the essential requirements for which a statement has been requested, it shall issue a statement in accordance with regulation 31.

(4) Where in the opinion of the notified body the apparatus to which an application relates is not compliant with the relevant essential requirements, it shall issue a notice to the applicant in accordance with regulation 34.

Limitations on duties to exercise functions

29.—(1) A notified body shall not accept an application for a statement in respect of any apparatus unless the application—

(i) is in writing, in English or another language acceptable to that notified body; and

(ii) is accompanied by technical documentation, in writing, in English or another language acceptable to that body;

(2) A notified body shall not be required to determine an application for a statement where the manufacturer has not made available to the body such information as it may reasonably require to determine the application.

(3) A notified body shall not be required to carry out its tasks if—

(a) the person making the application has not submitted with the application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 26; or

(b) the body reasonably believes that, having regard to the number of applications made to it which are outstanding, it will be unable to commence the required work within three months of receiving the application.

Contractors

30.—(1) A notified body may, in exercising its functions—

(a) arrange for some other person to carry out any assessment on its behalf; or

(b) require the applicant to satisfy another person with respect to any matter at the applicant’s expense.

(2) But nothing in paragraph (1) authorises a notified body to rely on the opinion of another person with regard to whether an apparatus is compliant with the essential requirements.
(3) Nothing in these Regulations shall preclude a person referred to in paragraph (1) (a) or (b) from charging any fee in respect of any work undertaken by him in pursuance of those paragraphs.

Form of statement

31. A statement issued by a UK notified body shall be in writing and shall—
   (a) be in English;
   (b) give the name and address—
      (i) of the applicant;
      (ii) where the applicant is not the manufacturer, of the manufacturer;
   (c) be signed by or on behalf of the notified body and give the identification number of the notified body;
   (d) bear the date of issue;
   (e) give particulars of the apparatus (where applicable, in relation to each variant) to which it relates sufficient to identify it; and
   (f) confirm that the apparatus and the technical documentation to which it relates complies with the relevant requirements it has assessed.

Conditions of statement

32.—(1) A statement issued by the UK notified body may be unconditional or may be subject to such conditions as the notified body considers appropriate.
   (2) Such conditions may include—
      (a) a limitation on the electromagnetic environment for which the apparatus may be stated to be suitable; or
      (b) a requirement that the apparatus is only to be installed at a specific site.
   (3) The conditions imposed pursuant to paragraph (1) may be varied in accordance with regulation 34 by the notified body which issued the statement and such variation may include the imposition of new conditions or the removal of conditions.

Withdrawal of statement

33. The notified body which issued a statement shall withdraw that statement in accordance with regulation 34, if it appears that the apparatus to which it relates is not compliant with the relevant requirements.

Procedure where a notified body is minded to refuse to give, or to vary or to withdraw a statement

34.—(1) Where a notified body is minded to—
   (a) refuse to issue a statement;
   (b) vary a statement (other than at the request of the person to whom it was given); or
   (c) withdraw a statement,
   it shall give to the applicant, or the person to whom the statement was given, a notice in writing—
      (i) giving reasons for the refusal, variation or withdrawal;
      (ii) specifying the date on which the refusal, variation or withdrawal it is to take effect; and
      (iii) giving that applicant or person to whom the statement was given the opportunity to make representations within 21 days from the date of such notice and stating that the notified body shall consider any representations made to it within that period by that applicant or person.
(2) Where a notified body, having considered representations made to it under paragraph (1) remains of the opinion that—

(a) an application for a statement should be refused; or
(b) a statement should be varied or withdrawn,

it shall inform the applicant, or the person to whom the statement was given, of that decision in writing.

PART V
GENERAL REQUIREMENTS – FIXED INSTALLATIONS

Exemption for certain apparatus from placing on the market requirements

35. (1) Regulations 15, 16 and 24 shall not apply to certain apparatus where the following requirements or the corresponding requirements of the EMC Directive as implemented under the law of another member State are met—

(i) the manufacturer or his authorised representative provides information identifying the fixed installation and its electromagnetic compatibility characteristics by way of accompanying documentation.
(ii) the accompanying documentation indicates any specific precautions that must be taken for the incorporation of the apparatus into the fixed installation in order not to compromise the conformity of that installation.
(iii) the apparatus is identified in the accompanying documentation in terms of type, batch, serial number or any information allowing for identification of the apparatus; and
(iv) the apparatus is accompanied by the name and address of the manufacturer and if he is not established in the Community, the name and address of the responsible person in relation to apparatus.

(2) In this regulation and in regulation 36 “certain apparatus” means apparatus which is

(a) intended for incorporation into a given fixed installation; and
(b) is otherwise not commercially available.

General duty relating to the putting into service of fixed installations

36. (1) No person shall put into service a fixed installation unless the following requirements are met when it is properly installed, maintained and used for its intended purpose—

(a) the requirements set out in regulations 4 and 5 are complied with; and
(b) the name and address of the responsible person in relation to the fixed installation shall be available for submission on request by the enforcement authority.

(2) Where the fixed installation incorporates certain apparatus the following requirements shall apply in addition—

(a) the apparatus shall be incorporated into the fixed installation for which it was intended;
(b) such incorporation shall respect the intended use of the apparatus; and
(c) the incorporation shall comply with good engineering practice.

Compliance with the essential requirements

37. (1) The responsible person shall provide, on request from the enforcement authority, evidence of compliance of a fixed installation with these Regulations.
(2) The responsible person shall demonstrate compliance with the essential requirements by providing documentation demonstrating the application of good engineering practice respecting the use of components.

PART VI
ENFORCEMENT

Enforcement authorities

38.—(1) Except in relation to the descriptions of apparatus mentioned in paragraph (3) below, it shall be the duty of the following authorities to enforce these Regulations —

(a) in Great Britain:
   (i) OFCOM insofar as action taken to enforce a regulation relates to the protection and management of the radio spectrum; and
   (ii) local weights and measures authorities within their area; and

(b) in Northern Ireland:
   (i) OFCOM insofar as action taken to enforce a regulation relates to the protection and management of the radio spectrum; and
   (ii) the Department of Enterprise, Trade and Investment.

(2) Except in relation to the descriptions of apparatus mentioned in paragraph (3) below, the Secretary of State may enforce these Regulations.

(3) These Regulations may be enforced in relation to electricity meters other than those which are wireless telegraphy apparatus—

   (i) in Great Britain, by the Gas and Electricity Markets Authority;
   (ii) in Northern Ireland, by the Northern Ireland Authority for Energy Regulation; and
   (iii) by any person designated to act on behalf of the Gas and Electricity Markets Authority or the Northern Ireland Authority for Energy Regulation.

(4) Nothing in this regulation shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

Test purchases

39.—(1) An enforcement authority may, for the purpose of ascertaining whether any apparatus complies with the requirements of regulation 15 to make, or to authorise an officer of the authority to make, any purchase of apparatus.

(2) Where—

(a) any apparatus purchased under this regulation by or on behalf of any enforcement authority is submitted to a test; and

(b) the test leads to—

   (i) the bringing of proceedings for an offence under regulation 47, 48 or 50 in relation to the apparatus or the forfeiture of apparatus of the same description under regulation 59 or 60; or
   (ii) the serving of a suspension notice in respect of any apparatus; and

(c) the authority is requested to do so and it is practicable for the authority to comply with the request,
the authority shall allow the person from whom the apparatus was purchased or any person who is a party to the proceedings or has an interest in any apparatus to which the notice relates to have the apparatus tested.

**Powers of search**

**40.**—(1) A duly authorised officer of an enforcement authority may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this regulation.

(2) The officer may, for the purpose of ascertaining whether there has been a contravention of any of the requirements of these Regulations—

(a) inspect any apparatus or fixed installation and enter any premises other than premises occupied only as a person’s residence; or

(b) examine any procedure (including any arrangements for carrying out a test) connected with the production of any apparatus.

(3) If the officer has reasonable grounds for suspecting that there has been a contravention of any of the requirements of these Regulations, he may for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain any apparatus or decommission or switch off any fixed installation or part of a fixed installation.

(4) The officer may seize and detain—

(a) any apparatus, any document, record or information which the officer may require production of under regulation 46, or any other thing, which he has reasonable grounds for believing may be required—

(i) as evidence in proceedings for an offence under these Regulations;

(ii) by a notified authority of a member State other than the United Kingdom for the purpose of the exercise of its functions; or

(b) any apparatus which he has reasonable grounds for suspecting may be liable to be forfeited under regulation 59 or 60.

(5) The officer may, for the purpose of the exercise of his powers under paragraphs (3) or (4) above to seize any apparatus, any document or record or any other thing—

(a) require any person having authority to do so to open any container; and

(b) himself open or break open any such container where a requirement made under paragraph (a) above in relation to the container has not been complied with.

**Provisions supplemental to regulation 40**

**41.**—(1) An officer seizing any apparatus, records, documents, information or other thing under regulation 40 shall inform the person from whom they are seized that such apparatus, records or other thing have been so seized.

(2) If a justice of the peace—

(a) is satisfied by any written information on oath that there are reasonable grounds for believing either—

(i) that any apparatus, documents, records, information or other thing which any officer has power to inspect under regulation 40 are on any premises (which may be premises occupied only as a person’s residence) and that, if their inspection reveals that the documents, records, information or any other thing relates to apparatus, such inspection is likely to disclose evidence that there has been a contravention of any provision of these Regulations; or

(ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and

(b) is also satisfied by any such information either—
(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for one month, authorise any officer of an enforcement authority to enter the premises, if need be by force.

(3) An officer entering any premises by virtue of regulation 40 or a warrant under paragraph (2) of this regulation may take with him such other persons and such equipment as may appear to him necessary.

(4) On leaving any premises which a person is authorised to enter by a warrant under paragraph (2) of this regulation, that person shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.

(5) Where any apparatus seized by an officer under regulation 40 is submitted to a test, the officer shall inform the persons mentioned in paragraph (1) of this regulation of the result of the test and, if—

(a) proceedings are brought for an offence in respect of a contravention in relation to apparatus of any provision of these Regulations or for the forfeiture of apparatus under regulation 59 or 60, or a suspension notice is served in respect of apparatus; and

(b) the officer is requested to do so and it is practicable to comply with the request,

the officer shall allow any person who is a party to the proceedings or, as the case may be, has an interest in the apparatus to which the notice relates to have the apparatus tested.

(6) In the application of this regulation to Scotland, the reference in paragraph (2) to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.

(7) In the application of this regulation to Northern Ireland, the references in paragraph (2) above to any information on oath shall be construed as references to any complaint on oath.

**Appeals against detention of apparatus**

42.—(1) Any person having an interest in any apparatus, document, record, information or other thing which is for the time being detained under any provision of this Part by an enforcement authority or by an officer of such an authority, may apply for an order requiring the apparatus to be released to him or to another person.

(2) An application under this regulation may be made—

(a) to any magistrates’ court in which proceedings have been brought in England and Wales and Northern Ireland—

(i) for an offence under regulation 47, 48 or 50; or

(ii) for the forfeiture of the apparatus under regulation 59;

(b) where no such proceedings have been so brought, by way of complaint to a magistrates’ court; or

(c) in Scotland, by summary application to the sheriff.

(3) On an application under this regulation to a magistrates’ court or to the sheriff, an order requiring apparatus to be released shall be made only if the court or sheriff is satisfied—

(a) that proceedings—

(i) for an offence under regulation 47, 48 or 50 in respect of the apparatus; or

(ii) for the forfeiture of the apparatus under regulation 60,
have not been brought or, having been brought, have been concluded without the apparatus being forfeited; and

(b) where no such proceedings have been brought, that more than six months have elapsed since the apparatus was seized.

(4) Any person aggrieved by an order made under this regulation by a magistrates’ court in England and Wales or Northern Ireland, or by a decision of such a court not to make such an order, may appeal against that order or decision—

(a) in England and Wales, to the Crown Court;

(b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates’ Courts Act 1980 (a) or article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981(b) (statement of case)).

Compliance notices

43.—(1) In the relevant circumstances, a notice may be served pursuant to regulation 45, and proceedings may be commenced pursuant to regulation 47, 48, 59 or 60, if the requirements of this regulation are satisfied.

(2) The relevant circumstances are that it is established that the CE marking has been affixed unduly to apparatus.

(3) The requirements of this regulation are that—

(a) A notice in writing has been served upon the manufacturer or his authorised obliging the person on whom the notice is served to make the apparatus conform as regards the provisions concerning the CE marking and its due affixation and to end the infringement under conditions imposed in, or in relation to, the said notice; and

(b) the non-conformity continues after the period specified in, or in relation to, the said notice during which the infringement must be ended has expired.

(4) A notice served pursuant to paragraph (1) shall include

(a) a description of the apparatus in respect of which the notice is served in a manner sufficient to identify it;

(b) a statement that the CE marking affixed to either the apparatus or the apparatus’ packaging, instructions for use or guarantee certificate is unduly affixed, or that the CE marking is affixed to some other item accompanying the apparatus;

(c) a statement of the grounds upon which it is established that the CE marking has been or is being unduly affixed in relation to the apparatus; and

(d) an indication as to which of the following procedures may be commenced if the requirements of this regulation are satisfied:—

(i) a notice pursuant to regulation 44; or

(ii) proceedings pursuant to regulation 47, 48, 59 or 60,

and may include such other information as may be considered expedient to enable the person to whom the notice is addressed to decide what action should be taken to end the particular infringement.

