

## SCHEDULE 29

### Amendment of the Radio Equipment Regulations 2017 and related amendments

## PART 1

### Amendments to the Radio Equipment Regulations 2017

#### Introduction

1. The Radio Equipment Regulations 2017 are amended in accordance with paragraphs 2 to 54.

#### Amendment to regulation 2

- 2.—(1) Regulation 2 (interpretation) is amended as follows.
  - (2) In paragraph (1)—
    - (a) omit the definition of “accreditation”;
    - (b) omit the definition of “accreditation certificate”;
    - (c) after the definition of “the 1987 Act” insert—

““approved body” has the meaning given to it in regulation 46 (approved bodies);”;
    - (d) for the definition of “authorised representative” substitute—

““authorised representative” means—

      - (a) a person who—
        - (i) immediately before exit day was established in the United Kingdom or an EEA state and was appointed by a manufacturer by written mandate to perform specified tasks for that manufacturer, in accordance with regulation 19, as it had effect immediately before exit day; and
        - (ii) on or after exit day continues to be so established and appointed by the manufacturer to perform those tasks; or
      - (b) a person who, on or after exit day, is appointed in accordance with regulation 19;”;
    - (e) omit the definition of “CE marking”;
    - (f) omit the definition of “competent national authority”;
    - (g) before the definition of “conformity assessment body” insert—

““commencement date” means the date these regulations come into force;”;
    - (h) after the definition of “conformity assessment body” insert—

““declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation 42 by regulation 10(1)(a) ( declaration of conformity);

“designated standard” has the meaning given to it in regulation 2A;”;
    - (i) for the definition of “electromagnetic disturbance” substitute—

““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;”;

- (j) omit the definition of “EU declaration of conformity”;
  - (k) omit the definition of “European Commission”;
  - (l) for the definition of “harmful interference” substitute—
    - ““harmful interference” means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with the applicable international, European Community or national regulations;”;
  - (m) omit the definition of “harmonised standard”;
  - (n) before the definition of “importer” insert—
    - “the Implementing Regulation” means Commission Implementing Regulation (EU) 2017/1354 specifying how to present the information provided for in Article 10(10) of Directive 2014/53/EU of the European Parliament and of the Council;”;
  - (o) in the definition of “importer”—
    - (i) in paragraph (a) for “within the EU” substitute “in the United Kingdom”; and
    - (ii) in paragraph (b) omit “third” and “EU” and, after “country”, insert “outside of the United Kingdom”;
  - (p) in the definition of “make available on the market”, for “EU” substitute “United Kingdom”;
  - (q) omit the definition of “national accreditation body”;
  - (r) omit the definition of “notified body requirements”;
  - (s) omit the definition of “Official Journal”;
  - (t) in the definition of “place on the market”, for “EU” substitute “United Kingdom”;
  - (u) in the definition of “put into service”, for “in the EU” substitute “in the United Kingdom”;
  - (v) after the definition of “technical specification” insert—
    - ““UK marking” means the marking in the form set out in Annex 2 of RAMS;
    - “UK national accreditation body” means the body appointed by the Secretary of State in accordance with Article 4 of RAMS;”.
- (3) Omit paragraphs (3) and (6).

## **New regulation 2A**

### **3. After regulation 2 insert—**

#### **“Designated standard**

**2A.—**(1) Subject to paragraphs (6) and (7), in these Regulations a reference to a “designated standard” means a technical specification which is—

- (a) adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory; and
- (b) designated by the Secretary of State by publishing the reference to the standard and maintaining that publication in a manner the Secretary of State considers appropriate.

(2) For the purposes of paragraph (1), a “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—

- (a) the characteristics required of a product, including—
    - (i) levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, and
    - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures;
  - (b) production methods and processes relating to the product, where these have an effect on the characteristics of the product.
- (3) For the purposes of this regulation a “recognised standardisation body” means any one of the following organisations—
- (a) the European Committee for Standardisation (CEN);
  - (b) the European Committee for Electrotechnical Standardisation (Cenelec);
  - (c) the European Telecommunications Standards Institute (ETSI);
  - (d) the British Standards Institution (BSI).
- (4) When considering whether the publication of a reference is appropriate in accordance with paragraph (1)(b), the Secretary of State must have regard to whether the publication will draw the standard to the attention of any person who may have an interest in the standard.
- (5) Before publishing the reference to a technical specification adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical specification is consistent with technical specifications adopted by the other recognised standardisation bodies.
- (6) The Secretary of State may remove the reference to a standard from publication referred to in paragraph (1)(b).
- (7) Where the Secretary of State removes the reference to a standard from publication, that standard is no longer a designated standard.
- (8) In this regulation, a reference to a “product” is a reference to radio equipment to which these Regulations apply.
- (9) The Secretary of State may by regulations amend paragraph (3) to reflect any changes in the name or structure of the recognised standardisation bodies referred.
- (10) Regulations made under paragraph (9) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

### **Amendment to regulation 3**

4. In regulation 3 (scope)—
- (a) in paragraph (3), omit from “Directive” to “or”; and
  - (b) in paragraph (4), omit from “Directive” to “or”.

