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STATUTORY INSTRUMENTS

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**1992 No. 2372**

**The Electromagnetic Compatibility Regulations 1992**

**PART VIII**

**MISCELLANEOUS AND SUPPLEMENTAL**

**Restrictions on disclosure of information**

**97.**—(1) Subject to the following provisions of this regulation, a person shall be guilty of an offence if he discloses any information—

- (a) which was obtained by him in consequence of the exercise by any person of any power conferred by Part VII of these Regulations; or
- (b) which consists in a secret manufacturing process or a trade secret and was obtained by him in consequence of the inclusion of the information—
  - (i) in written or oral representations made for the purposes of Schedule 7 hereto; or
  - (ii) in a statement of a witness in connection with any such oral representations.

(2) Paragraph (1) above shall not apply to a disclosure of information if the information is publicised information or the disclosure is made—

- (a) for the purpose of facilitating the exercise of a relevant person's functions under these Regulations;
- (b) for the purpose of facilitating the exercise of a relevant person's enforcement or regulatory functions under any enactment (whether passed or made before or after the making of these Regulations);
- (c) for the purposes of compliance with a Community obligation; or
- (d) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.

(3) In paragraph (2)(b) above the reference to a person's functions shall include a reference to the function of making, amending or revoking any regulations or order.

(4) A person guilty of an offence under this regulation shall be liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to—
  - (i) imprisonment for a term not exceeding two years; or
  - (ii) a fine,or to both.

(5) In this regulation—

“publicised information ” means any information which has been disclosed in any civil or criminal proceedings; and

“relevant person ” means—

- (a) a Minister of the Crown, Government department or Northern Ireland department;
- (b) an enforcement authority; or
- (c) any other person on whom enforcement or regulatory functions are conferred by or under any enactment.

### **Service of documents etc**

**98.**—(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<sup>(1)</sup> (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**

**99.** 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 relevant apparatus, forthwith inform the Secretary of State of the action taken, and the reasons for it, with a view to this information being passed by him to the Commission.

### **Savings for certain privileges**

**100.**—(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.

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(1) 1978 c. 30.

### **Savings for action taken under other enactments**

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