(5) This regulation does not apply where it is found that apparatus bearing the CE mark or CE marking does not comply with the protection requirements.

(a) 1980 c.43.
(b) S.I. 1981/1675 (N.I.26).
Suspension notices

44.—(1) Subject to paragraph (6), where an enforcement authority has reasonable grounds for suspecting that regulation 15, 16, 35 or 36 has been, is being or is likely to be contravened, the authority may serve a notice (“a suspension notice”) in relation to apparatus or fixed installation or part of a fixed installation on the manufacturer or user or person placing the apparatus on the market, on whom it is served, prohibiting such person, for a period ending not more than six months after the date of the notice as is specified therein, from manufacturing, placing on the market, taking into service or using the apparatus or fixed installation without the consent of that authority.

(2) A suspension notice served by an enforcement authority in respect of any apparatus shall—

(a) describe the apparatus or fixed installation or part of the fixed installation to which it relates in a manner sufficient to identify it;

(b) set out the grounds on which the authority suspects that regulation 15, 16, 35 or 36 has been, is being or is likely to be contravened, as the case may be; and

(c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice under regulation 45.

(3) A consent given by an enforcement authority for the purposes of a suspension notice may impose such conditions on the doing of anything for which the consent is required as that authority considers appropriate.

(4) A suspension notice may require the person on whom it is served to keep the enforcement authority which served the notice informed of the whereabouts throughout the period during which the notice has effect of any of the apparatus in which that person has an interest.

(5) Where a suspension notice has been served on any person in respect of any apparatus or fixed installation or part of a fixed installation, no further such notice shall be served on that person in respect of the same apparatus, fixed installation or part of the fixed installation unless—

(a) proceedings against that person for an offence under regulation 47, 48 or 50; or

(b) proceedings for the forfeiture of the apparatus under regulation 59 or 60,

are pending at the end of the period specified in the first-mentioned notice.

(6) An enforcement authority shall, where it intends to take action under this regulation, forthwith inform the Secretary of State of the action proposed to be taken, and the reasons for it.

Appeals against suspension notices

45.—(1) Any person having an interest in any apparatus, fixed installation or part of a fixed installation in respect of which a suspension notice is for the time being in force may apply for an order setting aside the notice.

(2) An application under this regulation may be made—

(a) in England and Wales or Northern Ireland—

(i) to any magistrates’ court in which proceedings have been brought—

(aa) for an offence under regulation 47, 48 or 50; or

(bb) for the forfeiture of the apparatus under regulation 59; or

(ii) where no such proceedings have been so brought, by way of complaint to a magistrates’ court; or

(b) in Scotland, by summary application to the sheriff.

(3) On an application under this regulation to a magistrates’ court in England and Wales or Northern Ireland the court shall make an order setting aside the suspension notice only if the court is satisfied that there has been no contravention in relation to the apparatus or fixed installation, or part of the fixed installation, or any item of apparatus or system included in the fixed installation, of regulation 15, 16, 35 or 36 respectively.
(4) On an application under this regulation to the sheriff he shall make an order setting aside the suspension notice only if he is satisfied that at the date of making the order—
   (a) proceedings for an offence under regulation 47, 48 or 50; or
   (b) proceedings for the forfeiture of the apparatus under regulation 59,

have not been brought or, having been brought, have been concluded.

(5) Any person aggrieved by an order made under this regulation by a magistrates’ court in England and Wales or Northern Ireland, or by a decision of such a court not to make such an order, may appeal against that order or decision—
   (a) in England and Wales, to the Crown Court;
   (b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates’ Courts Act 1980 or article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (statement of case)).

Power to require production of documents and information

46. An officer of an enforcement authority may, for the purposes of exercising his functions under this Part, require—
   (a) any person who is required by regulation 24 to retain an EC declaration of conformity, or technical documentation or evidence of compliance with the essential requirements during the period in which that person is required to retain that document, to produce such document;
   (b) any person who is required by regulation 5(3) to retain documentation demonstrating the application of good engineering practice respecting the use of components during the period in which that person is required to retain such documentation, to produce it;
   (c) any person who is in possession of an EC declaration of conformity or technical documentation, or evidence of compliance with the essential requirements or of a copy of such document, at any time to produce it;
   (d) a responsible person to produce such documents or records relating to such apparatus or fixed installation as are in his possession or under his control;
   (e) a responsible person to give him such information as he may reasonably require, or
   (f) a responsible person to produce documentation demonstrating the application of good engineering practices and compliance with information provided by manufacturers of apparatus incorporated into the installation during the course of its installation.

and such officer may inspect any thing which he may require to be produced under this regulation, and take a copy of such document or of any part of such document.

Offences

Placing on the market or putting into service of equipment in contravention of regulations 15, 16, 35 or 36

47. Any person who places on the market or puts into service equipment in contravention of regulation 15, 16, 35 or 36 shall be guilty of an offence.

Contravention of suspension notice

48. Any person who contravenes a suspension notice shall be guilty of an offence.
False or misleading information

49. A person shall be guilty of an offence if, in giving any information which he is required to give under regulation 46(d) or (e), he—
   (a) makes any statement which he knows is false or misleading in a material particular; or
   (b) recklessly makes any statement which is false or misleading in a material particular.

Misuse of the CE marking

50.—(1) Any person who, in relation to apparatus, affixes the CE marking or any other inscription or marking in contravention of regulation 21(2), (5), (6) or (7), shall be guilty of an offence.
   (2) Any person who issues an EC declaration of conformity in relation to apparatus in contravention of regulation 22(1) shall be guilty of an offence.

Obstruction of officers of enforcement authorities

51.—(1) Any person who—
   (a) intentionally obstructs any officer of an enforcement authority who is acting in pursuance of any provision of this Part;
   (b) intentionally fails or refuses to comply with any requirement made of him by any officer of an enforcement authority under any provision of this Part;
   (c) without reasonable cause fails or refuses to give any officer of an enforcement authority who is so acting any other assistance which the officer may reasonably require of him for the purposes of the exercise of the officer’s functions under any provision of this Part; or
   (d) fails to comply with a court order under regulation 57,
   shall be guilty of an offence.
   (2) Any person who falsely pretends to be an officer of an enforcement authority shall be guilty of an offence.

Failure to retain documentation

52. Any person who contravenes regulation 24 or 37 shall be guilty of an offence.

Defence of due diligence

53.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 47 or 50 of these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
   (2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) above involves an allegation that the commission of the offence was due—
       (a) to the act or default of another; or
       (b) to reliance on information given by another,
   that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland the trial diet), he has served a notice under paragraph (3) below on the person bringing the proceedings.
   (3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.
(4) A person shall not be entitled to rely on the defence provided by paragraph (1) above by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to—

(a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and

(b) whether he had any reason to disbelieve the information.

**Liability of persons other than the principal offender**

54.—(1) Where the commission by any person of an offence under any of regulations 47 to 52 is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished whether or not proceedings are taken against the first person.

(2) Where a body corporate is guilty of an offence under these Regulations and it is proved that the offence was committed—

(a) With the consent or connivance of an officer of the body corporate; or

(b) As a result of the negligence of an officer of the body corporate, the officer, as well as the body corporate, shall be guilty of that offence.

(3) In paragraph (2), a reference to an officer of a body corporate includes a reference to

(a) a director, manager, secretary or other similar officer of the body corporate;

(b) a person purporting to act as a director, manager, secretary or other similar officer; and

(c) if the affairs of the body corporate are arranged by its members, a member.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

**Extension of time for bringing summary proceedings**

55. Notwithstanding section 127 of the Magistrates’ Courts Act 1980 and section 136 of the Criminal Procedure (Scotland) Act 1995(a), proceedings for an offence under regulations 45 to 50 may be commenced at any time within three years from the date of the offence, or one year from the date on which there comes to the knowledge of the prosecutor evidence sufficient to justify a prosecution for that offence, whichever is the earlier; and for the purposes of this regulation—

(a) a certificate of the prosecutor stating that such evidence came to his knowledge on a specified date shall be conclusive evidence of that fact; and

(b) a document purporting to be such a certificate and to be signed by or on behalf of the prosecutor in question shall be presumed to be such a certificate unless the contrary is proved.

**Inference of condition of equipment at time of placing on the market or putting into service**

56. In any proceedings in which it is in issue whether any equipment complied with the essential requirements or the requirements of regulation 15 16, 35 or 36 at the time when it was placed on the market or put into service as the case may be, a court may infer that such equipment did not so comply at that time if—

(a) it is proved that it does not so comply or did not so comply at a time subsequent to its having been placed on the market our put into service; and

(b) having regard to all the circumstances of the case, it appears to the court that the failure of the equipment to comply at the time referred to in paragraph (a) above is not attributable to any cause arising subsequent to its having been supplied or taken into service.
Powers of the court

Penalties

57.—(1) A person guilty of an offence under regulation 48, 49, or 51(2) shall be liable on summary conviction—
   (i) to imprisonment for a term not exceeding three months; or
   (ii) to a fine not exceeding level 5 on the standard scale,
   or to both.

(2) A person guilty of an offence under regulation 47, 50, 51(1) or 52 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person guilty of an offence in relation to fixed installations shall be liable on summary conviction to a fine not exceeding level 5 on a standard scale.

Power of the court to require matter to be remedied

58.—(1) Where a person is convicted of an offence under regulation 47 or 50 in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

(2) The time fixed by an order under paragraph (1) above may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) above to remedy any matters, that person shall not be guilty of an offence under regulation 47 or 50 respectively in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).

Forfeiture: England and Wales and Northern Ireland

59.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this regulation for an order for the forfeiture of any apparatus—
   (a) on the grounds that there has been a contravention in relation to such apparatus of regulation 15 or 16; or
   (b) on the grounds that the CE marking, or an inscription liable to be confused therewith, is affixed in relation to it in contravention of regulation 21(7).

(2) An application under this regulation may be made—
   (a) where proceedings have been brought in a magistrates’ court in respect of an offence in relation to some or all of the apparatus under regulation 47, 48 or 50, to that court;
   (b) where an application with respect to some or all of the apparatus has been made to a magistrates’ court under regulation 42 or 45, to that court; and
   (c) where no application for the forfeiture of the apparatus has been made by way of complaint to a magistrates’ court.

(3) On an application under this regulation the court shall make an order for the forfeiture of the apparatus only if it is satisfied that there has been a contravention in relation such apparatus of regulation 15, 16 or 21(7).

(4) For the avoidance of doubt it is hereby declared that a court may infer for the purposes of this regulation that there has been a contravention in relation to any apparatus of regulation 15, 16 or 21(7) if it is satisfied that that provision has been contravened in relation to apparatus which is representative of that apparatus (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
(5) Any person aggrieved by an order made under this regulation by a magistrates’ court, or by a decision of such court not to make such an order, may appeal against that order or decision—

(a) in England and Wales, to the Crown Court;
(b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of an order pending the making and determination of any appeal (including any application under section 111 of the Magistrates’ Courts Act 1980 or article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981 (statement of case)).

(6) Subject to paragraph (7), where any apparatus is forfeited under this regulation it shall be destroyed in accordance with such directions as the court may give.

(7) On making an order under this regulation a magistrates’ court may, if it considers it appropriate to do so, direct that the apparatus to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—

(a) does not supply the equipment to any person other than—

(i) to a person who carries on a business of buying apparatus of the same description as the first mentioned apparatus and repairing or reconditioning it; or
(ii) as scrap (that is to say, for the value of materials included in the apparatus rather than for the value of the apparatus itself); and
(b) complies with any order to pay costs or expenses (including any order under regulation 60) which has been made against that person in the proceedings for the order for forfeiture.

Forfeiture: Scotland

60.—(1) In Scotland an order for forfeiture of any—

(a) apparatus in relation to which there has been a contravention of regulation 15 or 16; or
(b) apparatus, on the grounds that the CE marking, or an inscription liable to be confused therewith, is affixed in relation to it in contravention of regulation 21(7),

may be made by the sheriff—

(i) on an application by the procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995; or
(ii) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

(2) The procurator-fiscal making an application under paragraph (1)(i) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the apparatus to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the apparatus should not be forfeited.

(3) Service under paragraph (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1995.

(4) Any person upon whom a notice is served under paragraph (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, the apparatus to which an application under this regulation relates shall be entitled to appear at the hearing of the application to show cause why the apparatus should not be forfeited.

(5) The sheriff shall not make an order following an application under paragraph (1)(i) above—

(a) if any person on whom notice is served under paragraph (2) above does not appear, unless service of the notice on that person is proved; or
(b) if no notice under paragraph (2) above has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.
(6) The sheriff shall make an order under this regulation only if he is satisfied that there has been a contravention in relation to the apparatus of regulations 15, 16 or 21(7).

(7) The sheriff may infer for the purposes of this regulation that there has been a contravention in relation to any apparatus of regulation 15, 16 or 21(7) if he is satisfied that that provision has been contravened in relation to apparatus which is representative of that apparatus (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(8) Where an order for the forfeiture of any apparatus is made following an application by the procurator-fiscal under paragraph (1)(i), any person who appeared, or was entitled to appear, to show cause why it should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 182(5)(a) to (e) of the Criminal Procedure (Scotland) Act 1995 shall apply to an appeal under this paragraph as it applies to a stated case under Part X of that Act.

(9) An order following an application under paragraph (1)(i) above shall not take effect—
(a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
(b) if an appeal is made under paragraph (8) above within that period, until the appeal is determined or abandoned.