### **Amendment to regulation 6**

5. In paragraph (1) of regulation 6 (essential requirements)—
- (a) in sub-paragraph (a), after “set out in” insert “the Electrical Equipment (Safety) Regulations 2016” and omit from “Directive” to the end of the subparagraph, and
  - (b) in sub-paragraph (b), after “set out in” insert “the Electromagnetic Compatibility Regulations 2016” and omit from “Directive” to the end of the subparagraph.

## **Insertion of regulation 6A**

6. After regulation 6 insert—

### **“Power to specify additional essential requirements**

- 6A.—**(1) The Secretary of State may by regulations—
- (a) amend regulation 6 to add any of the matters listed in paragraph (2) as additional essential requirements; and
  - (b) specify that only certain categories or classes of radio equipment are required to meet any additional essential requirements.
- (2) The matters that may be added as additional essential requirements are that the—
- (a) radio equipment interworks with accessories, in particular with common chargers;
  - (b) radio equipment interworks via networks with other radio equipment;
  - (c) radio equipment can be connected to interfaces of the appropriate type throughout the United Kingdom;
  - (d) radio equipment does not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service;
  - (e) radio equipment incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;
  - (f) radio equipment supports certain features ensuring protection from fraud;
  - (g) radio equipment supports certain features ensuring access to emergency services;
  - (h) radio equipment supports certain features in order to facilitate its use by users with a disability;
  - (i) radio equipment supports certain features in order to ensure that software can only be loaded into the radio equipment where the compliance of the combination of the radio equipment and software has been demonstrated.
- (3) Regulations made under paragraph (1)—
- (a) may make such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate; and
  - (b) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

## **Amendment to regulation 8**

7.—(1) Regulation 8 (construction must allow operation in at least one Member State) is amended as follows.

(2) In the heading for “in at least one Member State” substitute “without infringement of requirements”.

(3) In the regulation omit “in at least one Member State” and “in the relevant Member State or Member States”.

## **Amendment to regulation 10**

8. In regulation 10 (EU declaration of conformity and CE marking)—

- (a) in the heading to that regulation—
  - (i) for “EU declaration” substitute “Declaration”; and

- (ii) for “CE” substitute “UK”;
- (b) in paragraph (1)(a)—
  - (i) for “an EU” substitute “a”; and
  - (ii) for “(EU declaration of conformity)” substitute “(declaration of conformity)”;
- (c) in paragraph (1)(b)—
  - (i) for “CE” substitute “UK”; and
  - (ii) for “(CE marking)” substitute “(UK marking)”;
- (d) in paragraph (2), omit “EU”; and
- (e) for paragraph (3) substitute—

“(3) Where radio equipment is subject to more than one enactment requiring the drawing up of a declaration of conformity, the manufacturer must draw up a single declaration of conformity which identifies each enactment by its title.”.

#### **Amendment to regulation 11**

**9.** In regulation 11 (retention of technical documentation and EU declaration of conformity), in the heading and in paragraph (a), omit “EU”.

#### **Amendment to regulation 12**

**10.** In regulation 12 (identification of the radio equipment and manufacturer) in paragraph (3), for “competent national authority in the Member State in which it is to be made available to such end users” substitute “enforcing authority”.

#### **Amendment to regulation 13**

**11.** Regulation 13 (instructions and information to be included with the radio equipment) is amended as follows—

- (a) in paragraph (1) –
  - (i) for sub-paragraph (a) substitute “(a) are clear, legible and in easily understandable English.”;
  - (ii) at the end of sub-paragraph (b) insert “and”;
  - (iii) at the end of sub-paragraph (c) for “, and” substitute “.”; and
  - (iv) omit sub-paragraph (d);
- (b) in paragraph (3), in each place in which it occurs, omit “EU”; and
- (c) omit paragraph (4).

#### **Amendment to regulation 14**

**12.** In regulation 14 (information to be included where there are restrictions on putting into service or requirements for authorisation of use)—

- (a) in paragraph (1)—
  - (i) omit “Member States and the”; and
  - (ii) for “within a Member State” substitute “in the United Kingdom”;
- (b) for paragraph (2)(b)—
  - (i) for “Commission” substitute “the”; and

- (ii) omit from “specifying” to the end;
- (c) in paragraph (3), for “on or after 8th August 2018” substitute “on or after exit day”.

