
STATUTORY INSTRUMENTS

1997 No. 3051

ELECTROMAGNETIC COMPATIBILITY

The Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Examination Fees Regulations 1997

Made - - - - *18th December 1997*
22nd December
Laid before Parliament *1997*
Coming into force - - *2nd February 1998*

The Secretary of State, in exercise of the powers conferred on her by section 56(1) and (2) of the Finance Act 1973⁽¹⁾, with the consent of the Treasury, and of the powers conferred on her by section 128 of the Finance Act 1990⁽²⁾, and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Examination Fees Regulations 1997 and shall come into force on 2nd February 1998.

Revocation and transitional provisions

2.—(1) Subject to paragraph (2) below, the Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Test Fees Regulations 1992⁽³⁾ are hereby revoked.

(2) Where, for the purposes of the determination of an application for certification received by the Secretary of State on or before 1st February 1998, the whole or part of any certification of apparatus is conducted on or after the coming into force hereof, the fee to be charged in respect of the whole of that certification shall be the fee provided for in the Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Test Fees Regulations 1992.

Interpretation

3.—(1) In these Regulations, unless the context otherwise requires—

(1) 1973 c. 51.
(2) 1990 c. 29.
(3) S.I. 1992/2373.

“apparatus” means wireless telegraphy apparatus or apparatus designed or adapted for use in connection with wireless telegraphy apparatus of a description mentioned or referred to in paragraph 4 of Schedule 6 to the EMC Regulations;

“application” means an application for the issue of a technical report, a technical certificate or an EC type-examination certificate as the case may be and includes an application for the variation of the same;

“certification fee” shall be construed in accordance with regulation 6;

“certified apparatus” means apparatus in respect of which a technical report, a technical certificate or an EC type-examination certificate as the case may be has been issued;

“the EMC Regulations” means the Electromagnetic Compatibility Regulations 1992(4);

“examination” means the supervision by an officer of a test carried out by a person other than an officer and inspection of apparatus and shall include the carrying out of a test by an officer;

“examination fee” shall be construed in accordance with regulation 5;

“modification” means any change to certified apparatus which is effected by or on behalf of a person other than the manufacturer of that apparatus;

“non-technical change” means any change to certified apparatus which does not affect or is not capable of affecting the electromagnetic compatibility characteristics of that apparatus which is effected by or on behalf of the manufacturer;

“officer” means a person engaged in examination on behalf of the Secretary of State; and

“technical change” means any change to certified apparatus which affects or is capable of affecting the electromagnetic compatibility characteristics of that apparatus which is effected by or on behalf of the manufacturer.

(2) For the purposes of these Regulations—

“EC type-examination certificate”, “technical certificate” and “technical report” shall have the meanings given respectively by the EMC Regulations.

(3) For the purposes of these Regulations—

- (a) the setting up and dismantling of the apparatus examined and any other equipment required to conduct an examination;
- (b) the analysis of examination results;
- (c) the compiling of an examination report; and
- (d) unpacking and repacking the apparatus examined,

shall be treated as part of the examination.

(4) For the purposes of these Regulations, “visit” means a continuous period of time during which an officer is reasonably absent from his work place for the purposes of conducting an examination and includes time spent in conducting the examination, time reasonably spent in travel wholly undertaken for the purposes of an examination wholly or partly conducted at a place other than the officer’s work place, any period in which overnight accommodation (including a berth on a boat or train) is reasonably occupied (an “overnight stay”) and any other rest periods reasonably taken whilst so absent.

(5) In calculating an officer’s subsistence costs, a visit shall be divided into periods of time in the following order—

- (a) each complete period of 24 hours (a “24 hour period”);
- (b) any—

- (i) single period of less than 24 hours; or
 - (ii) period of less than 24 hours remaining after any 24 hour periods have been taken into account,
which includes an overnight stay (an “overnight period”);
- (c) where—
- (i) the visit does not involve an overnight stay; or
 - (ii) the visit involves one or more 24 hour periods, but no overnight period is counted, any period of—
 - (aa) 10 hours or more but less than 24 hours (a “day period”); or
 - (bb) 5 hours or more but less than 10 hours (a “half-day period”); and
- (d) any remaining period of less than 5 hours, which shall be disregarded.

(6) In calculating an examination fee or variable fee, each period of time taken by each officer involved in conducting an examination shall be counted separately, and the total for each officer be aggregated, and the aggregate for all officers involved divided into complete periods of 15 minutes, with any remaining period of 7.5 minutes or more but less than 15 minutes being counted as a complete period of 15 minutes, and any remaining period of less than 7.5 minutes being disregarded.

Application

4. These Regulations apply to the charging of fees for the purpose of determining an application and in respect of the examination of apparatus for that purpose conducted by the Secretary of State.

Examination fees

5.—(1) This regulation applies to the charging of fees, “examination fees”, in respect of the examination of apparatus conducted by the Secretary of State for the purpose of determining an application for the issue of a technical report or technical certificate or variation thereof.

- (2) The examination fee shall be the sum of—
- (a) the amount calculated in accordance with Schedule 1 hereto; and
 - (b) an amount equal to the value added tax chargeable on the supply of that examination.