(10) An order under paragraph (1)(ii) shall not take effect—
(a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1995; or
(b) if an appeal is made within that period, until the appeal is determined or abandoned.

(11) Subject to paragraph (12) below, apparatus forfeited under this regulation shall be destroyed in accordance with such directions as the sheriff may give.

(12) If he thinks fit, the sheriff may direct the apparatus to be (instead of being destroyed) released to such person as he may specify, on condition that that person does not supply it to any person otherwise than—
(a) to a person who carries on a business of buying apparatus of the same description as the first-mentioned apparatus and repairing or reconditioning it; or
(b) as scrap (that is to say, for the value of materials included in the apparatus rather than for the value of the apparatus itself).

Recovery of expenses of enforcement

61.—(1) This regulation applies where a court—
(a) convicts a person of an offence under regulation 47, 48 or 50; or
(b) makes an order under regulation 59 or 60 for the forfeiture of any apparatus.

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person convicted or, as the case may be, any person having an interest in the apparatus the subject of the order for forfeiture, to reimburse an enforcement authority for any expenditure which has been or may be incurred by that authority—
(a) in investigating the offence, and, without prejudice to the generality of the foregoing, in having the apparatus tested;
(b) in connection with any seizure or detention of the apparatus by or on behalf of the authority; or
(c) in connection with any compliance by that authority with directions given by the court for the purposes of any order for the forfeiture of the apparatus.
PART VII
MISCELLANEOUS AND SUPPLEMENTAL

Service of documents

62.—(1) Any document required or authorised by these Regulations to be served on a person may be so served—

(a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;

(b) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) above on the secretary or clerk of that body; or

(c) if the person is a partnership, by serving it in accordance with that sub-paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1) above, and for the purposes of section 7 of the Interpretation Act 1978(a) (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that—

(a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Duty of enforcement authority to inform the Secretary of State of action taken

63. An enforcement authority shall, where action has been taken by it to prohibit or restrict the supply or taking into service (whether under these Regulations or otherwise) of any apparatus, immediately inform the Secretary of State of the action taken, and the reasons for it.

Savings for certain privileges

64.—(1) Nothing in these Regulations shall be taken as requiring any person to produce any documents or records if he would be entitled to refuse to produce those documents or records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or, in Scotland, that they contain a confidential communication made by or to an advocate or solicitor in that capacity, or as authorising any person to take possession of any documents or records which are in the possession of a person who would be so entitled.

(2) Nothing in these Regulations shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person’s spouse or civil partner.

(3) Sub-section (1) of section 14 of the Civil Evidence Act 1968(a) (which relates to the privilege against self-incrimination) shall apply to the right conferred by paragraph (2) as it applies to the right described in sub-section (1) of that section; but this paragraph does not extend to Scotland.

(4) In Northern Ireland sub-section (1) of section 10 of the Civil Evidence Act (Northern Ireland) 1971 shall apply to the right conferred by paragraph (2) as it applies to the right described in that sub-section.

(a) 1978 c.30.
Savings for action taken under other enactments

65. Nothing in these Regulations shall be construed as preventing the taking of any action in respect of any apparatus under the provisions of any other enactment.

Consequential amendments


66. (1) Schedule 1 to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004 (b) is amended as follows—

For the words “The Electromagnetic Compatibility Regulations 2005” there is substituted the words “The Electromagnetic Compatibility Regulations 2006”.

Lord Sainsbury of Turville
Parliamentary Under Secretary of State
For Science and Innovation
2006 Department of Trade and Industry

(a) 1968 c.64.
(b) S.I. 2004/693.
SCHEDULE 1  Regulation 2(3)

REGULATIONS UNDER SECTION 10 OF THE WIRELESS TELEGRAPHY ACT 1949

1. The Wireless Telegraphy (Control of Interference from Ignition Apparatus) Regulations 1952(a).

2. The Wireless Telegraphy (Control of Interference from Electro Medical Apparatus) Regulations 1966(b).

3. The Wireless Telegraphy (Control of Interference from Radio Frequency Heating Apparatus) Regulations 1971(c).

4. The Wireless Telegraphy (Control of Interference from Household Appliances, Portable Tools, etc) Regulations 1978(d).

5. The Wireless Telegraphy (Control of Interference from Fluorescent Lighting Apparatus) Regulations 1978(e); and


SCHEDULE 2  Regulation 3(1)

THE CE MARKING

1. The CE marking shall consist in the initials CE taking the following form—

The grid providing the background in the above graduated drawing is not part of the CE marking.

2. The CE marking must have a height of at least 5 mm.

3. If the CE marking is reduced or enlarged the proportions given in the graduated drawing above shall be respected.

(a) S.I. 1952/2023.
(b) S.I. 1963/1895.
(c) S.I. 1971/1675.
(d) S.I. 1978/1267.
(e) S.I. 1978/1268.
(f) S.I. 1982/635.
SCHEDULE 3

Technical documentation

1. The technical documentation must enable the conformity of the apparatus with the essential requirements to be assessed. It must cover the design and manufacture of the apparatus in particular –
   
i. a general description of the apparatus
   
ii. evidence of compliance with the relevant national standards, if any, applied in full or in part;
   
iii. where the manufacturer has not applied relevant national standards, or has applied them only in part, a description and explanation of the steps taken to meet the essential requirements, including a description of the electromagnetic compatibility assessment set out in regulation 17(1), results of design calculations made, examinations carried out, test reports, etc;
   
iv. a statement from the notified body, when the procedure followed in regulation 18 has been followed.

SCHEDULE 4

Other directives covering equipment


6. Directive 97/24/EC on certain components and characteristics of two and three-wheel motor vehicles \(^{(i)}\).


\(^{(a)}\) OJ No. L189, 20.7.90, p.17.
\(^{(c)}\) OJ No. L169, 12.7.93, p.1.
\(^{(d)}\) OJ No. L152, 6.7.72, p.15.
\(^{(e)}\) OJ No. L266, 8.11.95, p.1.
\(^{(g)}\) OJ No. L147, 9.6.75, p.28.
\(^{(h)}\) OJ No. L21, 26.1.2000, p.23.
\(^{(j)}\) OJ No. L46, 17.2.97, p.25.
SCHEDULE 5

MINIMUM CRITERIA FOR THE ASSESSMENT OF UNITED KINGDOM NOTIFIED BODIES

1. Availability of personnel and of the necessary means and equipment;

2. Technical competence and professional integrity of personnel;

3. Independence in preparing the reports and performing the verification function provided for in the EMC Directive,

4. Independence of staff and technical personnel in relation to all interested parties, groups or persons directly or indirectly concerned with the equipment in question;

5. Maintenance of professional secrecy by personnel; and

6. Possession of civil liability insurance unless such liability is covered by the government of the United Kingdom.
EXPLANATORY NOTE
(This note is not part of the Regulations)
Responsible person (Question 4)

There must always be a person with responsibility for ensuring that, when used, the fixed installation complies with the protection requirements. That person is known as the “responsible person”. Regulation 3(1) contains a definition of the responsible person in relation to a fixed installation. There will be many types, sizes and complexities of fixed installation, and the person who is responsible may be different according to circumstances. For example in some cases it could be the owner of a site, in others the operator of the installation, in others the maintainer of the installation, etc. In some cases this may be determined contractually. It will be necessary for operators of fixed installations to identify the responsible person before the installation is taken into service, since they are responsible for holding and providing the documentation demonstrating the application of good engineering practices as required by regulations 5(3) and 37(2) respectively.

The Department has taken the view that the responsible person is the person who holds a position of responsibility commensurate with being able to be satisfied that the documentation is and continues to be sufficient to demonstrate that good engineering practices have been followed. They must therefore be someone who has ownership or other control of the configuration of the fixed installation. In identifying that person operators should therefore have regard for the definition in regulation 3(1).

Used Permanently (Question 5)

Regulation 3 contains a definition of “fixed installation” which includes the requirement “intended to be used permanently”. The Department takes the view that there are two important elements to this: intent and duration. The requirement would be fulfilled if it were intended that the constituent parts were to be used in the defined location for their expected lifetime(s).

If constituent parts are expected to be moved during their expected lifetime to another location, to be taken into service at that location, the requirement would not be fulfilled. It is recognised that modifications will be made to fixed installations throughout their operational life, and such modifications would not invalidate the original intent, although such acts would be subject to the relevant provisions of the Regulations, in particular, Regulation 36.

State of the art (Question 6)

Regulation 4(2) requires that equipment be designed and manufactured having regard to the state of the art so as to meet the protection requirements. State of the art may be considered to be the highest degree of development of an art or technique at a given time.

In the context of this regulation it may be considered to have two aspects: the requirement, and the construction technique. It may not be necessary to employ the
highest degree of construction techniques in order to fulfil the requirements; the regulation requires only that regard is taken of them.

The manufacturer may choose any design and manufacturing process that results in the equipment meeting the protection requirements. In respect of the requirements, the EMC Directive, in recital 13, indicates that harmonised standards reflect the generally acknowledged state of the art as regards electromagnetic compatibility matters in the European Union. Where harmonised standards are not employed in full, the manufacturer should have regard to the state of the art in terms of the services to be protected, and the electromagnetic disturbances to which his apparatus may be subjected.

**Good engineering practices (Question 7)**

Regulation 5 requires a fixed installation to be installed applying good engineering practices. A number of definitions of this term may be found. Essentially, it is the expression of sound technical custom, based on accumulated scientific technology and experience.

In employing such practices in the installation, it is implicit that to comply with the essential requirements for electromagnetic compatibility, good EMC engineering practice has to be employed. The practices have to be sufficient to ensure that the fixed installation meets the protection requirements set out in regulation 4. It is not possible to define these more precisely, as they will vary according to the technologies employed in the constituent parts of the fixed installation, and its surroundings. The fact that better engineering practices could have been employed would not invalidate sufficiently good engineering practices that allow the requirements of regulation 4 to be met.

**Given fixed installation (Question 14)**

Regulation 35 relates to apparatus for a given fixed installation. The provisions for such apparatus differ from those in Regulation 15, which sets out the requirements generally applicable for placing apparatus on the market. The basis for this difference is that it is not necessary to carry out a conformity assessment, for apparatus that is intended solely for a specific fixed installation, in isolation from that fixed installation.

The Department has taken the view that the nature of the installation must be known in sufficient detail by the manufacturer of the apparatus, in order that they may determine the precautions to be taken for incorporation to avoid compromising the conformity of that installation. The term “given fixed installation” should therefore be taken to mean a specific location of a fixed installation, rather than a type of fixed installation, subject to the qualification of the following paragraph. See also the draft guidance relating to Question 15.

The Directive, in recital 20, indicates that such apparatus may be incorporated into more than one identical fixed installation. In such cases, for the manufacturer of the apparatus to be satisfied that Regulation 35 applies in place of Regulation 15, the Department considers that although the installations need not be identical in every detail, they must be sufficiently alike in their electromagnetic compatibility characteristics, and the interfaces with the apparatus, that identical apparatus and precautions will suffice in order not to compromise the conformity of each installation. If these conditions are not fulfilled, each installation must be treated as a separate given fixed installation, and the apparatus designs and/or precautions must be specific to each site.
Electromagnetic compatibility characteristics (Question 15)

Regulation 35(1)(i) requires the manufacturer (or his authorised representative) of apparatus intended solely for a given fixed installation to identify and document the electromagnetic compatibility characteristics of the installation. It will be necessary for the manufacturer to understand the electromagnetic compatibility characteristics pertaining to such an installation in sufficient detail to enable him to design or adapt the apparatus to be suitable for incorporation, and to identify any specific precautions that must be taken during that process.

The purpose of identifying the electromagnetic compatibility characteristics of the installation is therefore to provide the basis for ensuring that that the conformity of the fixed installation is not compromised, and to provide evidence in the case of a challenge.

The level of detail required will depend on the complexity of the apparatus, the intended fixed installation, and the electromagnetic environment. For straightforward situations, the descriptions of the environment as set out in the harmonised generic or product standards may be sufficient. In more complex cases, the specific electromagnetic characteristics of the other parts of the installation and/or the environment may be required. The supplier of the apparatus is responsible for this judgement.

Appropriate documentation for fixed installations (Question 17)

Regulation 37(2) requires the responsible person for the fixed installation to be in a position to provide documentation demonstrating the application of good engineering practices. The level of detail that is necessary will vary according to the complexity of the fixed installation. It should be sufficient to enable an enforcement authority to determine whether good practices have been followed.

Where apparatus that is compliant with all the appropriate provisions of the Regulations for placing on the market has been installed in an appropriate environment, in accordance with the instructions and precautions for installation and use, their retention may well suffice. Where interactions between constituent parts are possible, and particularly where apparatus that has not been demonstrated as compliant in its own right has been incorporated, more information will however be required, although much of this may have been required of and provided by those responsible for the construction of the installation as part of the contract for the installation.

The documentation will need to be updated as necessary, to take account of changes to the installation that could affect its EMC characteristics, over its operational life.

Installations in use on 20 July 2007 may be considered to be compliant with the protection requirements of the Regulations if there is no evidence of disturbances being generated. The obligation to document good engineering practice relating to such installations therefore may be considered to be limited to consideration of subsequent changes or additions that could affect their electromagnetic compatibility characteristics.