#### **Amendment to regulation 15**

**13.** In regulation 15 (duty to take action in respect of radio equipment placed on the market which is considered not to be in conformity), in paragraph (2) omit “and the competent national authorities of any other Member State in which the manufacturer made the radio equipment available on the market”.

#### **Amendment to regulation 16**

- 14.** In regulation 16 (provision of information and cooperation) for paragraph (1) substitute—
- “(1) Following a request from the enforcing authority, the manufacturer must, within such reasonable period as the authority may specify, provide the authority concerned with all the information and documentation necessary to demonstrate that the radio equipment is in conformity with Part 2.”.

#### **Amendment to regulation 17**

- 15.** In regulation 17 (compliance procedures for series production), in paragraph (2)(b)—
- (a) for “harmonised” substitute “designated”;
  - (b) omit “EU”.

#### **Insertion of regulations 18A, 18B and 18C**

- 16.** After regulation 18 (monitoring) insert—

##### **“Provision of information on compliance of combinations of radio equipment and software**

**18A.—**(1) In this regulation “product” means a combination of radio equipment and software allowing such radio equipment to be used as intended.

(2) The Secretary of State may by regulations make provision requiring a manufacturer of a product to provide the Secretary of State with information on the compliance of the product with the essential requirements.

(3) Regulations under paragraph (2) may—

- (a) specify categories or classes of product for which a manufacturer must provide information on compliance;
- (b) include requirements as to—
  - (i) the identification of the radio equipment and software intended to be used in combination;
  - (ii) the results of conformity assessment carried out in accordance with regulation 41(conformity assessment procedures);
  - (iii) the form the information must take;
- (c) make provision for the information on compliance to be made available to the enforcing authorities; and
- (d) make such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate.

(4) Regulations made under paragraph (2) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### **Power to amend R14(2)(b) and specify how information is to be presented**

**18B.**—(1) In this regulation “product” means radio equipment types that fall within categories of radio equipment affected by a low level of compliance with the essential requirements.

(2) The Secretary of State may by regulations make provision requiring a manufacturer, before placing a product on the market, to—

- (a) register information on compliance with the essential requirements; and
- (b) affix to the product a registration number allocated by the Secretary of State.

(3) Regulations made under paragraph (2) may specify—

- (a) the categories or classes of product in respect of which the manufacturer must register information;
- (b) that some or, where the Secretary of State considers necessary, all of the technical documentation listed in Schedule 5 must be registered;
- (c) that when setting out a registration process the Secretary of State must take the following matters into account—
  - (i) whether the process includes a central system of registration by manufacturers;
  - (ii) whether the process ensures appropriate control of access to information of a confidential nature; and
  - (iii) whether the process allocates a registration number to each registered radio equipment type.

(4) Regulations made under paragraph (2)—

- (a) may make such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate; and
- (b) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

### **Power to require registration of radio equipment**

**18C.**—(1) The Secretary of State may by regulations—

- (a) amend regulation 14(2)(b);
- (b) amend the Implementing Regulation;
- (c) make provision specifying the manner and form in which information concerning any restrictions or putting into service or requirements for authorisation of use must be presented.

(2) Regulations made under paragraph (1)—

- (a) may make such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate; and
- (b) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### **Amendment to regulation 19**

17. In regulation 19 (authorised representatives)—
- (a) in paragraph (1), for “within the EU” substitute “in the United Kingdom”;
  - (b) in paragraphs (3)(a) and (4)(c), omit “EU”; and
  - (c) in paragraph (4)(c), for “CE” substitute “UK”.

#### **Amendment to regulation 21**

18. In regulation 21 (requirements which must be satisfied before an importer places radio equipment on the market)—

- (a) in paragraph (b), omit “in at least one Member State” and “in the relevant Member State or Member States”; and
- (b) in paragraph (d)(i) for “CE” substitute “UK”.

#### **Amendment to regulation 23**

19. Regulation 23 (information identifying importer) is amended as follows –

- (a) in paragraph (2), for “competent national authority in the Member State in which it is made available to such end-users” substitute “enforcement authority”; and
- (b) for paragraph (3) substitute—
  - “(3) Paragraph (1) does not apply where—
    - (a) either—
      - (i) it is not possible to set out the information referred to in paragraph (1) on the radio equipment, or
      - (ii) the importer has imported the radio equipment from an EEA state and places it on the market within the period of 18 months beginning with exit day, and
    - (b) before placing the radio equipment on the market, the importer sets out the information referred to in paragraph (1)-
      - (i) on the packaging; or
      - (ii) in a document accompanying the safety component.”.

#### **Amendment to regulation 24**

20. In regulation 24 (instructions and safety information)—

- (a) in paragraph (1), for “in a language which can be understood by customers and other end users in the Member State in which the radio equipment is to be made available to such consumers and end-users” substitute “that are clear, legible and in easily understandable English”; and
- (b) omit paragraph (2).