(3) For the purposes of this regulation, the value of the supply of examination by reference to which value added tax is chargeable shall be the amount calculated in accordance with Schedule 1 hereto.

Certification fees

6.—(1) This regulation applies to the charging of fees, “certification fees”, in respect of the determination of an application for the issue of an EC type-examination certificate or variation thereof by the Secretary of State including the charging of fees in respect of any examination carried out as part of that determination.

- (2) The certification fee, which is payable whether or not the application is granted, shall be the sum of—
- (a) the sum specified in relation to the type of application appearing in Schedule 2 hereto (“the fixed fee”); and
 - (b) if the determination of an application includes a visit, the sum of—
 - (i) the amount calculated in accordance with Schedule 3 hereto (“the variable fee”); and
 - (ii) an amount equal to the value added tax chargeable on the supply of that examination.

(3) For the purposes of this regulation, the value of the supply of examination by reference to which value added tax is chargeable shall be the variable fee.

Timing of payment of fees

7.—(1) Where an examination fee is payable, the Secretary of State shall—

- (a) on receipt of an application for a technical report or technical certificate or variation thereof, estimate in complete periods of 15 minutes the time to be taken in conducting the examination and thereby estimate the amount to be payable in accordance with regulation 5 above, and shall serve an invoice on the applicant for the amount so estimated, which shall thereupon be due and payable to the Secretary of State;
- (b) on completion of the examination, the Secretary of State shall—
 - (i) serve an invoice on the applicant for the final amount of the examination fee, which shall thereupon, and before disclosure of the technical report or technical certificate, be due and payable to the Secretary of State; or
 - (ii) if the amount received under paragraph (1)(a) above exceeds the final amount of the examination fee, repay the balance to the applicant.

(2) Where a variable fee is payable, the Secretary of State shall on completion of the visit notify the applicant of the amount of the variable fee which shall thereupon, and before disclosure and notification of the result of the application, be due and payable to the Secretary of State.

(3) The fixed fee shall be due and payable on the making of the application.

17th December 1997

Barbara Roche,
Parliamentary Under-Secretary of State for
Small Firms, Trade and Industry,
Department of Trade and Industry

We consent to these Regulations.

18th December 1997

Graham Allen,
Jim Dowd,
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Regulation 5(2)

CALCULATION OF EXAMINATION FEES

The amount to be included in the examination fee for the purposes of regulation 5(2)(a) shall be £66 per hour taken in conducting the examination, subject to—

- (a) a minimum of £250; and
- (b) a maximum of £10,500.

SCHEDULE 2

Regulation 6(2)

FIXED FEES

| <i>Type of Application</i> | <i>Fee</i> |
|--|------------|
| Initial EC type-examination Certificate | £400 |
| Modification to EC type-examination Certificate | £400 |
| Non-technical Variation of EC type-examination Certificate | £200 |
| Technical Variation of EC type-examination Certificate | £200 |

SCHEDULE 3

Regulation 6(2)

CALCULATION OF VARIABLE FEES

The amount to be included in the variable fee for the purposes of regulation 6(2)(b)(i) shall be the sum of the following—

- (a) £41 per hour for time spent in conducting the examination;
- (b) any travelling costs reasonably incurred; and
- (c) where an examination involves a visit of 5 hours or more, each officer's reasonable subsistence costs.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the charging of fees in relation to determination of applications for a technical report or technical certificate for wireless telegraphy apparatus and the examination of such apparatus for that purpose by the Secretary of State pursuant to the provisions of the Electromagnetic

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Compatibility Regulations 1992 (S.I.1992/2372) (regulation 4); the Secretary of State is a body responsible for issuing technical reports and technical certificates for certain wireless telegraphy apparatus pursuant to Article 10.2 of Council Directive 89/336 EEC on the approximation of the laws of Member States relating to electromagnetic compatibility (O.J. No. L139, 23.5.89, p. 19); as amended by Council Directive 91/263/EEC (O.J. No. L128, 23.5.91, p. 1) and Council Directive 92/31/EEC (O.J. No. L126, p. 11). Fees are set at a level to achieve full cost recovery.

Further, these Regulations prescribe fees (“the fixed fee”) for the determination of an application for the issue of an EC type-examination certificate for radio transmission apparatus by the Secretary of State, and they provide for the charging of fees if examination (including testing) is carried out as part of that determination by the Secretary of State (regulation 6); the Secretary of State is a body responsible for issuing EC type-examination certificates for certain wireless telegraphy apparatus pursuant to the provisions of the 1992 Regulations. Fees are set at a level to achieve full cost recovery.

These Regulations replace the Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Test Fees Regulations 1992 (S.I. 1992/2373).

These fees are altered as follows:

- (a) the fee payable on initial EC Type examination Certificate is increased from £300 to £400;
- (b) the modification to an EC Type examination Certificate is increased from £300 to £400;
- (c) the non-technical Variation of EC Type examination Certificate is increased from £150 to £200;
- (d) the technical Variation of EC Type examination Certificate is increased from £150 to £200;
- (e) the fee payable for site visits is changed from a variable rate of £30.48 to £46.86 per hour depending on the grade of officer to a fixed rate of £41.00 per hour.

The above fees are set at a level to achieve full cost recovery.