Compliance of fixed installations (Question 18)

In some cases, a fixed installation may be located physically within the boundary of another fixed installation. In such circumstances, it is possible that the fixed installations will have different responsible persons, each employed by a different organisation. There may, or may not, be a contractual arrangement between these
organisations, and the installations may, or may not, be interconnected electrically, but this should not affect how the compliance of each fixed installation is considered. The Department takes the view that the compliance of each fixed installation with the essential requirements of the Directive should be considered separately in the first instance. The responsible person for the larger fixed installation would not be responsible for the conformity of any smaller fixed installation within it unless it was agreed otherwise. However, each fixed installation will form part of the electromagnetic environment of the other, and this must be taken into account in addition to consideration of the surroundings in complying with regulation 36.

In the case of interference being caused, the source of which is traced to a source within the boundary of the larger fixed installation, the authorities may be expected to approach the responsible person for the larger fixed installation in the first instance, but the responsible person for any smaller fixed installation would also be expected to cooperate in the investigation. Each may be required to provide evidence of compliance of the fixed installations for which they are responsible. It is likely that only by further co-operation between the responsible persons will a solution be able to be found. Where the non-compliance is as a result of interaction between two or more fixed installations, that are otherwise compliant, the authorities may require the responsible persons to co-operate to remedy the non-compliance.
FINAL REGULATORY IMPACT ASSESSMENT

Revision of the Directive on Electromagnetic Compatibility:

Electromagnetic Compatibility Regulations 2006

Introduction


During the development of Directive 2004/108/EC the Department of Trade and Industry (DTI) has consulted interested parties in the UK, including other Government Departments, industry trade associations, test organisations and users. The DTI also contracted Risk & Policy Analysts (RPA) Limited to develop a Partial Regulatory Impact Assessment (RIA) of the proposal. RPA published their final report on the Partial RIA in June 2003. The RPA report is reproduced in this document. The document assesses in the Annex the impact on the initial RPA findings of the modifications made to the original Commission proposal during its subsequent consideration by the Council and European Parliament.

Department of Trade and Industry

March 2006

Final Report

prepared for the Department of Trade and Industry

RPA

June 2003
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1. INTRODUCTION

A proposal for a revised Directive concerning the approximation of laws relating to electromagnetic compatibility (EMC) was published by the European Commission on 23 December 2002. The Directive will replace Directive 89/336/EEC, which was adopted on 1 January 1992. All electrical and electronic equipment marketed in the European Economic Area (EEA) must satisfy the requirements of the Directive and carry a CE mark. The UK is one of the four largest producers of electrical and electronic equipment in the EU with turnover of around £49 billion.

In order to understand the implications of the proposal, the Department of Trade and Industry (DTI) has contracted Risk & Policy Analysts Ltd (RPA) to develop a Regulatory Impact Assessment (RIA) of the proposal. This Partial RIA draws on responses from UK stakeholders to a cost benefit analysis of the draft proposal for the European Commission prepared by RPA in 2002 (the EU study). This has been supplemented by additional information to address under-represented stakeholders and changes in the proposal since the draft. As responses to the EU study provided data in Euro (€), the costs and benefits in the partial RIA are expressed in this form; costs in Pounds are also given, converted at the rate of £1 = €1.5.

Stakeholders have a high degree of uncertainty about the potential impacts of the proposal, reflected in a wide range of estimates of the scale of most costs and benefits. In the EU study, the range was expressed in terms of low, ‘typical’ and high costs, with the ‘typical’ cost being, in most cases, the ‘mid-point’ between the high and low value. In this report, for clarity, only the ‘typical’ value is given.

The Partial RIA has been prepared in accordance with relevant Cabinet Office Guidance.

2. PURPOSE AND INTENDED EFFECT

2.1 The Objective

The proposed Directive is a New Approach Directive. Its objective is to guarantee free movement of electrical products whilst creating an acceptable electromagnetic environment within the EU. The Directive therefore seeks to ensure that electromagnetic disturbances produced by electrical equipment do not affect the correct functioning of other such equipment.

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including telecommunication and electricity distribution networks, and that such equipment has
an appropriate level of immunity to electromagnetic disturbances so that it can function as
intended.

The Directive will apply to the whole of the United Kingdom.

2.2 The Background

The proposal was developed following a review of Directive 89/336/EEC as part of the SLIM
process (Simpler Legislation for the Internal Market). The SLIM panel, on which the UK was
represented, identified problems with some aspects of its application and made a number of
recommendations for clarification and reduced administrative burden. The Commission
therefore set up a working group to develop proposals to amend the Directive. This involved
an extensive consultation, involving a number of different drafts on which widespread comment
was invited.

The proposal contains changes to Directive 89/336/EEC in the following areas:

• clarification of the existing scope of the Directive through clearer definitions and exclusions;
• extension of the scope to include signal-carrying ready made connecting devices;
• a new regulatory regime for the treatment of fixed installations;
• more detailed specification of essential requirements to be met by apparatus;
• clarification of the role of harmonised standards;
• simplification of the conformity assessment procedure, with a single procedure for
  apparatus;
• removing the need for compulsory third-party intervention where harmonised standards
  have not been applied but allowing voluntary involvement of conformity assessment bodies
  for apparatus in all cases; and
• improved market surveillance through better traceability of manufacturers.

2.3 Risk Assessment

The main risks addressed by the proposal are:

• that an unnecessary burden is being placed on industry in complying with the requirements
  of Directive 89/336/EEC. The SLIM process identified that there was potential for
  achieving the objectives of the Directive with greater clarification and a reduced
  administrative burden; and

• the potential for differences in application of the Directive, which could affect the free
  movement of electrical products. In 1997, in response to a number of issues that had
  arisen, the Commission issued an informal guide to application of the Directive. This has
made a substantial contribution towards homogeneous application but its informal nature means that it cannot provide legal certainty.

The extent of these risks cannot accurately be quantified, but could be potentially significant given the size of the market affected by the Directive and the key role of exports to the UK electrical industry. The UK information technology (IT) and electronics industries employ around 330,000 people in almost 65,000 businesses, 99% of which are small and medium enterprises (SMEs)⁴. The value of its production in 2002 was €74 billion (£49 billion); Table 2.1 shows the breakdown in value between different sectors. Exports account for around 25% of turnover; with the main markets including Germany, France, Ireland and Switzerland as well as the USA.

<table>
<thead>
<tr>
<th>Product Types</th>
<th>Value (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecommunication &amp; power</td>
<td>18.5 billion</td>
</tr>
<tr>
<td>Computers &amp; other IT equipment</td>
<td>20 billion</td>
</tr>
<tr>
<td>Domestic/consumer electronics (TV, radio and audio inc. components/accessories – capacitors, resistors, tubes, flat panel displays etc. and lighting and lamps)</td>
<td>13.7 billion</td>
</tr>
<tr>
<td>Measurement, military, space and navigation equipment</td>
<td>11 billion</td>
</tr>
<tr>
<td>Industrial process equipment, pumps and compressors</td>
<td>4.4 billion</td>
</tr>
<tr>
<td>Ready-made connecting devices</td>
<td>2.1 billion</td>
</tr>
<tr>
<td>Others inc. office machinery</td>
<td>4.3 billion</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>74 billion</strong></td>
</tr>
</tbody>
</table>

Source: EECA (2003)⁵, Intellect (nd)⁶

The EU study found that the current costs of compliance with the Directive were below 1% of product prices for many companies. Assuming that the costs of compliance with the EMC Directive are of a similar percentage for UK manufacturers, current annual costs to UK industry are likely to be around €1 billion (£670 million).

Additional risks addressed by the proposal are:

- the risk of electromagnetic disturbances arising from signal-carrying ready made connecting devices, which are not currently covered by the Directive; and

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⁶ Intellect (nd): *UK Electronics Production by Sector*, Intellect Statistics Centre, Internet site: www.cssa.co.uk.
the risk of authorities being unable to enforce the requirements of the Directive effectively because adequate information is not provided on electrical products placed on the market.

The inclusion of signal-carrying ready made connecting devices is in response to the increased practice of selling such devices separately from the equipment they are designed to connect. Currently, purchasers of connecting devices have no means of knowing whether they are likely to generate or transmit electromagnetic disturbance. No data are available on the current scale of electromagnetic disturbance caused by ready-made connecting devices, so this risk cannot be quantified.

The EU study found that a proportion of electronic products placed on the market was not currently provided with the full range of information required by the amendment, although estimates of the proportion varied between manufacturers and enforcement authorities. Manufacturers indicated that 63% of products were provided with batch numbers whilst enforcement authorities estimated that only 30% had such information. Lack of a batch number could make withdrawal from the market and the recall of faulty products more problematic.

3. **OPTIONS**

3.1 **Possible Options**

There are three main options available to the UK in relation to the Proposal. These are:

- Option 1: accept the Proposal as currently drafted and seek to make no changes to it;
- Option 2: accept the need for the Proposal but press for amendments to reduce the costs whilst maintaining the benefits; or
- Option 3: refuse to accept the Proposal and seek to prevent its adoption, maintaining the current Directive together with the guidance issued by the Commission.

3.2 **Risks Associated with the Options**

*Option 1*

The risk associated with Option 1 is that the Proposal as currently drafted may pose excessive costs for the UK, particularly for UK manufacturers, compared to the current situation. Responses from UK companies to the EU study indicated that the more detailed specification of essential requirements in the proposal might impose significant additional costs for manufacturers. This would arise because of the need to demonstrate compliance with standards by using the testing methods set out in the standards, rather than by adopting the current, more
pragmatic approach. Responses from companies in other countries did not indicate a similar concern.

**Option 2**

The risk associated with Option 2 is that the UK may not obtain the amendments it seeks and, by opening up the debate, other Member States could introduce amendments that increase the costs of the measure (or reduce its benefits) for the UK. However, the DTI believes that, based on their reactions so far, other Member States may support the type of amendments that the UK wishes to see.

**Option 3**

The main risk with Option 3 is that the UK will not succeed in preventing adoption of the proposal. This risk appears high, given the length of time and effort that has been devoted to development of the proposal, including widespread consultation. In this case, the UK’s opposition to the proposal may limit the scope to seek amendments to the proposal that would reduce its costs for the UK.

4. **BENEFITS**

4.1 **Option 1**

The intended benefits of the proposal are improved harmonisation of the market for electrical and electronic equipment, leading to freer trade, together with improved control over electromagnetic interference.

By analysing information from UK respondents to the survey for the EU study, the benefits of Option 1 for the UK can be identified. The ‘typical’ estimates for these benefits are shown in Table 4.1.

As no UK enforcement authorities responded to the EU study, a proportion of the EU-wide benefits from easier identification of products requiring enforcement action is allocated to the UK based on the relative numbers of households in the UK and EU.

The ‘typical’ estimate of overall benefits to the UK is €64 million (£43 million, with a range of £21 million to £67 million). The basis of the individual benefits is discussed further below.

**Harmonisation of Market for Signal Carrying Ready Made Connecting Devices**

UK manufacturers of signal-carrying ready made connecting devices responding to the EU study indicated that the inclusion of such devices within the scope of the EMC Directive would have benefits in terms of market harmonisation. The benefits would arise because a consistent
system of classification of cables, in terms of the different environments they would be used in, would make it easier to meet customer needs. Respondents could not quantify these benefits, but indicated that they would at least equal the costs of compliance. The ‘typical’ value given in Table 4.1 is therefore equivalent to the costs of compliance, discussed in Section 5 of this report.

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>'Typical' value (annual benefit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harmonisation of market for signal-carrying ready made connecting devices used in telecommunications (assumed to be equal to the costs of compliance)</td>
<td>€55 million</td>
</tr>
<tr>
<td>Removal of need for declarations of conformity for equipment used in fixed installations</td>
<td>€2.5 million¹</td>
</tr>
<tr>
<td>Removal of need for compulsory resort to notified bodies</td>
<td>€55,000</td>
</tr>
<tr>
<td>Reduced levels of electromagnetic interference arising from inclusion of ready-made connecting devices, the new regime for fixed installations, equipment meeting the essential requirements without additional devices and the information requirements</td>
<td>€6.3 million</td>
</tr>
<tr>
<td>Easier identification of products requiring enforcement action</td>
<td>€5,800 (based on no. households in UK/EU)</td>
</tr>
<tr>
<td><strong>Total annual benefits</strong></td>
<td>€64 million</td>
</tr>
</tbody>
</table>

¹ Based on the current costs of declarations of conformity for equipment used in fixed installations

Discussion with UK trade associations representing manufacturers in general, though, has indicated some scepticism over whether these benefits will be realised in practice. This is because of there are currently no applicable standards (although the connecting device manufacturers responding to the survey hoped to use standards to achieve compliance) and the difficulty of assessing the compliance of cables in the absence of information on how cables will be used.

**Benefits Associated with Fixed Installations**

The benefits to companies associated with fixed installations result from reduced compliance costs, where manufacturers of equipment solely for use in fixed installations had previously declared the conformity of these products. The benefits for manufacturers in the UK, just 3% to 7% of the total estimated by the EU study, are much less than the UK’s share of total EU production (around 12%) might indicate. This may be because the proposed regime for fixed installations accords with the current UK position expressed in the UK Regulations.

**Benefits from Voluntary Resort to Notified Bodies**

Benefits to companies from voluntary resort to notified bodies are calculated from manufacturers’ responses on the numbers of notified body reports that would no longer be required and the average cost of such reports. Benefits to UK respondents were generally in line with the UK proportion of EU production. Respondents indicated that they would continue
to use notified bodies to confirm compliance of certain products, for example in cases of dispute.