#### **Amendment to regulation 27**

21. In regulation 27 (duty to take action in respect of radio equipment placed on the market which is considered not to be in conformity), in paragraph (2), omit “and the competent national authorities of any other Member State in which the importer made the radio equipment available on the market.”.



### **Amendment to regulation 28**

22. In regulation 28 (retention of technical documentation and EU declaration of conformity), in the heading to that regulation and in paragraph (a), omit “EU”.

### **Amendment to regulation 29**

23. In regulation 29 (provision of information and cooperation)—

- (a) in paragraph (1) omit “or a competent national authority of another Member State”; and
- (b) in paragraph (3)(b) for “authority concerned” substitute “enforcing authority”.

### **Amendment to regulation 31**

24. In regulation 31 (requirements which must be satisfied before a distributor makes radio equipment available on the market)—

- (a) in paragraph (1)(a)(i), for “CE” substitute “UK”;
- (b) in paragraph (1)(a)(iii), for “in a language which can be easily understood by consumers and other end-users in the Member State in which the radio equipment is to be made available on the market” substitute “which are clear, legible and in easily understandable English”;
- (c) in paragraph (1)(b)(i), for “in at least one Member State” substitute “without infringement of requirements”; and
- (d) omit paragraph (2).

### **Amendment to regulation 34**

25. In regulation 34 (duty to take action in respect of radio equipment made available on the market which is not in conformity), in paragraph (2) omit “and the competent national authorities of the other Member States in which the distributor has made the radio equipment available on the market”.

### **Amendment to regulation 35**

26. In regulation 35 (provision of information and cooperation)—

- (a) in paragraph (1) omit “or a competent national authority of another Member State”; and
- (b) in paragraph (3)(b) for “authority concerned” substitute “enforcing authority”; and
- (c) in paragraph (4) omit “a competent national authority of another Member State”.

### **New regulation 36A**

27. After regulation 36 insert—

#### **“Obligations which are met by complying with obligations in the Directive**

**36A.—(1)** In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
- (b) “CE marking” has the meaning given to it in Article 2(26);
- (c) “harmonised standard” has the meaning given to it in Article 2(18).

- (2) Subject to paragraphs (6) and (7), paragraph (3) applies where, before placing radio equipment on the market, the manufacturer—
- (a) ensures that the radio equipment has been designed and manufactured in accordance with the essential safety requirements set out in Article 3;
  - (b) ensures that the conformity assessment procedure that applies to that radio equipment in accordance with Article 17 of the Directive has been carried out;
  - (c) affixes a CE marking and where the conformity assessment procedure set out in Annex IV is applied, the notified body identification number, in accordance with Articles 19 and 20(1) to (3);
  - (d) draws up the technical documentation in accordance with Article 21;
  - (e) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedures are prepared in or translated into English;
  - (f) draws up an EU declaration of conformity, in accordance with Article 18; and
  - (g) ensures that the EU declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of regulations 7, 9, 10(1) and (3) are to be treated as being satisfied;
  - (b) regulations 2(2)(a), 10(2), 11, 19(3) and 39 apply subject to the modifications in paragraph (8);
  - (c) Part 3 does not apply; and
  - (d) regulation 63 does not apply.
- (4) Subject to paragraphs (6) and (7) paragraph (5) applies where, before placing radio equipment on the market, the importer ensures that—
- (a) the conformity assessment procedure that applies to that radio equipment in accordance with Article 17 has been carried out;
  - (b) the manufacturer has drawn up the technical documentation referred to in Annex V; and
  - (c) the radio equipment bears the CE marking referred to Article 19.
- (5) Where this paragraph applies—
- (a) the requirements of regulation 21(a) to (d) are to be treated as being satisfied; and
  - (b) regulations 2(2)(a), 22(1), 25 and 28 apply subject to the modifications in paragraph (10).
- (6) This paragraph applies where there is no designated standard or part of a designated standard which corresponds exactly to a harmonised standard or part of a harmonised standard as referred to in Article 16.
- (7) Where paragraph (6) applies paragraphs (2)(b) and (4)(a) are to be treated as requiring the manufacturer to have carried out—
- (a) one of the conformity assessment procedures in Article 17(1) with respect to the essential requirements set out in Article 3(1); and
  - (b) the conformity assessment procedure in Article 17(4) with respect to the essential requirements set out in Article 3(2) and (3).
- (8) Paragraph (9) applies where, before making radio equipment available on the market, a distributor ensures that the radio equipment bears the CE marking referred to in Article 19.

