

## SCHEDULE 1

Regulations 2(3) and 3(5)

### (Annex 1 of Directive 99/5/EC)

#### EQUIPMENT NOT COVERED BY THIS DIRECTIVE AS REFERRED TO IN ARTICLE 1(4)

1. Radio equipment used by radio amateurs within Article 1, definition 53, of the International Telecommunications Union (ITU) radio regulations unless that 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.

2. Equipment falling within the scope of Council Directive 96/98EC of 20 December 1996 on marine equipment.(1)

3. Cabling and wiring.

4. Receive only radio equipment intended to be used solely for the reception of sound and TV broadcasting services.

5. Products, appliances and components within the meaning of Article 2 of Council Regulation (EEC) No. 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedure in the field of civil aviation.(2)

6. Air-traffic management equipment and systems within the meaning of Article 1 of Council Directive 93/65EEC of 19 July 1993 on the definition and use of compatible technical specifications for the procurement of air-traffic management equipment and systems.(3)

## SCHEDULE 2

Regulations 2(3), 5(2)(e) and 9(1)

### (Annex II of Directive 99/5/EC)

#### CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 10(3)

##### **Module A (internal production control)**

1. This module describes the procedure whereby the manufacturer or his authorised representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the products concerned satisfy the requirements of this Directive that apply to them. The manufacturer or his authorised representative established within the Community must affix the CE marking to each product and draw up a written declaration of conformity.

2. The manufacturer must establish the technical documentation described in point 4 and he or his authorised representative established within the Community must keep it for a period ending at least 10 years after the last product has been manufactured at the disposal of the relevant national authorities of any Member State for inspection purposes.

3. Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available is the responsibility of the person who places the product on the Community market.

(1) OJL No. 46, 17.2.1997, p 25.

(2) OJL No. 373, 31.12.1991, p 4 Regulation as amended by Commission Regulation (EC) No. 2176/96 (OJL 291, 14.11.1996, p 15).

(3) OJL No. 189, 29.7.1993, p 52 Directive as last amended by Commission Directive 97/15/EC (OJL 95, 10.4.1997, p 16).

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

- a general description of the product;
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.;
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions and explanations of the solutions adopted to meet the essential requirements of the Directive where such standards referred to in Article 5 have not been applied or do not exist;
- results of design calculations made, examinations carried out, etc.;
- test reports.

5. The manufacturer or his authorised representative must keep a copy of the declaration of conformity with the technical documentation.

6. The manufacturer must take all measures necessary in order that the manufacturing process ensures compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of this Directive that apply to them.

### SCHEDULE 3

Regulations 2(3), 5(2)(e),9(1) and 10(2)

#### **(Annex III of Directive 99/5/EC)**

#### CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 10(4)

##### **(Internal production control plus specific apparatus tests).**

This Annex consists of Annex II, plus the following supplementary requirement:

For each type of apparatus, all essential radio test suites must be carried out by the manufacturer or on his behalf. The identification of the test suites that are considered to be essential is the responsibility of a notified body chosen by the manufacturer except where the test suites are defined in the harmonised standards. The notified body must take due account of previous decisions made by notified bodies acting together.

The manufacturer or his authorised representative established within the Community or the person responsible for placing the apparatus on the market must declare that these tests have been carried out and that the apparatus complies with the essential requirements and must affix the notified body's identification number during the manufacturing process.

SCHEDULE 4

Regulations 2(3), 5(2)(e),9(1) and 10(2)

**(Annex IV of Directive 99/5/EC)**

CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 10(5)

**(Technical construction file).**

This Annex consists of Annex III plus the following supplementary requirements:

The technical documentation described in point 4 of Annex II and the declaration of conformity to specific radio test suites described in Annex III must form a technical construction file.

The manufacturer, his authorised representative established within the Community or the person responsible for placing the apparatus on the market, must present the file to one or more notified bodies, each of the notified bodies must be informed of others who have received the file.

The notified body must review the file and if it is considered that it has not been properly demonstrated that the requirements of the Directive have been met, the notified body may issue an opinion to the manufacturer, his representative or the person responsible for placing the apparatus on the market and must inform the other notified bodies who have received the file accordingly. Such an opinion must be given within four weeks of receipt of the file by the notified body. On receipt of this opinion, or after the end of the four-week period, the apparatus may be placed on the market, without prejudice to Articles 6(4) and 9(5).