**Benefits from Reduced Levels of Electromagnetic Interference**

There were differing views on the potential of the Proposal to generate benefits in the form of reduced levels of electromagnetic interference (EMI). Some users thought that interference would increase as a result of the Proposal but most thought that it would reduce. UK enforcement authorities contacted for this RIA did not believe that the Proposal would reduce EMI; the majority of EMI problems were associated with misunderstanding of the essential requirements, use of inappropriate standards or a failure to re-test products following design changes. One authority thought that EMI problems might increase with the removal of compulsory resort to notified bodies.

Responses to the study indicated that the majority of interference problems related to radio and telecommunications networks. Responses to the EU study indicated the proportion of interference problems associated with different types of equipment. Thus the proportion of interference problems that could potentially be reduced by the Proposal could be determined. The value of the reduction in interference was calculated differently for operators of networks and users. The benefit to network operators was estimated on the basis of information from network operators to the EU study, on their current level of expenditure in dealing with electromagnetic interference.

Benefits to users of networks were valued on the basis of studies by the UK Radiocommunications Agency on the consumer surplus value of access to TV and radio networks per household (for private users) and mobile phone networks (for professional users). The number of households affected was determined on the basis of the number of complaints about interference received by enforcement agencies and the response from consumer groups that 30-60% of consumers were likely to make a complaint in response to interference problems. It was then assumed that, for affected households, interference would reduce the value of access to networks by 33%-50%. Benefits to professional users were calculated on a similar basis, assuming the same ratio of numbers of complaints to numbers of products purchased as for private users.

**Benefits from Easier Identification of Products Requiring Enforcement Action**

No enforcement authorities from the UK responded to the EU study. The potential benefits to the UK from easier identification of products requiring enforcement action were therefore derived, by dividing the total EU benefits by the UK’s proportion of the total number of households in the EU.

The potential for benefits from easier identification of products requiring enforcement action was addressed in additional consultation with UK enforcement authorities for this RIA. The authorities indicated that, whilst the availability of information was likely to make enforcement easier, it was unlikely to reduce costs. One authority considered, however, that the provision of
information might reduce costs for companies by helping them to trace the source of any problems.

### 4.2 Option 2

The objective of Option 2 would be to reduce the costs of the proposal whilst maintaining the benefits. If this objective is met, the benefits of Option 2 should be the same as for Option 1. However, some requirements of the proposal may impose significant costs for industry whilst also generating benefits. If these requirements were removed, there would also be a loss of benefits. For example, excluding signal-carrying ready made connecting devices from the scope of the requirements could reduce benefits by €55 million (£37 million) per year. Similarly, reducing the requirement for manufacturers to provide full information might reduce benefits by €5,800 (£3,900) per year. Removing these requirements could also reduce benefits associated with reduced levels of electromagnetic interference. Inclusion of ready-made connecting devices is expected to contribute to 22% of the potential reduction in interference, equivalent to €1.4 million (£1 million), whilst information provision is expected to contribute 25%, equivalent to €1.6 million (£1.1 million).

If Option 2 resulted in the removal from the Proposal of requirements concerning signal-carrying ready made connecting devices and information requirements, the value of the benefits would be reduced by £39 million to £3.7 million.

### 4.3 Option 3

Option 3 would maintain the current regulatory position. None of the benefits associated with the proposal would therefore be realised.

### 4.4 Business Sectors Affected

The business sectors experiencing the majority of the benefits are manufacturers of electrical and electronic equipment and users and operators of networks.

Manufacturers and suppliers of electrical and electronic equipment are affected by the benefits associated with improved harmonisation of the market. In particular, manufacturers of signal-carrying ready made connecting devices may benefit from the inclusion of such devices under the EMC regime for the first time (although some UK industry associations have questioned whether this benefit can be realised in practice). The value of UK production of ready-made connecting devices was £2.1 billion (€1.4 billion) in 1999, the proportion exported to other EU countries is unknown but, overall, around 25% of total UK electronics production is exported. If the proportion of exports of ready-made connecting devices is similar, exports could amount to €530 million (£350 million). Improved harmonisation of the market may also result in
benefits for consumers and other users of electrical and electronic equipment, in terms of improved access to a range of products, leading to greater consumer choice.

Companies manufacturing equipment for use in fixed installations will benefit from the new regime for such installations. Fixed installations may contain many different types of equipment, so that a wide range of businesses may be affected. The EU study estimated that up to 10% of equipment covered by the Directive is installed into fixed installations.

Benefits associated with reduced levels of electromagnetic interference will affect users and operators of networks, including radio and telecommunications networks and electricity distribution networks. This sector includes companies operating electricity, mobile telephone, TV and radio networks. In response to the EU study, 70% of network operators indicated that they were affected by electromagnetic interference. The impacts include lack of access to all required frequencies, reduction in quality and performance and degradation. Users of such networks include most business sectors, together with the public sector and consumers (such as amateur radio users and people who are electrically hypersensitive).

### 4.5 Issues of Equity and Fairness

The direct effects of the proposal will fall mainly on industry, particularly on manufacturers of electrical and electronic equipment. Such companies will also experience most of the benefits, but overall they are expected to experience net costs. In practice, these increased costs are likely to result in increased prices for electrical and electronic equipment, which will be passed on to users of equipment. However, there will also be benefits to users of electrical and electronic equipment, both from improved market harmonisation and from reduced levels of EMI.

Table 4.2 provides an overview of the stakeholders that may face the main costs and/or benefits under the proposal. The distribution of costs is not always equal across all manufacturers. This is particularly true of the costs of meeting the information requirements. Manufacturers of IT and domestic products are more likely to face costs since they currently do not provide all of the required information. For example, 83% of IT manufacturers do not provide all of the required information, with 67% not providing batch numbers.
Table 4.2: Distribution of Impacts

<table>
<thead>
<tr>
<th>Stakeholders that will Benefit</th>
<th>Stakeholders Facing Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturers – from harmonised market for ready-made connecting devices in telecommunications</td>
<td></td>
</tr>
<tr>
<td>Manufacturers – producing one-off products for fixed installations</td>
<td></td>
</tr>
<tr>
<td>Manufacturers – that are currently required to use notified bodies</td>
<td></td>
</tr>
<tr>
<td>Network operators – from potential reduction in EMI</td>
<td></td>
</tr>
<tr>
<td>Consumers (particularly those who are electrically hypersensitive or use hearing aids) – from potential reduction in EMI</td>
<td></td>
</tr>
<tr>
<td>Enforcement authorities – from easier identification of products requiring enforcement</td>
<td></td>
</tr>
<tr>
<td>Manufacturers – from costs of compliance of ready-made connecting devices</td>
<td></td>
</tr>
<tr>
<td>Manufacturers – from costs of providing all of the information requirements (mainly producers of IT and domestic equipment)</td>
<td></td>
</tr>
<tr>
<td>Manufacturers – from costs of redesigning products so they do not need additional devices to comply with the amendment to the EMC Directive</td>
<td></td>
</tr>
<tr>
<td>Notified bodies – from potential loss of business</td>
<td></td>
</tr>
</tbody>
</table>

5. **COSTS**

5.1 **Compliance Costs**

5.1.1 **Option 1**

Costs to UK manufacturers have been estimated from responses to consultation undertaken for the EU study. The costs given in Table 5.1 below relate only to those organisations that produce electrical and electronic products in the UK. A total of 20 responses were available for the UK, most from large, multinational companies but including two responses from medium-sized companies. In order to assess the representativeness of the responses, Figure 5.1 compares the production of responding companies against the market profile. The Figure shows that the pattern of responses is a reasonable reflection of the market profile, so that the costs derived from the responses should also provide a reasonable indication of costs for the UK.

**Overall Costs**

Table 5.1 shows the estimated costs to UK manufacturers for each of the changes included within Option 1. The total cost of the changes is €72 million (£48 million, with a range of £29 million to £69 million). These costs are based on all responses to the EU study from companies that included UK operations (with UK production estimated by dividing by the proportion that UK produces compared with total production in all EU countries where the company has operations) plus those companies operating only in the UK.
Figure 5.1: Comparison of Percent Responses by Product Type Against Percent of Total Production Value

![Comparison of Percent Responses by Product Type Against Percent of Total Production Value](image)

### Table 5.1: UK-wide Compliance Costs Arising from the Draft Amendment of the EMC Directive

<table>
<thead>
<tr>
<th>Type of Cost</th>
<th>‘Typical’ value (annual cost, except where indicated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application of the Directive to signal-carrying ready made connecting devices</td>
<td>€55 million</td>
</tr>
<tr>
<td>Loss of sales of additional devices</td>
<td>(not applicable: UK manufacturers would choose to provide additional devices with equipment)</td>
</tr>
<tr>
<td>Redesigning equipment to meet the requirements without the use of additional devices (one-off cost)</td>
<td>(not applicable: no UK companies indicated that they would adopt this approach)</td>
</tr>
<tr>
<td>Providing the full range of information to improve traceability for market surveillance</td>
<td>€17 million</td>
</tr>
<tr>
<td><strong>Total Annual Costs</strong></td>
<td><strong>€72 million</strong></td>
</tr>
</tbody>
</table>

In addition to the quantified costs, a number of additional costs were identified in the EU study that could not be quantified. These were:

- costs to manufacturers for additional training of staff where notified bodies are no longer used for compliance; and
- potential costs to installers/users of fixed installations in determining where responsibility lies for ensuring compliance, should any problems arise. Such costs could be high if uncertainty results in litigation. This has been addressed in the Proposal by requiring Member States to “set out the necessary provisions for the identification of the person or persons responsible for compliance.”
for the establishment of compliance of a fixed installation with the relevant essential requirements”. UK industry believes, however, that this requirement could lead to a situation where responsibilities differ between Member States. This could result in additional costs for exporters of equipment for use in fixed installations in establishing the provisions applicable in each of its markets. It could also increase the likelihood of litigation where problems arise, resulting in potentially high costs.

**Signal Carrying Ready Made Connecting Devices**

The cost of ensuring that ready made connecting devices comply with the Directive was estimated by UK respondents to the EU study as being just below 4% of the total product price. The annual value of production of signal-carrying ready made connecting devices in the UK is approximately £1.4 billion, indicating a cost of compliance of approximately £55 million. One respondent, however, indicated that the cost of compliance would be less than 1% of turnover. By contrast, a (non-UK) respondent to the EU study, producing ready-made connecting devices for the IT sector believed that the cost of compliance could be as high as 10% of product price.

**Additional Devices**

The only UK costs associated with the requirements concerning additional devices are those of selling the additional devices with the product. No UK respondents said they would redesign their products to meet the requirements without additional devices. This would increase costs for manufacturers of equipment, but would represent a transfer from consumers (who currently buy such devices) to manufacturers. It is expected that manufacturers would pass the costs back onto consumers, such that there is no overall change in costs. The increased costs for manufacturers of equipment would be offset by the fact that there would be no loss of sales to manufacturers of additional devices.

However, a concern has been raised by the UK industry regarding the ability to sell equipment without additional devices to customers who are “technically competent in the field of electromagnetic compatibility”. As no guidance is given on how such competence is to be assessed, manufacturers of equipment may take a precautionary approach and supply additional devices with all products. This may result in an unnecessary supply of additional devices to customers who do not need them. The extent of this excess supply cannot be determined; in any case, it will represent a transfer from manufacturers of equipment to manufacturers of additional devices.

Most of these costs would fall initially on manufacturers of equipment covered by the EMC Directive. However, it is likely that the costs would be passed on to users of such equipment in the form of increased prices. This would represent a transfer rather than an additional cost, so is not calculated separately. As the estimated costs to manufacturers account for only 0.1% of turnover, the resulting increase in prices is unlikely to exceed this level (i.e. this would increase the price of a product costing £100 to £100.10).
Information Provision

Responses to the EU study varied widely in their estimates of the potential costs associated with information provision. The highest costs were associated with providing serial numbers (especially for IT equipment) and information on restrictions on use (for telecommunications equipment and domestic appliances). UK trade associations contacted for the RIA also identified potential problems with the need to include the name of the manufacturer and the name of the authorised representative, whereas currently only one of these is required. This may cause problems in cases where products are manufactured by one company but then sold under a brand name by second. Often the second company does not want the name of the first to appear on the product, to protect the brand identity. The requirement may therefore influence future purchasing strategies.

UK-Specific Concerns

In addition to these costs, certain UK respondents to the EU study raised concerns that the more detailed specification of essential requirements in the proposal might increase the amount of testing required to demonstrate compliance with the requirement. The proposal specifies that, where standards are used to demonstrate compliance with the essential requirements, the testing method specified in the standards must be used. This compares to the current requirement simply to generate a declaration of compliance. How such a declaration is supported or technically justified is entirely at the discretion of the manufacturer.

Respondents indicated that some manufacturers, particularly small manufacturers of one-off or small batch items, use simpler methods (such as scanners) to assess compliance with the limits in standards than those specified in the standards. This was because such companies did not own the equipment required to apply the methods set out in the standards and that, for a one-off or small batch product, the costs of having testing carried out by an external laboratory would be prohibitive. Applying the methods specified in standards exactly could require the purchase of additional testing equipment, at a one-off cost of around €160,000 (£107,000) per manufacturer, and increase the time needed to test products from two days to five to seven to ten days. Industry also considers that no benefit would result in terms of reduced electromagnetic interference.