- (9) Where this paragraph applies—
  - (a) regulation 31(a)(i) is satisfied; and
  - (b) regulations 32(1) and 33 apply subject to the modifications in paragraph (10).
- (10) The modifications referred to in sub-paragraphs (3)(b), (5)(b) and (8)(b) are that—
  - (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
  - (b) any reference to “UK marking” is to be read as a reference to the CE marking;
  - (c) any reference to “essential safety requirements” is to be read as a reference to the essential safety requirements set out in Article 3;
  - (d) any reference to “designated standard” is to be read as a reference to a harmonised standard within the meaning of Article 2(18);
  - (e) any reference to “relevant conformity assessment procedure” is to be read as a reference to the conformity assessment procedure that applies to the radio equipment in accordance with Article 17;
  - (f) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex V.”.

#### **Amendment to regulation 37**

- 28. Omit regulation 37 (translation of declaration of conformity).

#### **Amendment to regulation 39**

- 29. In regulation 39 (prohibition on improper use of CE marking) in the heading to that regulation and in each place where it occurs, for “CE” substitute “UK”.

#### **Amendment to regulation 40**

- 30. In regulation 40 (presumption of conformity), paragraph (1)—
  - (a) for “harmonised” substitute “designated”; and
  - (b) omit “the reference to which has been published in the Official Journal”.

#### **Amendment to regulation 41**

- 31. In regulation 41 (conformity assessment procedures)—
  - (a) in paragraph (4)(b) omit “EU-”; and
  - (b) in paragraphs (5) and (6)—
    - (i) in each place where it occurs for “harmonised” substitute “designated”; and
    - (ii) omit “the references to which have been published in the Official Journal”.

#### **Amendment to regulation 42**

- 32. In regulation 42 (EU declaration of conformity)—
  - (a) in the heading, for “EU declaration” substitute “Declaration”; and
  - (b) in the opening words and paragraph (b), omit “EU”.

**Amendment to regulation 43**

33. In regulation 43 (simplified EU declaration of conformity), in the heading and each place where it occurs, omit “EU”.

**Amendment to regulation 44**

34. In regulation 44 (CE marking)—

- (a) in the heading and in all places where it occurs, for “CE” substitute “UK”; and
- (b) in all places where it occurs, for “notified body” substitute “approved body”.

**Amendment to regulation 45**

35. In regulation 45 (technical documentation)—

- (a) omit paragraph (3); and
- (b) in paragraph (4), for “paragraphs (1), (2) or (3)” substitute “paragraphs (1) and (2)”.

**Amendment to Part 4**

36. For Part 4 notification of conformity assessment bodies), substitute—

“PART 4

Approval of conformity assessment bodies

**Approved bodies**

46.—(1) An approved body is a conformity assessment body which—

- (a) has been approved by the Secretary of State pursuant to the procedure set out in regulation 47 (approval of conformity assessment bodies); or
- (b) immediately before exit day was a notified body in respect of which the Secretary of State had taken no action under regulations 52(1) or (2), as they had effect immediately before exit day, to suspend or withdraw the body’s status as a notified body.

(2) Paragraph (1) has effect subject to regulation 50 (restriction, suspension or withdrawal of approval).

(3) In this Part—

“notified body” means a body—

- (a) which the Secretary of State had before exit day notified to the European Commission and the Member States of the European Union, in accordance with Article 22 of the Directive; and
- (b) in respect of which no objections had been raised, as referred to in regulation 46(1)(b) as it had effect immediately before exit day;

“approved body requirements” means the requirements set out in Schedule 8.

**Approval of conformity assessment bodies**

47.—(1) The Secretary of State may approve only those conformity assessment bodies that qualify for approval.

(2) A conformity assessment body qualifies for approval if the first and second conditions below are met.

(3) The first condition is that the conformity assessment body has applied to the Secretary of State to become an approved body and that application is accompanied by—

- (a) a description of—
  - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
  - (ii) the conformity assessment procedure in respect of which the conformity assessment body claims to be competent;
  - (iii) the radio equipment in respect of which the conformity assessment body claims to be competent; and
- (b) either—
  - (i) an accreditation certificate; or
  - (ii) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the approved body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the approved body requirements.

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the approved body requirements.

(6) When deciding whether to approve a conformity assessment body that qualifies for approval, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) For the purposes of this regulation “accreditation certificate” means a certificate, issued by the UK national accreditation body, attesting that a conformity assessment body meets the approved body requirements.

### **Presumption of conformity of approved bodies**

**48.**—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a designated standard (or part of such standard), the Secretary of State is to presume that the conformity assessment body meets the approved body requirements covered by that standard (or that part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

### **Monitoring**

**49.** The Secretary of State must monitor each approved body with a view to verifying that the body—

- (a) continues to meet the approved body requirements;
- (b) meets any conditions set—
  - (i) in accordance with regulation 47(6)(b); or

- (ii) in the case of an approved body which was a notified body immediately before exit day, in accordance with regulation 47(6)(b), as it applied immediately before exit day; and
- (c) carries out its functions in accordance with these Regulations.

