
STATUTORY INSTRUMENTS

2005 No. 281

The Electromagnetic Compatibility Regulations 2005

PART VI

**THE EC TYPE-EXAMINATION ROUTE TO COMPLIANCE
FOR RADIOCOMMUNICATION TRANSMISSION APPARATUS**

General

Application of Part VI

- 61.**—(1) This Part shall have effect for the purposes of providing for—
- (a) the manner in which the conformity assessment requirements shall be complied with in relation to radiocommunication transmission apparatus pursuant to the EC type-examination route to compliance; and
 - (b) United Kingdom notified bodies to exercise functions in relation thereto, and matters incidental to such exercise.
- (2) For the purposes of these Regulations, “radiocommunication transmission apparatus” is wireless telegraphy apparatus for—
- (a) transmitting; or
 - (b) both transmitting and receiving, other than—
 - (i) radio amateur apparatus designed, and intended by the manufacturer, for use exclusively by radio amateurs;
 - (ii) apparatus neither designed nor intended by the manufacturer to be used for transmitting in conjunction with other wireless telegraphy apparatus; or
 - (iii) apparatus which is dependent for its operation on a magnetic as distinct from an electromagnetic field.

The EC type-examination route to compliance

62. The conformity assessment requirements are complied with in relation to radiocommunication transmission apparatus pursuant to the EC type-examination route to compliance if there is in force an EC type-examination certificate obtained by the responsible person from a notified body in respect of the applicable EM characteristics of the apparatus.

Notified bodies

63. For the purposes of these Regulations, a notified body is a body responsible for issuing EC type-examination certificates pursuant to Article 10.5 of the EMC Directive either for all descriptions of radiocommunication transmission apparatus or for specific descriptions thereof, and which is—

- (a) a United Kingdom notified body pursuant to regulation 64 below;

- (b) for the time being a notified body of a member State other than the United Kingdom having been notified as a notified body by the member State concerned to the Commission and the other member States pursuant to Article 10.6 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.

United Kingdom notified bodies

Bodies and scope of authority

64. The following shall be United Kingdom notified bodies in relation to the descriptions (“authorised descriptions”) of radiocommunication transmission apparatus referred to in relation thereto in Schedule 6—

- (a) the Civil Aviation Authority (“the CAA”);
- (b) OFCOM.

Power of CAA and OFCOM to charge fees

65.—(1) Subject to paragraph (2) below, the CAA and OFCOM may charge applicants for EC type-examination certificates such fees as they may determine provided that such fees shall not exceed the sum of 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 body on behalf of the applicant; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) above includes power to require the payment of fees or a reasonable estimate thereof with the application.

(3) The CAA and OFCOM shall each publish from time to time the scale of fees charged by it, or such information about the basis of calculation thereof as the Secretary of State may direct.

Applications for EC type-examination certificates

66.—(1) It shall be the function of a United Kingdom notified body to determine applications made to it in writing for the issue of EC type-examination certificates from the manufacturer or his authorised representative in respect of authorised descriptions of radiocommunication transmission apparatus.

(2) Subject to regulation 67, a United Kingdom notified body shall, following receipt of an application in respect of an authorised description of apparatus—

- (a) examine the apparatus and the design thereof;
- (b) subject the apparatus or cause it to be subjected to such tests as the body considers appropriate to determine whether or not the apparatus conforms with the protection requirements in all the circumstances (having regard, without prejudice to the generality of

the foregoing, to the actual or usual electromagnetic environment in which the apparatus is to be used), and, where there is a relevant transposed harmonised standard or a recognised national standard and the body considers it appropriate to apply that standard, such tests as may be provided for thereby.

(3) Following examination and testing pursuant to paragraph (2) above, the United Kingdom notified body shall determine whether or not the apparatus to which the application relates conforms with the protection requirements.

(4) Where in the opinion of the United Kingdom notified body the apparatus to which an application relates conforms with the protection requirements, it shall issue an EC type-examination certificate in respect thereof.

(5) Subject to regulation 71 below, where in the opinion of the United Kingdom notified body the apparatus to which the application relates does not conform with the protection requirements, it shall refuse to issue the EC type-examination certificate, giving written reasons for the refusal.

(6) An EC type-examination certificate may relate to—

- (a) a single item of apparatus;
- (b) where a number of items are to be produced, a specimen representative of the production envisaged (a “representative”); or
- (c) a number of items or representatives of each such item or representative being variants of the same basic design.

Limitations on duty to exercise functions

67.—(1) Nothing in these Regulations shall require a United Kingdom notified body to determine a relevant application—

- (a) which is not in English or another language acceptable to that body; or
- (b) where the applicant has not—
 - (i) granted the body access to the radiocommunication transmission apparatus to which the application relates or the production facilities for the apparatus (including where applicable, the production envisaged in relation to a representative) to the extent that the body reasonably requests; and
 - (ii) made available to the body such information as it may reasonably require to determine the application.

(2) Nothing in these Regulations shall require a United Kingdom notified body to—

- (a) determine a relevant application; or
- (b) having determined the application, inform the applicant of the result thereof or, in the case of a successful application, issue the EC type-examination certificate,

unless the applicant has paid the fees charged pursuant to regulation 65 above.