If such an increase in testing requirements applied across the board to all UK production, the costs could be in the region of €670 million (£450 million). However, further consultation for this RIA indicates a number of factors that might reduce this cost. Firstly, the increase is most likely to apply to one-off or small batch products manufactured by SMEs. From UK responses to the EU study, one-off or small batch products account for 33% of products by number (compared with 15% for the EU as a whole); the proportion manufactured by SMEs is unknown. Applying the increase to all one-off and small batch products would therefore reduce the cost to €220 million (£150 million); the costs for one-off and small batch products manufactured only by SMEs would be lower still.
Secondly, the proposal reduces the costs of achieving compliance where standards have either not been used or have only been used in part, by removing the need to obtain reports from notified bodies. Where the costs of testing using the methods specified in standards are prohibitive, manufacturers may instead choose simply to describe and explain the testing methods used. Although market pressures may constrain some manufacturers of one-off or short batch products to continue using standards and thus to face the increased costs, the overall cost impact is likely to be reduced considerably.

Some IT companies responding to the EU study also anticipated significant increases in testing costs arising from the need to confirm that the equipment will meet the requirements of the Directive “in all possible configurations”. For equipment sold in modular form which can be connected to a wide range of other modules, for example IT or audio equipment, the number of potential configurations is enormous. For UK IT companies, the costs are estimated to be €2.8 million (£1.9 million).

In response to this concern, the text of the proposal has been modified so that the requirement is now to confirm that the equipment should meet the requirements “in all possible configurations identified by the manufacturer as representative of normal use in its intended application”. Consultation with UK IT companies for this RIA indicated that this amendment could go some way towards addressing their concerns about the requirement. However, this might still imply that a large number of tests might be required, as opposed to the current practice of testing only the ‘worst case’ configuration.

5.1.2 Option 2

The costs associated with Option 2 would depend upon the nature of amendments to the Proposal that the UK was able to obtain. The most significant costs for the UK arising from the proposal are associated with:

- **extension of the Directive to signal-carrying ready made connecting devices.** Removal of this requirement would reduce the cost to the UK by €55 million (£37 million) per year. Equivalent benefits in terms of market harmonisation would also be lost; however, UK industry has expressed some scepticism about whether such benefits would be realised in practice;

- **provision of information to improve traceability for market surveillance.** Removing this requirement would reduce costs by €17 million (£11 million) per year. The benefits associated with the requirement are only estimated at €5,800 (£3,900) per year; and

- **using testing methods as specified in standards.** If the concern that this requirement could add substantially to costs for UK firms making one-off or short batch products is correct, its removal could reduce costs by €220 million (£150 million). However, as this concern has not been raised in other EU countries (although UK industry believes that similar methods are used by SMEs elsewhere), there might be considerable resistance to such an amendment.
5.1.3 **Option 3**

As Option 3 would involve rejection of the proposal as a whole, none of the compliance costs associated with the proposal would be incurred. Instead, compliance costs would remain at current levels.

5.2 **Other Costs**

5.2.1 **Option 1**

The EU study identified costs to enforcement authorities associated with enforcement of the proposal arising from an increased workload, and potentially from increased time to withdraw non-compliant products from the market associated with the ending of compulsory use of certified bodies for compliance where standards are not used. (One respondent also identified costs arising from an increased workload associated with application of the Directive to ready-made connecting devices).

Assuming that these costs were shared between countries on the basis of their contribution to total EU production of electrical and electronic equipment, the UK might be expected to bear 12% of the costs associated with ending compulsory use of notified bodies. This would indicate UK costs of €110,000 (£73,000).

Consultation with UK enforcement authorities for this RIA confirmed that an increase in workload was possible under the Proposal, including enforcement of requirements for ready-made connecting devices and additional advice to manufacturers following the ending of compulsory resort to notified bodies. No costs could be allocated to this increase in workload; however the annual budgets for EMC enforcement were currently low (ranging from £3,000 to £12,000 per year for a single authority plus staff time of up to 10% of one full-time equivalent) so that major increases would be required to generate significant costs.

In the case of the UK, enforcement costs associated with the EMC Directive are borne by local authorities. No responses to the EU study were received from UK local authorities but three authorities with particular EMC expertise were contacted for this RIA.

5.2.2 **Option 2**

The only requirement affecting the costs of public authorities that also places significant costs on industry is the application of the Directive to signal-carrying ready made connecting devices. Negotiating removal of this requirement would result in only a minor reduction in local authority costs.
5.2.3 Option 3

Under Option 3, local authorities would face no change in costs compared to the current situation.

5.3 Costs for a ‘Typical’ Business

5.3.1 Typical UK Respondent to the EU Study

Based on the 20 responses to the EU study from firms in the UK, a typical business mainly mass-produces products, with some short batches and occasional one-off products. As the responses were primarily from large companies, together with two medium companies, this is not necessarily typical of the UK as a whole. Issues for small companies are addressed in Section 6.

Current EMC compliance costs are between 1% and 5% of product price, with no price premium for those products that are fully compliant with the EMC Directive. The typical business expects there to be no change in the number of products that will have to comply with the Directive and currently follows the harmonised standards route for most products. However, they obtain around 8 reports per year from notified bodies to confirm compliance of certain products, at a cost of £2,300 per report.

Typical businesses of this type do not expect the amendment to change the way that they achieve compliance, but they do anticipate benefits from increased certainty that their products are compliant, following clarification of the essential requirements. The number of reports obtained from notified bodies is expected to stay the same. Hence, the typical business will gain no benefits in terms of reduced costs from the removal of compulsory resort to notified bodies.

On average, 28% of the typical business’ products currently require some additional devices to ensure compliance, although these are already supplied with the product. Hence, there will be no change to products under the Directive and the typical business will face no additional costs as a result of the proposal.

Of the information requirements, 67% of products already include batch numbers, 89% include serial numbers, 94% have the manufacturers name and address, 94% are provided with precautions for assembly and 78% with restrictions on use. The average cost per company of providing the additional information that is not already included is estimated at €20,000 (£13,300).

A summary of the costs and benefits expected by a typical business is provided in Table 5.2. The Table also shows where there are expected to be no changes to the way that a typical business currently ensures compliance of its products.
Table 5.2: Distribution of Costs and Benefits for a Typical Business

<table>
<thead>
<tr>
<th>Benefits</th>
<th>No change</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased certainty that their products are covered by the Directive and that they are fully compliant.</td>
<td>Number of products that have to comply</td>
<td>Provision of additional information requirements not already provided (average cost £13,300)</td>
</tr>
<tr>
<td></td>
<td>Number of reports obtained from notified bodies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of products requiring additional devices</td>
<td></td>
</tr>
</tbody>
</table>

5.3.2 Typical IT Company

All UK IT company responses to the EU study from were from large multinationals. Most of their products (75%) are mass-produced, with 13% produced in short batches and 2% as one-off products. The current cost of compliance with the EMC Directive is estimated to be between 1% and 5% leading to total compliance costs of €200 million to €1 billion. IT manufacturers do not consider that products complying fully with the EMC Directive attract a price premium. There may be some benefits to those manufacturers producing one-off products destined for fixed installations as the amendment no longer requires a declaration of conformity for these products from the manufacturer.

In order to comply with the Directive, IT manufacturers follow the standards route, with 97% of products being tested against harmonised standards. The method used to show compliance would not change under the amendment. IT companies obtain an average of eight notified body reports per year, either with the TCF and/or where standards have not been applied. The average cost per report is €2,250. IT manufacturers would not increase the number of reports that they obtain under voluntary resort. The change will depend upon the specific products, with some decreasing the number of reports obtained while others would not change the number of reports that they obtain.

There will be no impacts on IT manufacturers from the requirement to supply additional devices with their products. This is because only a small percentage (4%) of products currently require these devices and all are supplied with the product.

Most IT manufacturers supply some of the information requirements, with precautions for use provided by all. Batch numbers are provided for around 50% of products, while 83% of products come with serial numbers, manufacturers name and address and restrictions for use. The cost of providing all of this information with all products is estimated to be €2.75 (£1.80) per 1,000 products (this compares with costs of €2.13 (£1.42) per 1,000 products for the ‘typical’ business, suggesting that cost to IT companies may be 29% higher).

A summary of the costs and benefits expected by a typical IT business is provided in Table 5.3. The Table also shows where there are expected to be no changes to the way that a typical business currently ensures compliance of its products.
### Table 5.3: Distribution of Costs and Benefits for an IT Business

<table>
<thead>
<tr>
<th>Benefits</th>
<th>No change</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of reports obtained from notified bodies (depending on product)</td>
<td>Number of products that have to comply</td>
<td>Provision of additional information requirements not already provided: €2.75 per 1,000 products</td>
</tr>
<tr>
<td>Reduced cost of compliance for one-off products going to fixed installations</td>
<td>Number of reports obtained from notified bodies (depending on product)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number of products requiring additional devices</td>
<td></td>
</tr>
</tbody>
</table>

### 6. **SMALL FIRMS IMPACT TEST**

As noted in Section 2, 99% of the 65,000 UK businesses in the electrical and electronics sector are SMEs. Of the 20 UK company responses to the EU study, two were from medium sized enterprises. It is possible to identify the costs and benefits that these two companies expected compared to the ‘typical’ business described in Section 5.3.

The medium-sized businesses tend to produce more products in short batches than the ‘typical’ company, and their current compliance costs range from less than 1% to 5%. They currently use the standards route for all products and obtain no reports from notified bodies. The number of products covered by the Directive may increase under the amendment, resulting in annual costs of €5,000 per company. These companies expect to use harmonised standards to show compliance of the additional products, but may obtain reports where standards are not available (although this will be offset by the fact that, under the proposal, such reports will no longer be compulsory where standards are not applied). They expect there to be benefits from increased certainty that their products are covered by the amendment to the EMC Directive.

All of the information requirements are provided by medium-sized companies, except serial numbers. The cost of providing the additional information is not known.

Table 6.1 summarises where a medium-sized business expects to face costs, benefits or see no change under the amendment to the EMC Directive.

### Table 6.1: Distribution of Costs and Benefits for a Medium-Sized Business

<table>
<thead>
<tr>
<th>Benefits</th>
<th>No change</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased certainty that their products are covered by the Directive and that they are fully compliant.</td>
<td>Number of products requiring additional devices</td>
<td>Increased number of products having to comply: €5,000 per company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Possible increased costs of applying standards</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cost of providing serial numbers on all products</td>
</tr>
</tbody>
</table>

No responses to the EU study were received from small UK companies, although small companies from other countries did respond and information was received from trade
associations having small companies within their membership and from EMC consultants with experience of small company operations.

To obtain information on the potential impacts of the proposal on small companies, trade associations representing the main manufacturing sectors in the UK electrical and electronics industry were contacted and asked, in particular, to comment on the impacts of the proposal for small businesses. Discussions were held with the EMC Committee of one such association, which is chaired by a representative of a small company.

Based on this consultation, impacts for small companies are unlikely to be disproportionate, except that small companies are more likely to produce one-off or small batch products and thus:

- compliance costs will be spread over a smaller number of products sold (although this applies equally to current compliance costs); and

- along with medium-sized firms, they may face the additional costs associated with the requirement to apply test methods specified in standards. These costs are estimated to total up to £150 million per year if they apply to all one-off or short batch products. The proportion of such products manufactured by small companies is not known. However, as the proposal reduces the costs of achieving compliance without applying standards (or without applying them fully), the actual costs may be considerably lower.

7. **COMPETITION ASSESSMENT**

The Competition Filter (Table 7.1 below) indicates that the proposal is unlikely to have significant impacts on competition.

<table>
<thead>
<tr>
<th>Table 7.1: General Statements Based on ‘Competition Filter’</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Q1:</strong> In the market(s) affected by the new regulation, does any firm have more than 10% market share?</td>
</tr>
<tr>
<td><strong>Q2:</strong> In the market(s) affected by the new regulation, does any firm have more than 20% market share?</td>
</tr>
<tr>
<td><strong>Q3:</strong> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?</td>
</tr>
<tr>
<td>The markets affected by the proposal are characterised by a high level of (international) competition.</td>
</tr>
<tr>
<td><strong>Q4:</strong> Would the costs of the regulation affect some firms substantially more than others?</td>
</tr>
<tr>
<td>The costs of the regulation are likely to affect all firms within each sub-sector equally, although there may be some differences in costs between sectors and costs may be higher for some SMEs.</td>
</tr>
<tr>
<td><strong>Q5:</strong> Is the regulation likely to affect the market structure, changing the number or size of firms?</td>
</tr>
<tr>
<td>It is possible that increased costs for small firms may reduce the number of such firms.</td>
</tr>
</tbody>
</table>
Table 7.1: General Statements Based on ‘Competition Filter’

<table>
<thead>
<tr>
<th>Question</th>
<th>Expected Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Q6:</strong> Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?</td>
<td>It is unlikely that any actions resulting from the proposal would lead to higher set-up costs for new companies.</td>
</tr>
<tr>
<td><strong>Q7:</strong> Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?</td>
<td>It is unlikely that any actions resulting from the proposal would lead to higher ongoing costs for new companies.</td>
</tr>
<tr>
<td><strong>Q8:</strong> Is the sector characterised by rapid technological change?</td>
<td>Many parts of the sector are characterised by rapid technological change, for example IT equipment.</td>
</tr>
<tr>
<td><strong>Q9:</strong> Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products?</td>
<td>It is unlikely that the proposal would have such an effect.</td>
</tr>
</tbody>
</table>

8. **ENFORCEMENT AND SANCTIONS**

Effective enforcement of the Proposal, and sanctions for non-compliance, will be critical to generating its potential benefits. These will be addressed in more detail at the stage of UK enabling legislation.