### **Restriction, suspension or withdrawal of approval**

**50.**—(1) Where the Secretary of State determines that an approved body—

- (a) no longer meets an approved body requirement, or
- (b) is failing to fulfil its obligations under these Regulations, other than a condition referred to in regulation 49(b),

the Secretary of State must restrict, suspend or withdraw the body's status as an approved body under regulation 46 (approved bodies).

(2) Where the Secretary of State determines that an approved body no longer meets a condition referred to in regulation 49(b), the Secretary of State may restrict, suspend or withdraw the body's status as an approved body under regulation 46.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the non-compliance.

(4) Before taking action under paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing to the approved body of the proposed action and the reasons for it;
- (b) give the approved body an opportunity to make representations to the Secretary of State regarding the proposed action within a reasonable period from the date of the notice; and
- (c) consider any such representations made by the approved body.

(5) Where the Secretary of State has taken action in respect of an approved body under paragraph (1) or (2), or where an approved body has ceased its activity, the approved body must, at the request of the Secretary of State—

- (a) transfer its files relating to the activities it has undertaken as an approved body to another approved body or to the Secretary of State; or
- (b) keep its files relating to the activities it has undertaken as an approved body available for the Secretary of State and market surveillance authorities for a period of 10 years from the date they were created.

(6) The activities undertaken as an approved body referred to in paragraph (5) include any activities that the body has undertaken as a notified body.

### **Operational matters in relation to approved bodies**

**51.**—(1) Subject to the terms of its appointment, an approved body must carry out the conformity assessment activities and procedures—

- (a) in respect of which the body's approval was given under regulation 47; or
- (b) in respect of which body's notification as a notified body was made.

(2) Where an approved body carries out a conformity assessment procedure, it must do so in accordance with Schedule 9.

(3) An approved body must make provision for a manufacturer to be able to make an appeal against a refusal by the approved body—

- (a) to issue a Type-examination certificate referred to in Schedule 3; or
- (b) to affix, or cause to be affixed, the body's identification number pursuant to regulation 44(5) (UK marking).

### **Subsidiaries and contractors**

**52.**—(1) An approved body may subcontract specific conformity assessment activities, or use a subsidiary to carry out such activities provided—

- (a) the body is satisfied that the subcontractor or subsidiary meets the approved body requirements;
- (b) the body has informed the Secretary of State that it is satisfied that the subcontractor or subsidiary meets those requirements; and
- (c) the economic operator for whom the activities are to be carried out has consented to the activities being carried out by that person.

(2) The approved body which subcontracts specific conformity assessment activities or uses a subsidiary to carry out such activities remains responsible for the proper performance of those activities (irrespective of where the subcontractor or subsidiary is established).

(3) Where an approved body subcontracts, or uses a subsidiary to carry out, a specific conformity assessment activity, the approved body must, for a period of 10 years beginning on the day on which the activity is first carried out, keep available for inspection by the Secretary of State all relevant documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activity carried out by the subcontractor or subsidiary.

(4) In this regulation, “subsidiary” has the meaning given to it in section 1159 of the Companies Act 2006<sup>(1)</sup>.

### **Register of approved bodies**

**53.**—(1) The Secretary of State must—

- (a) assign an approved body identification number to each approved body; and
- (b) compile and maintain a register of—
  - (i) approved bodies;
  - (ii) their approved body identification numbers;
  - (iii) the activities for which they have been approved; and
  - (iv) any restrictions on those activities.

(2) The register referred to in paragraph (1) must be made publicly available.

### **UK national accreditation body**

**54.** The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the approved body requirements;
- (b) monitoring approved bodies in accordance with regulation 49; and

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(1) 2006 c.46.

- (c) compiling and maintaining the register of approved bodies, in accordance with regulation 53.”.

**Amendment to regulation 57**

- 37. In regulation 57 (enforcement powers) each place where it occurs, for “CE” substitute “UK”.

**Amendment to regulation 58**

- 38. In regulation 58 (exercise of enforcement powers), omit sub- paragraph (c).

**Amendment to regulation 60**

- 39. In regulation 60 (enforcement action in respect of radio equipment which is not in conformity and which presents a risk)—

- (a) omit paragraphs (3), (4) and (7);
- (b) in paragraph (8), for “notifications under paragraphs (6) and (7), substitute “notification under paragraph (6)”;
- (c) in paragraph (8)(f)(ii), for “harmonised” substitute “designated”.

**Amendment to regulation 61**

- 40. Omit regulation 61 (EU safeguard procedure).

**Amendment to regulation 62**

- 41. In regulation 62 (enforcement action in respect of radio equipment which is in conformity, but which presents a risk)—

- (a) omit paragraph (3); and
- (b) in paragraph (4), for “notifications referred to in paragraphs (2) and (3)” substitute “notification referred to in paragraph (2)”.