The manufacturer or his authorised representative established within the Community or the person responsible for placing the apparatus on the market must keep the file for a period ending at least 10 years after the last apparatus has been manufactured at the disposal of the relevant national authorities of any Member States for inspection.

SCHEDULE 5

Regulations 2(3), 5(1) 9(1) and 10(2)

**(Annex V of Directive 99/5/EC)**

CONFORMITY ASSESSMENT PROCEDURE REFERRED TO IN ARTICLE 10

**Full quality assurance**

1. Full quality assurance is the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer must affix the marks referred to in Article 12(1) to each product and draw up a written declaration of conformity.

2. The manufacturer must operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and must be subject to surveillance as specified in point 4.

3. Quality system.

3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body. The application must include:

- all relevant information for the products envisaged,
- the quality system's documentation.

3.2 The quality system must ensure compliance of the products with the requirements of the Directive that apply to them. All the elements, requirements and provisions adopted by the

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manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation must ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It must contain in particular an adequate description of :

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical specifications, including the harmonised standards and technical regulations as well as relevant test specifications that will be applied and, where the standards referred to in Article 5(1) will not be applied in full, the means that will be used to ensure that the essential requirements of the Directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and test that will be carried out before, during and after manufacture, and the frequency with which they will be carried out, as well as the results of the tests carried out before manufacture where appropriate,
- the means by which it is ensured that the test and examination facilities respect the appropriate requirements for the performance of the necessary test,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

**3.3** The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It must presume compliance with these requirements in respect of quality systems that implement the relevant harmonised standard.

The notified body must assess in particular whether the quality control system ensures conformity of the products with the requirements of the Directive in the light of the relevant documentation supplied in respect of points 3.1 and 3.2 including, where relevant, test results supplied by the manufacturer.

The auditing team must have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure must include an assessment visit to the manufacturer's premises.

The decision must be notified to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

**3.4** The manufacturer must undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorised representative must keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body must evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in point 3.2 or whether a reassessment is required.

It must notify its decision to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

**4.** EC surveillance under the responsibility of the notified body.

**4.1.** The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

**4.2.** The manufacturer must allow the notified body access for inspection purposes to the locations of design, manufacture, inspection and testing, and storage and must provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
- the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

**4.3** The notified body must carry out audits at reasonable intervals to make sure that the manufacturer maintains and applies the quality system and must provide an audit report to the manufacturer.

**4.4.** Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

**5.** The manufacturer must, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of point 3.1,
- the updating referred to in the second paragraph of point 3.4,
- the decisions and reports from the notified body which are referred to in the final paragraph of point 3.4 and in points 4.3 and 4.4.

**6.** Each notified body must make available to the other notified bodies the relevant information concerning quality system approvals including reference to the product(s) concerned, issued and withdrawn.

## SCHEDULE 6

Regulations 2(3) and 15

### (Annex VI of Directive 99/5/EC)

#### MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT WHEN DESIGNATING NOTIFIED BODIES IN ACCORDANCE WITH ARTICLE 11(1)

**1.** The notified body, its director and the staff responsible for carrying out the tasks for which the notified body has been designated must not be a designer, manufacturer, supplier or installer of radio equipment or telecommunications terminal equipment, or a network operator or a service provider, nor the authorized representative of any of such parties. They must be independent and not become directly involved in the design, construction, marketing or maintenance of radio equipment or telecommunications terminal equipment, nor represent the parties engaged in these activities. This does not preclude the possibility of exchanges of technical information between the manufacturer and the notified body.

**2.** The notified body and its staff must carry out the tasks for which the notified body has been designated with the highest degree of professional integrity and technical competence and must be free from all pressures and inducements, particularly financial, which might influence their

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judgement or the results of any inspection, especially from persons or groups of persons with an interest in such results.

3. The notified body must have at its disposal the necessary staff and facilities to enable it to perform properly the administrative and technical work associated with the tasks for which it has been designated.

4. The staff responsible for inspections must have:

- sound technical and professional training,
- satisfactory knowledge of the requirements of the tests or inspections that are carried out and adequate experience of such tests or inspections,
- the ability to draw up the certificates, records and reports required to authenticate the performance of the inspections.