It is likely that enforcement of the proposal will continue to be the responsibility of local authority Trading Standards services. As noted in Section 5, the EU study indicated that the additional costs of enforcing the proposal could amount to £73,000 per year for the UK from ending the compulsory use of notified bodies. Consultation with UK authorities indicated that their workload is expected to increase under the Proposal, but the cost of this could not be quantified. This may be partly offset by a reduction in workload from easier identification of non-compliant products. The EU study indicated that this might reduce enforcement costs by £3,900; UK enforcement authorities believed that enforcement would be made easier but that there would be no associated reduction in costs.

Sanctions for breach of the current Directive appear to be low. One enforcement authority cited a fine of £6,000 for a multinational manufacturer convicted of selling (very large numbers of) non-compliant hairdryers. This level of fines is unlikely to provide a strong incentive for compliance with the Proposal.

9. **MONITORING AND REVIEW**

There are no specific requirements in the proposal for monitoring and review of its effectiveness, although Member States will be required to report to the Commission the measures that they have taken to implement the measure.
10. **CONSULTATION**

The DTI has consulted interested parties in the UK throughout the development of the Proposal, including other Government Departments, industry, trade associations, test organisations and users.

The EU study included widespread consultation with stakeholders, with questionnaires sent to 418 industry associations and/or their members as well as to operators of networks, consumers, notified bodies and enforcement authorities in each Member State. In total, 31 responses were received from the UK, the second highest number for any Member State. In addition, meetings and telephone discussions were held with UK trade associations and individuals within industry and notified bodies.

In preparing this RIA, additional consultation was carried out with stakeholders under-represented in the EU study, to address changes from the draft assessed in the EU study and issues raised in that study of particular concern to the UK. This included consultation with enforcement authorities (no responses were received from these stakeholders to the EU study) and the main trade associations representing manufacturers of electrical and electronic equipment.

11. **SUMMARY AND RECOMMENDATION**

11.1 **Summary**

The main findings of the RIA are summarised in Table 11.1. The table shows that, given the uncertainty about the impacts of the proposal, there is relatively little difference in the balance of costs and benefits between the three options. The exception is in relation to the potential costs associated with the application of test methods set out in the standards to one-off and small batch products.

Option 1 has the highest costs but also the highest benefits, although these benefits are highly dependent on the benefits for manufacturers of ready-made connecting devices from market harmonisation, which some stakeholders have questioned. However, if the concerns about the impact of the requirement to apply testing methods included in standards are correct, the costs of Option 1 could significantly outweigh the benefits.

The costs of Option 2 could be reduced to zero if the requirements of the Proposal imposing the highest costs (including ready-made connecting devices within the scope, provision of market surveillance information and testing using methods included within standards) are removed. This would also reduce the benefits significantly, however, and it is not clear how much support this Option would have within other Member States. In practice, it may be possible to achieve a compromise that results in the reduction of some but not all of these costs and associated benefits.
Table 11.1: Summary of Findings

<table>
<thead>
<tr>
<th>Option</th>
<th>Total Cost per Year</th>
<th>Total Benefit per Year</th>
<th>Key Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Accept Proposal in current form</td>
<td>£48 million (£150 million)</td>
<td>£43 million</td>
<td>Excess costs imposed on UK business</td>
</tr>
<tr>
<td>2. Seek amendments</td>
<td>£0-37 million</td>
<td>£3.7-42 million</td>
<td>Amendments may not be accepted</td>
</tr>
<tr>
<td>3. Reject Proposal</td>
<td>0</td>
<td>0</td>
<td>Failure to prevent adoption</td>
</tr>
</tbody>
</table>

1 If concerns about the need to use test methods included in standards for one-off and short batch products are correct

2 Cost will be zero if all amendments accepted: if only one amendment is accepted:
- remaining costs after removing extension of scope to ready made connecting devices: £11 million
- remaining costs after removing requirement for full information provision: £37 million (assuming concerns about test methods in standards are not correct)

3 Benefits will be £3.7 million if all amendments accepted: if only one amendment is accepted:
- remaining benefits after removing extension of scope to ready made connecting devices: £4.8 million
- remaining benefits after removing requirement for full information provision: £42 million

Option 3 imposes no additional costs and generates no benefits compared with the current situation. However, it is a high-risk strategy as there is likely to be little support for rejecting the proposal amongst other Member States. **NOTE - see section 2 of Annex**

11.2 Recommendation

On the basis of the analysis above, we recommend that the DTI seeks to negotiate certain amendments to the current Proposal that could reduce the costs whilst retaining as much of the benefits as possible.

We do not believe that it will be possible to negotiate changes to the requirements in Annex 5 of the Proposal concerning the use of testing methods as specified in standards. No other Member State has identified this as an issue and there is considerable uncertainty about the extent of the problem within the UK. In addition, the proposal provides a remedy in the form of reduced costs of achieving compliance where standards have either not been used or have only been used in part, by removing the need to obtain reports from notified bodies. **NOTE - see section 1(1) of Annex**

Removing the requirement for full information provision would reduce the costs of the proposal by £11 million but reduce benefits by only £1.1 million. We recommend that the DTI investigates whether there would be support from other Member States for removing or reducing the information requirements. **NOTE - see section 1(2) of Annex**

Exclusion of signal-carrying ready made connecting devices from the Proposal would reduce costs by £37 million. It would also potentially reduce benefits by £37 million, on the basis that manufacturers expect the benefits to at least equal the costs. However, there is considerable scepticism amongst UK manufacturers that these potential benefits could actually be achieved. This is because of the absence of standards to form a basis for evaluating compliance of such
devices with the requirements and the difficulties of testing when the configuration of the cable in use will not be known. We therefore recommend that the DTI investigates whether there would be support from other Member States for removing ready made connecting devices from the Proposal.

*NOTE - see section 1(3) of Annex*

Given the uncertainties over the impacts of Option 2, however, and the relatively small size of the costs compared with the turnover of the electrical and electronics sector, we do not believe that there is merit in seeking to block the Proposal. Nor is it likely that acceptance of the Proposal in its current form would cause major problems for the UK.
Annex

**RPA Recommendation**

1 RPA, at section 11.2 of their report, recommended that DTI should seek to reduce the costs associated with three aspects of the original Commission proposal, by negotiating amendments during the subsequent Council considerations of the proposal, while retaining as much of the benefits as possible. No updating of the cost and benefit figures given by RPA in their report has been undertaken given that the issues addressed in this Final RIA are whether the DTI has been successful in removing the requirements in the original Commission proposal that gave rise to those costs.

1(1) Application of harmonised standards

RPA, at section 11.1, Table 11.1 of their report, identified potential costs of up to £150 million associated with the Commission’s proposal to more rigorously require manufacturers to apply the test methods set out in harmonised standards (for example to one-off products or small batch production runs) but did not consider that it would be possible to negotiate changes to the original proposal. RPA had however, at section 5.1.1 of their report under the heading *UK-Specific Concerns*, qualified the potential additional cost by pointing to the fact that the Commission proposal presented the opportunity for manufacturers to not apply standards and thereby considerably reduce the cost of achieving compliance. During subsequent Council negotiations DTI succeeded in having the specific reference to the application of harmonised standards moved from the body of the Directive to the introductory recitals. As a result the status quo has been maintained.

1(2) Removing or reducing the information requirements

RPA, at section 11.2 of their report, considered that removing from the Commission proposal the requirement for additional information provision by manufacturers would reduce the costs of the proposal by £11 million but reduce benefits by only £1.1 million. Although these requirements have been retained in Directive 2004/108/EC the DTI consider that not enough consideration was originally given to the fact that the principle reason for such requirements are to facilitate the work of market enforcement authorities in removing non-compliant products from the market and that these requirements are consistent with what is already required by other New Approach Directives. For example, the Radio Equipment and Telecommunications Terminal Equipment Directive (1999/5/EC), the General Product Safety Directive (2001/95/EC) and the Toys Directive (88/378/EEC) contain similar requirements. Many manufacturers are therefore already familiar with such requirements and for those who are not there is only the initial cost as products are progressively updated. It must be noted that the manufacturers have the ability, under the transition arrangements, to continue to market equipment under the current Directive until 20 July 2009.
1(3) Ready made connecting devices

The Commission proposal for a new EMC Directive was borne out of the SLIM (Simpler Legislation for the Internal Market) initiative. The objective was to provide clarity, give legal certainty to agreed solutions, and also reduce unnecessary regulatory burdens on industry. In the UK view the inclusion of ready made connecting devices within the proposal did not meet this objective given that it placed an unquantifiable burden on manufacturers in that it required them to ensure compliance when the devices were connected despite manufacturers having no control over the apparatus to which they were to be connected. Furthermore, as it was not possible to clearly define such products, manufacturers and market surveillance authorities faced additional costs in identifying which products were within the scope of the Directive.

When RPA consulted with stakeholders there had been scepticism amongst UK manufacturers (RPA report, section 4.1) that the potential benefits of up to £37 million envisaged by including these devices within the scope of the proposal could actually be achieved, leaving only the costs of up to £37 million. RPA therefore recommended that DTI pursue the possibility of removing ready made connecting devices from the Commission proposal. During negotiations the DTI was able to secure the removal of these devices from the scope of the proposal.

1(4) Other amendments made during course of Council and European Parliament consideration.

No other amendments were made to the text of the Commission proposal that could give rise to additional costs or benefits.

Conclusion

2(1) Costs

In their Summary of Findings (section 11.1, Table 11.1) RPA referenced a total cost of £48 million if the Commission proposal was accepted in its current form. Additionally RPA drew attention to a potential additional cost of up to £150 million if there was a requirement to more rigorously apply the test methods specified in harmonised standards. As stated at 1(1) above, the DTI was successful in achieving an amendment to the proposal that maintained the status quo in relation to the application of harmonised standards. Consequentially there is now no potential additional cost arising from the application of harmonised standards.

Of the £48 million cost identified, RPA attributed £37 million to the inclusion of ready made connecting devices within the scope of the proposal. These devices, as explained at 1(3) above, were subsequently removed from scope. The residual £11 million costs were attributed by RPA to the requirement for full information provisions. However, as explained at 1(2) above these requirements are consistent with those in other New Approach Directives.
2(2) Benefits

RPA referenced a total benefit of £43 million if the Commission proposal was accepted. The £43 million figure however included £37 million attributed to the inclusion of ready made connecting devices, a benefit that UK manufacturers were actually sceptical about being achieved. With the subsequent removal of ready made connecting devices from scope the perceived benefits of the proposal is reduced to £6 million.

2(3) Outcome

As stated at 2(2) above £6 million potential benefits have been identified as arising from the new EMC Directive with, on the basis of the Partial RIA, potential costs of £11. These perceived costs were attributed to the requirement for manufacturers to provide additional information with their products. However, for the reasons given at 1.2 above, it is considered that the actual costs to manufacturers will be less than that originally estimated. In the opinion of the DTI the impact of the EMC Directive is therefore cost neutral.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed: ......................................................

Date: .............................................

Minister’s name, title, Department
Implementing the new Electromagnetic Compatibility (EMC) Directive 2004/108/EC in the United Kingdom

Consultation Response Form

The closing date for this consultation is 3 August 2006.

You may find it helpful to set out your responses to the Consultation using this Response Form.
Return completed forms to:

Kevin Lane
DTI
Bay 280
151 Buckingham Palace Road
London
SW1W 9SS

Telephone: 020 7215 1774
Fax: 020 7215 1340
email: Kevin.Lane@dti.gsi.gov.uk

Please tick one box from the following list of options that best describes you.

<table>
<thead>
<tr>
<th>Options</th>
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<tr>
<td>Small to Medium Enterprise</td>
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<td>Representative Organisation</td>
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<td>Trade Union</td>
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<td>Interest Group</td>
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<td>Big Business</td>
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<td>Local Government</td>
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<tr>
<td>Central Government</td>
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<tr>
<td>Other (eg. consultant or private individual)</td>
</tr>
</tbody>
</table>

Question 1 We would appreciate your general views on whether or not we have correctly identified the main issues for transposition and on our proposals for implementation of the EMC Directive.

Comments

Question 2 Do you think the provision in the Regulations for Notified Bodies to be appointed from 20 January 2007 makes appropriate provision for manufacturers who wish to make use of the services of such Bodies to apply the Regulations immediately they come into force on 20th July 2007? If not, please provide reasons.

Comments
Question 3. Do you agree that the definition of a responsible person in relation to a fixed installation is clear? If not, please provide reasons.

Comments

Question 4. Do you think the draft guidance in Annex C is sufficiently clear to identify who may be considered, on a case-by-case basis, to be the responsible person for a specific fixed installation? If not, please provide reasons.

Comments
Question 5  Do you agree with our interpretation in Annex C of the term “permanently” used in regulation 3 in relation to a fixed installation? If not, please provide reasons.

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Question 6  Do you agree with our interpretation in Annex C of the term “state of the art” used in regulation 4(2)? If not, please provide reasons.

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<th>Comments</th>
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</table>
Question 7. Do you agree with our interpretation in Annex C of the term “Good Engineering Practices” used in regulation 5? If not, please provide reasons.

Comments

Question 8. Do you agree that regulation 15 correctly consolidates and transposes the placing on the market requirements of the Directive? If not, please provide reasons.