**Amendment to regulation 63**

- 42. In regulation 63 (enforcement action in respect of formal non-compliance)—

- (a) in paragraphs (1)(a), (1)(a)(ii), (1)(b)(ii) and (1)(c)(ii), in each place in which it occurs for “CE” substitute “UK”;
- (b) in paragraph (1)(b), for “notified” substitute “approved”; and
- (c) in paragraphs (1)(c) and (1)(c)(ii), in each place in which it occurs omit “EU”.

**Amendment to regulation 77**

- 43.—(1) Regulation 77 (transitional provisions), is amended as follows.

- (2) In paragraph (a), for from “Directive” to the end of the paragraph substitute “the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000(2)”.

**Transitional provision in relation to EU Exit**

- 44. After regulation 76 insert—

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(2) [S.I. 2000/730](#); amended by [S.I. 2003/1903](#), [S.I. 2003/3144](#), [S.I. 2005/281](#), [S.I. 2015/1630](#) and [S.I. 2016/1101](#).



### “Transitional provision in relation to EU Exit

**76A.**—(1) In this regulation—

“pre-exit period” means the period beginning with the commencement date and ending immediately before exit day;

“product” means radio equipment to which these Regulations apply.

(2) Subject to paragraph (3), where a product was made available on the market during the pre-exit period, despite the amendments made by Schedule 29 of the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019(3), any obligation to which a person was subject under these Regulations as they had effect immediately before exit day, continues to have effect as it did immediately before exit day, in relation to that product.

(3) Paragraph (2) does not apply to—

(a) any obligation of any enforcing authority to inform the European Commission or the Member States of any matter; or

(b) any obligation to take action outside of the market in respect of that product.

(4) Where during the pre-exit period—

(a) a product has not been placed on the market; and

(b) a manufacturer has taken any action under regulation 41 as it had effect immediately before exit day in relation to that product,

that action has effect as if it had been done under regulation 41 as it has effect on and after exit day.”.

### Amendment to regulation 78

**45.**—(1) Regulation 78 (revocations and savings) is amended as follows.

(2) For paragraph (2) substitute—

“(2) The Regulations referred to in paragraph (1) continue to apply, as if they had not been revoked, to any equipment placed on the market in accordance with those Regulations before the commencement date, subject to the modifications made in paragraph (2A).”.

(3) Before paragraph (3), insert—

“(2A) The modifications referred to in paragraph (2) are as follows—

(a) references to the Community are to be read as including the United Kingdom;

(b) except where “Member State” first appears in regulation 14 (notified bodies), references to Member State are to be read as including the United Kingdom;

(c) the references to European Union and EEA State in regulation 14 are both to be read as including the United Kingdom;

(d) regulation 18A (duty of enforcement authority to inform Secretary of State of action taken), is to be read without the words “, with a view to this information being passed by her to the Commission.”;

(e) Schedule 5 applies as if paragraph 6 were omitted.”.

**Amendment to Schedule 1**

46. In Schedule 1 (radio equipment outside the scope of these regulations), for paragraph 2 substitute “Marine equipment falling within the Merchant Shipping (Marine Equipment) Regulations 2016(4)”.

**Amendment to Schedule 2**

47. In Schedule 2 (conformity assessment module A), in paragraph 4—

- (a) in the heading, and in subparagraphs (2) and (3), in each place where it occurs, omit “EU”; and
- (b) in the heading, and in subparagraph (1) in each place where it occurs, for “CE” substitute “UK”.

**Amendment to Schedule 3**

48. In Schedule 3 (conformity assessment modules B and C)—

- (a) in the first, second and fifth headings, and in paragraphs 1 and 2, for “EU-Type” substitute “Type”;
- (b) in paragraphs 6(1) and (4), for “an EU-Type” substitute “a Type”;
- (c) in each place in which it occurs in paragraphs, 3, 6(2), 6(3), 7(2) 8(1), 8(3), 9, 11, 12, and 13(1), for “EU-type” substitute “Type”;
- (d) in each place in which it occurs in paragraphs 3(1), 3(2)(b), 4, 5, 6(1), 6(4), 7, and 8, for “notified” substitute “approved”;
- (e) in paragraphs 3(2)(d) and 8(3) for “harmonised” substitute “designated”;
- (f) in both places in which it occurs in paragraph 8(1) for “its notifying authority” substitute “the Secretary of State”;
- (g) in paragraph 8(3)—
  - (i) in the first place in which it occurs, for “Member States” substitute “Secretary of State and the other approved bodies”;
  - (ii) for “Member States, the European Commission” in the second sentence substitute “Secretary of State”;
  - (iii) for “Member States and the European Commission” in the third sentence substitute “Secretary of State”; and
  - (iv) omit “the references of which have been published in the Official Journal”;
- (h) in paragraph 9 for “national” substitute “enforcing”;
- (i) in paragraph 13—
  - (i) in the heading and in each place in which it occurs in sub-paragraph (1), for “CE” substitute “UK”; and
  - (ii) in the heading and in each place in which it occurs in sub-paragraphs (2) and (3), omit “EU”.