Contractors etc.

68.—(1) Subject to paragraphs (2) and (3) below, a United Kingdom notified body may, in exercising its functions—

- (a) arrange for some other person to carry out any test, assessment or inspection on its behalf; or
- (b) require the applicant to satisfy another person with respect to any matter at the applicant’s expense.

(2) Nothing in paragraph (1) above authorises a United Kingdom notified body to rely on the opinion of another person with regard to whether any radiocommunication transmission apparatus conforms with the protection requirements.

(3) Nothing in these Regulations shall preclude a person referred to in sub-paragraph (1)(a) or (b) above from charging any fee in respect of any work undertaken by him in pursuance of those sub-paragraphs.

Conditions of EC type-examination certificates

69.—(1) Subject to regulation 71 below and paragraphs (2) and (3) of this regulation, an EC type-examination certificate issued by a United Kingdom notified body may be unconditional or subject to such conditions, which must be complied with if the certificate is to apply, as the body considers appropriate.

(2) Without prejudice to the generality of paragraph (1) above, such conditions may include—

- (a) a limitation on the electromagnetic environment for which the apparatus may be stated to be suitable; or
- (b) a limitation that the apparatus is only to be installed at a specific site.

(3) The conditions imposed pursuant to paragraph (1) above may be varied by the United Kingdom notified body which issued the EC type-examination certificate, and a variation under this paragraph may include the imposition of new conditions or the withdrawal of conditions.

Withdrawal of EC type-examination certificates

70.—(1) Subject to regulation 71 below and paragraph (2) of this regulation, the United Kingdom notified body which issued an EC type-examination certificate shall withdraw that certificate if it appears that the apparatus to which it relates does not conform with the protection requirements.

(2) A withdrawal of an EC type-examination certificate shall be by notice in writing stating the reasons for the withdrawal.

Procedure where United Kingdom notified body is minded to make a decision unfavourable to the applicant

71. Before making an unfavourable decision in respect of an applicant, that is to say—

- (a) refusing to grant an EC type-examination certificate pursuant to regulation 66(5) above;
- (b) the imposition of a condition of an EC type-examination certificate or the making of a restrictive variation of a condition thereof pursuant to regulation 69 above in circumstances where the applicant has not indicated in writing that the apparatus concerned is suitable for use subject to that condition;
- (c) the withdrawal of an EC type-examination certificate pursuant to regulation 70 above,

the United Kingdom notified body shall—

- (i) give notice in writing to the applicant, or holder of the EC type-examination certificate concerned, as the case may be (“the person concerned”), of the reasons why it proposes to make the unfavourable decision; and
- (ii) give the person concerned the opportunity of making representations within a period of 28 days of the notice being given as to why that body should make a favourable decision, and consider any representations which are made by that person within that period.

EC declaration of conformity

EC declaration of conformity for radiocommunication transmission apparatus

72.—(1) This regulation shall have effect for prescribing the form of an EC declaration of conformity issued in the United Kingdom in respect of radiocommunication transmission apparatus.

(2) An EC declaration of conformity to which this regulation applies shall—

- (a) be in English;
- (b) give the name and address—
 - (i) of the responsible person;
 - (ii) where that person is not the manufacturer, of the manufacturer;
- (c) be signed by or on behalf of the manufacturer or his authorised representative and identify that signatory;
- (d) bear the date of issue;
- (e) give particulars of the relevant apparatus to which it relates sufficient to identify it;
- (f) identify the EC type-examination certificate relating thereto, and give the name and address of the notified body which issued it, and the date and any number thereof; and
- (g) certify that the apparatus to which it relates conforms with the protection requirements of the EMC Directive.

Final provisions

Savings

73.—(1) For the avoidance of doubt, it is hereby declared that nothing in this Part shall be construed as dispensing with any requirement—

- (a) of a licence granted under—
 - (i) section 1 of the 1949 Act to establish and use any station for wireless telegraphy or to install and use any wireless telegraphy apparatus;
 - (ii) Part I of the Broadcasting Act 1990 (1);
 - (iii) Part III of the Broadcasting Act 1990 to provide independent radio services within the meaning of that Part; or
 - (iv) the Broadcasting Act 1996(2);
- (b) that apparatus be approved under section 84 of the 1984 Act;
- (c) of regulations made under section 1 of the 1949 Act;
- (d) of an order made under—
 - (i) section 7 of the Wireless Telegraphy Act 1967(3); or
 - (ii) section 85 or 86 of the 1984 Act; or
- (e) of a continuation notice under paragraph 9 of Schedule 18 to the Communications Act 2003(4) given to a person who was a holder of a licence granted under section 7 of the 1984 Act.

(1) 1990 c. 42.

(2) 1996 c. 55.

(3) 1967 c. 72.

(4) 2003 c. 21.

(2) Nothing in this Part shall affect the validity of an EC-type examination certificate lawfully issued by a notified body pursuant to regulation 60 of the Electromagnetic Compatibility Regulations 1992.

Interpretation of Part VI

74. In this Part—

“authorised description” shall be construed in accordance with regulation 64 above;

“examine” includes, where a UK notified body considers appropriate, the disassembly of apparatus.