Comments
Question 9. In relation to regulations 15 and 16, where there is a duty on a person placing apparatus on the market or putting it into service to comply with the requirements of that regulation, do you agree that it is clear in each case who is responsible for meeting each requirement set out in that regulation? If not, please provide reasons.

Comments

Question 10. Do you agree that regulation 15 correctly consolidates and transposes the putting into service requirements of the Directive? If not, please provide reasons.

Comments
Question 11. Do you agree that regulation 19 correctly transposes the internal production control requirements of the Directive? If not, please provide reasons.

Comments

Question 12. Do you agree with the Department's interpretation of the role of a Notified Body? If not, please provide reasons.

Comments
**Question 13.** Do you agree that regulation 35 correctly consolidates and transposes the exemption provided for in the Directive for apparatus intended for incorporation into a given fixed installation and which is otherwise not commercially available? If not, please provide reasons.

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Question 15  Do you agree with our interpretation in Annex C of the term “electromagnetic compatibility characteristics” that is used in regulation 35?

Comments

Question 16  Do you agree that regulation 36 correctly consolidates and transposes the putting into service requirements of the Directive. If not, please provide reasons?

Comments
Question 17 Do you consider that the draft guidance at Annex C on compliance of fixed installations is sufficiently clear to enable a responsible person for a specific fixed installation to determine what would be the appropriate documentation? If not, please provide reasons.

Comments

Question 18 Do you consider that the draft guidance at Annex C sufficiently explains how it is expected that cases of reported interference will be resolved? If not, please provide reasons.

Comments
Question 19 Do you agree that the enforcement provisions are appropriate? If not, please provide reasons.

Comments

Do you have any other comments that might aid the consultation process as a whole?

*Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.*

Comments
Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the statement below.

Please acknowledge this reply □

Here at the Department for Trade and Industry we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

□ Yes □ No
Implementing the new Electromagnetic Compatibility (EMC) Directive 2004/108/EC in the United Kingdom

LIST OF INDIVIDUALS/ORGANISATIONS CONSULTED

<table>
<thead>
<tr>
<th>Consulted</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>A</td>
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<tr>
<td>ABB Automation Technologies</td>
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<td>Stewart Allen</td>
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<td>Alan Binks</td>
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<td>Tom Blacker</td>
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<td>Roger Blakeway</td>
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<tr>
<td>Ron Bonner</td>
<td>Professional Lighting &amp; Sound Association</td>
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<tr>
<td>Andrew Bosworth</td>
<td>Linde Material Handling (UK) Ltd</td>
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<tr>
<td>Nic Bowker</td>
<td>Professional Lighting &amp; Sound Association</td>
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<tr>
<td>Dr Didier Bozec</td>
<td>York EMC Services Ltd</td>
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<tr>
<td>John Bradley</td>
<td>National Inspection Council for Electrical</td>
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<td>Installation Contractors</td>
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<tr>
<td>Kenneth Bradley</td>
<td>JCB Landpower Ltd</td>
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<tr>
<td>John Bradshaw</td>
<td>London Underground</td>
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<tr>
<td>Mark Breeze</td>
<td>Marconi</td>
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Peter Bridgeman
Michael Brookes
Ken Bromley
Alan Brown
Peter Brown
Peter Browning
Philip Buckle
Ian Buick
Building Research Establishment
Janet Bulbeck
Chris Bull
Ray Burn

Low Power Radio Association
Building Research Establishment Ltd
Technology International (Europe) Ltd
Network Rail
Intertek ETL SEMKO
ECA
Delta Design
Martin Aris
ERA Technology Ltd
Intertek

C
Robin Caine
Cambridge Consultants Ltd
Dave Cameron
Paul Cawte
CCQS (UK) Ltd
David Clarkson
Ian Clasper
Vic Clements
Club European (Ann Lock)
Mary Coakley
Mr A P Cobb
Elizabeth Cobbson
Stephen Colcough
Brian Copsey
Angus Howard
Diana Connolly
Jane Cooper
Robert Cooper
Colin Copelin
Paul Corrigan
PW Coulson-Osbourne
Chris Cowan
Anne Craig
Jim Crawley
Mike Crowther
Geoff Crowshaw

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MBDA
NTL
Eunice Yang
Ofcom
GAMBICA
CE Forum West
BIVDA
Telecommunications Industry Association
Intellect
Samsung Electronics
ASP
Compliance Association
Bristows
Orange
T-Mobile
Confederation of Passenger Transport
Black & Decker
The British Federation of Audio Ltd
Salford University Business Services Ltd
Haldex
Kingston Communications
IEE

D
Michael Darragh
Paul Darragh
David Davies
John Davies
John Davies
Bob Davis
Zahid Deen
DERA

EEMUA
RN Electronics Ltd
BT
Blackwood EMC Ltd
Conformance Services Ltd
Deltron Emcon Ltd
Scottish Executive
Mr SJ Dewhirst  NQA
Steve Dillingham  RFI Global Services Ltd
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Paul Dixon  Schaffner Ltd
Steve Dodson  XP Power
Dave Donachie  Ofcom
Terry Dunford  CAA
Crispin Dunn  FEF
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Alison Edwards  LACORS
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EIA  Karen Finegold
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James Ferris  Neath Port Talbot County Borough Council
Alwyn Finney  EMC Technology Ltd
John Finney  The British Security Industry Association
Kim Fisher  MCA
Mike Floodgate  RETRA
Mr N Foot  AQL-EMC Ltd
Edward Fort  Lloyd’s Register of Shipping
Kevin Foster  BT
Mike Foster  Midlands EMC & CE marking Club
Steve Foster  Intellect
Richard Frewin  NWML

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Mr R George  GEC Marconi Avionics
Mark Gilbert  Nissan Technical Centre Europe
Mike Gilmour  The Cabling Partnership
Mr SM Gittins  Hunting Engineering Ltd
Ken Goodman  Electrolux Outdoor Products
James Gordon-Colebrooke  3C Test Ltd
David Grainger  SMMT Ltd
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DR Green  North West EMC Club
Kerry Green                Curtis Instruments (UK) Ltd
Martin Green               Technology International (Europe) Ltd
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Daniel Griffin               Intertek ETL SEMKO
Adrian Grilli                JRC

H
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Mike Hargreaves      Panasonic Mobile Communications
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Gary Hayes          TRL Compliance Services Ltd
Steve Hayes          Mode Lighting UK Limited
Allan Hayllar       Intellect
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Andy Heap            Fujitsu
Robert Heap         Cambridge Refrigeration Technology
Mark Heaven         TRL Compliance Ltd
Simon Hicks         DTI
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Michael Hinnels     Develo
Dave Holland        Cardiff Trading Standards
Angus Howard        Compliance Association
Peter Huddleston    Develo
MP Hughes           MMU
Ray Hughes          Schaffner EMC Systems Ltd
Richard Hughes      AMDEA
Carole Hunter       BVQI
Mike Hurley         C-Mac Engineering Ltd
John Hutchinson     Deltron Emcon Ltd
Alan Hutley         Nutwood UK Ltd

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Dave Imeson         EMCTLA
Sohail Ismail       Home Office

J
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Dr A Jawad          Merseyside EMC Club
Tom Jeffery         Vodafone
Chris Johnson       SMC European Technical Centre
Julia Johnson       DTI
Brian Jones         Intellect
Derek Jones         EJA Engineering Co Ltd
Jim Jones           INSYSS Ltd
K
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Martin Keay  PPMA Ltd
Steven Kercher  Railway Industry Association
Alistair Kerr  Kernow EMC
Peter Kerry
Annum Khan  RFI Global Services
Steve Kimber  Brother plc
Peter Knight  Hewlett Packard Ltd
Richard Knight  Essex CC Trading Standards

L
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David Lambert  Agricultural Engineers Association
Alan Law  Vodafone
Ian Lawson  Defence Diversification Agency
Terry Leaver  MoD – UK Defence Standardisation
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Peter Lewis  DAS
Norman Lightfoot  ETSI
Iain Lindsay  Rockwell Automation
Stuart Livingstone  Marconi Communications Ltd
Nick Long  Low Power Radio Association
John Long  JPL Associates Ltd
Martin Lowe
Mike Lowe  Department for Transport

M
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Stuart MacMurdo  DETINI
Tony Maddocks  ERA Technology Ltd
Ian Marriott  3C Test Ltd
Derek Marshall  Intellon Corp
Ian Marshall  Nortel Networks UK Ltd
Mr RC Marshall  Richard Marshall Ltd
Chris Marshman  York EMC Services Ltd
Colin Mason  EIA
A Matthews  FCS
Alex McKay  Technology International (Europe) Ltd
Don McLeod  Blue Arc UK Ltd
Peter McNicol  Safenet Ltd
Mike McWillliams  NTL
Richard Mead  TRL EMC Ltd
Richard Mellish  MHRA
James Mentz  Intellon Corp
Richard Meyers  Roke Manor Research Ltd
John Miller  Kent EMC Club
Justin Miller
Allen Mornington-West
Donald Morrison   Arcotronics Ltd
Trevor Morsman   BT
Terry Mullard   BSI
Jim Munro   Intellect UK
Linda Murzell   H&BC Products
Tim Mustin   BESA

N
Tariq Nawaz   ODPM
Ken Newman   Intertek
Jim Niblett   Ofcom
Richard Norburn   National Security Inspectorate
Nortel plc

O
Rob Osborne

P
James Page   Nokia
Robin Page-Jones   RSGB EMC Committee
Philip Paine   United Networks Ltd
Chris Palfrey   IBM UK Ltd
Tom Parker   IEPA
John Parnell   Hampshire, Berkshire, Dorset & IOW EMC Club
Alan Parrish   Symbol Technologies
Dave Partridge   NTL
Yvonne Pearman   British Fluid Power Association
John Pearson   ICMA
PAJ Pearson   Institution of Incorporated Engineers
Hugh Peltor   BREMA
Alex Penfold   UKAS
Nigel Penton Tilbury   Spectrum Assignment
VJ Perera   Rutherford Appleton Laboratory
Frank Phillips   Ofcom
MJ Phillips   Dial Pipex
Tony Pither   TUV Product Service Ltd
CE Pogmore   British Steel Technical Plc
Stuart Pollit   National Physical Laboratory
Claudette Pomells   Medical Devices Agency
Clive Powell   ABHI

Q
Neil Quarmby   Texas Instruments Ltd

R
Denise Randall   MHRA
Amanda Rawlinson   Marconi
Fiona Redgrave   National Physical Laboratory
Don Reid   Motorola Limited
Mark Render          KTL
MS Rennie            CQC Ltd
Alan Reynard         SGS
Nick Riordan         Hampshire CC Trading Standards
J Richter            White Case
Steve Ringer         DTI
Terry Rogers         Forecourt Equipment Federation
Stephen Roper        RFI
Paul Rosbotham       Cable & Wireless
Richard Rossington   Welsh Assembly
Adrian Rudd           Ofgem
Andrew Russell       Construction Service Health & Safety Section
John Ryan            Energy Networks Association

Geraldine Salt       BSI
Dominic Savage       BESA
Nigel Saw            British Marine Federation
Geoff Sewell         Sewell Associates
Richard Shekelton    Shekelton Associates
Tony Shipley         PhoneAbility
Jim Short            Key Radio
John Sinclair         Electricity Association
Amarjip Singh        Qinetiq
Rob St John-James    Hursley EMC Services Ltd
Stanley Statt        Lucent Technology
Jonathan Stott       BBC World Service
John Sykes           BBC World Service

Paul Tait            Marshall Lamps
Robert Tait          Agilent Technologies UK Ltd
Keith Tench          Defence E3 Authority
Phil Thomas          Hampshire CC Trading Standards
Robert Thelen-Bartholomew  Ofcom
Mike Toes            O2
Valerie Townend      Panasonic
Bob Towe             Heating & Ventilating Contractors Association
Luke Turnbull        TRW Automotive
Lorraine Turner      UKAS

Steve Unger          Ofcom

Frank Varey          HMRC
Vehicle Certification Agency
Keven Verden         The Lighting Association
Steve Vincent        National Assembly for Wales
Gerado Vuolo         Renishaw plc
W
Peter Walsh               ADT Fire & Technology Ltd
Ted Warren               TIA
Derek Washington        Philips Electronics UK Ltd
Bill Webb                Martin Audio
John Wetherell           Instro Precision Limited
RA Wheadon               AMPS
Ken White                BSI
Ian White                Spirax Sarco
Roger Whitnall           Qinetiq
C Wilde                  SMMT
John Wilkins             Pyronix Ltd
Joe Wilkinson            EMC Centre (Paisley) Ltd
Fred Willan              Chamberlink Ltd
Ben Willis               Ofcom
Simon Wilson             O2
Ian Wood                 Marconi
John Woodgate            
Mike Woods               EMC Projects Ltd
John Worroll             Department of Health Procurement
Michael Wrankmore        HM Courts Service
C Wright                 Visteon
Martin Wright            BT

Y
Camilla Young            Intellect
Gavin Young              Bulldog

Z
Udo Zucker               TAG McLaren Audio Ltd
ANNEX G

The Consultation Code of Practice Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

3. Ensure that your consultation is clear, concise and widely accessible.

4. Give feedback regarding the responses received and how the consultation process influenced the policy.

5. Monitor your department’s effectiveness at consultation, including through the use of a designated consultation co-ordinator.

6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office’s web site, address http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Nick Van Benschoten,
DTI Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telefon Nick on 020 7215 6206
or e-mail to: nick.vanbenschoten@dti.gsi.gov.uk