**Amendment to Schedule 4**

49. In Schedule 4 (conformity assessment module H)—

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(4) [S.I. 2016/1025](#).

- (a) in each place in which it occurs in paragraphs 3(1), 3(1)(d), 3(3), 3(9), 4(2), 4(3), 4(4), 5(1), 6, 7(1) and 7(2), as well as the heading to paragraph 4, for “notified” substitute “approved”;
- (b) in paragraphs 3(2)(b) and 3(3)(b), for “harmonised” substitute “designated”; and
- (c) in paragraph 5—
  - (i) in the heading and in each place in which it occurs in paragraph (1), for “CE” substitute “UK”;
  - (ii) in the heading and in both places in which it occurs in sub-paragraph (2), omit “EU”;
  - and
  - (iii) in sub-paragraph (2) in both places in which it occurs for “national” and for “relevant” substitute “enforcing”;
- (d) in paragraph 6, for “national” substitute “enforcing”; and
- (e) in paragraph 7(1) in both places in which it occurs for “its notifying authority” substitute “the Secretary of State”.

#### **Amendment to Schedule 5**

**50.** In Schedule 5 (contents of technical documentation), in paragraph 1—

- (a) in subparagraph (d)—
  - (i) in each place in which it occurs, for “harmonised” substitute “designated”; and
  - (ii) omit “the references of which have been published in the Official Journal”;
- (b) in subparagraph (e), omit “EU”;
- (c) in subparagraph (f)—
  - (i) in both places in which it occurs, for “EU-type” substitute “Type”; and
  - (ii) for “notified” substitute “approved”; and
- (d) in subparagraph (i), for “in at least one Member” substitute “without infringement of requirements”.

#### **Amendment to Schedule 6**

**51.** In Schedule 6 (EU declaration of conformity)—

- (a) in the heading and in paragraph 8 omit “EU”;
- (b) in the heading and subheading, for “declaration” substitute “Declaration”;
- (c) in paragraph 5, for from “Union harmonisation legislation:” to “where applicable” substitute “statutory requirements”;
- (d) in paragraph 6, for “harmonised” substitute “designated”; and
- (e) in paragraph 7, for “EU-type” substitute “Type”.

#### **Amendments to Schedule 7**

**52.** In Schedule 7 (simplified EU declaration of conformity)—

- (a) in the heading and in paragraphs 1 and 3 omit “EU”; and
- (b) in paragraph 2, for “[Directive 2014/53/EU](#)” substitute “the relevant statutory requirements”.

### **Amendment to Schedule 8**

**53.** In Schedule 8 (notified body requirements)—

- (a) in the heading and in paragraphs 5, 8, 9(c), 11(a) and 17, for “notified” substitute “approved”;
- (b) in paragraph 11(c)—
  - (i) for “harmonised” substitute “designated”; and
  - (ii) omit “, the Directive”;
- (c) in paragraph 11(d) for “EU-type” substitute “Type”;
- (d) in paragraph 14 omit “and must satisfy the Secretary of State that it has”; and
- (e) in paragraph 17, for “under the Directive” substitute “by the Secretary of State”.

### **Amendment to Schedule 9**

**54.** In Schedule 9 (operational obligations of notified bodies)—

- (a) for “notified” substitute “approved”—
  - (i) in the heading;
  - (ii) in each place in which it occurs in paragraphs 7 and 9; and
  - (iii) in the second place in which it occurs in paragraphs 12 and 13;
- (b) for “a notified” substitute “an approved” in each place in which it occurs in paragraphs 1, 2, 5, 6, 8, 10, 11, 12, 13 and 14;
- (c) in all places in which it occurs in paragraphs 5, 8, 10 and 11, and in the first place in which it occurs in paragraph 6, for “an Eu-type” substitute “a Type”;
- (d) in paragraph 6 in the second place in which it occurs and in all places in which it occurs in paragraphs 7 and 9 for “EU-Type” substitute “Type”;
- (e) in paragraph 5, for “harmonised” substitute “designated”;
- (f) in paragraph 10(b)—
  - (i) in the first place in which it occurs for “notification” substitute “approval”;
  - (ii) in the second place in which it occurs for “notification” substitute “approval of conformity assessment bodies”
- (g) in paragraph 10(c), omit “or a competent national body of another Member State”;
- (h) in paragraph 12, for “the Directive” substitute “these Regulations”; and
- (i) in paragraph 13, for “under the Directive” substitute “by the Secretary of State”.