5. The impartiality of inspection staff must be guaranteed. Their remuneration must not depend on the number of tests or inspections carried out nor on the results of such inspections.

6. The notified body must take out liability insurance unless its liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible.

7. The staff of the notified body is bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except vis-à-vis the competent administrative authorities of the United Kingdom) under the Directive or any provision of national law giving effect thereto.

## SCHEDULE 7

Regulations 2(3), 5(2)(d) and 10

### (Annex VII of Directive 99/5/EC)

#### THE CE MARK

1. The CE conformity marking must consist of the initials 'CE' taking the following form:



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

2. The CE marking must have a height of at least 5 mm except where this is not possible on account of the nature of the apparatus.

3. The CE marking must be affixed to the product or to its data plate. Additionally it must be affixed to the packaging, if any, and to the accompanying documents.

4. The CE marking must be affixed visibly, legibly and indelibly.

5. The equipment class identifier must take a form to be decided by the Commission in accordance with the procedure laid down in Article 14.

Where appropriate it must include an element intended to provide information to the user that the apparatus makes use of radio frequency bands where their use is not harmonised throughout the Community.

It must have the same height as the initials "CE".

## SCHEDULE 8

Regulation 17

### PART I

#### SUBSTITUTE DEFINITIONS

“Applicable Terminal Equipment” means apparatus which is applicable terminal equipment within the meaning of regulation 4 of the Terminal Equipment Regulations or regulation 2(1)(c) of the RTTE Regulations;

“Approved Apparatus” means in relation to any system apparatus approved under Section 22 of the Act or which meets the appropriate essential requirements of regulation 4 of the RTTE Regulations;

“Compliant Terminal Equipment” means Applicable Terminal Equipment which at the time of being placed on the market within the European Community (“the applicable time”) satisfied the requirements of regulation 8 of the Terminal Equipment Regulations or met the appropriate essential requirements of regulation 4 of the RTTE Regulations and either—

- (i) has not subsequently been modified so as to cease to satisfy or (as the case may be) meet those requirements as they were at the applicable time, or
- (ii) has subsequently been so modified but in such a way that it satisfied or (as the case may be) met those requirements as they were at the time of modification.

#### **Condition 5**

### PART II

#### SUBSTITUTE CONDITIONS IN THE STANDARD SCHEDULES

##### **Connection of Systems and Apparatus**

**5.1** To the extent that the Licensee runs a Mobile Public Telephone System, and subject to Conditions 56A and 65 and to the following provisions of this Condition the Licensee shall at the written request of:

- (a) a Service Provider to whom the Licensee is obliged to provide Mobile Radio Telecommunication Services; or
- (b) in any case where the Licensee has agreed to provide Mobile Radio Telecommunication Services to any person, that person,

connect or permit the connection of the Applicable Systems to any telecommunication system designed or adapted to be capable of use while in motion which is composed of apparatus which is approved under section 22 of the Act for connection to the Applicable Systems, is Compliant Terminal Equipment, and shall not discontinue a connection of any such system lawfully made.

**5.2** To the extent that the Licensee runs a system other than a Mobile Public Telephone System, the Licensee:

- (a) shall connect or permit the connection of, at a Network Termination Point within Network Termination and Testing Apparatus situated on Serviced Premises, the Applicable Systems to:
  - (i) any item of telecommunication apparatus which is approved for the time being for connection to that Applicable System under section 22 of the Act or is Compliant Terminal Equipment; or

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- (ii) any other telecommunication system to which this Condition applies which is or is to be run by the Crown or which is composed of apparatus which is approved for connection to that system or is Compliant Terminal Equipment, which is owned by or supplied to another person;

(b) shall not discontinue such connection of any such apparatus or system lawfully made.

**5.3** Apparatus shall not be regarded as approved for connection to any system for the purposes of paragraph 5.1 or 5.2 unless that apparatus is Compliant Terminal Equipment or has been so approved:

- (a) by the Secretary of State; or
- (b) by some other person by virtue of an authorisation given by the Secretary of State being an authorisation which required the person authorised, before approving any apparatus or designating any standard to which apparatus must conform if it is to be approved, to be satisfied that connection of the apparatus to the system would not be likely:
  - (i) to cause the death of, or personal injury to, or damage to the property of the Licensee or any person engaged in the running of that system; or
  - (ii) materially to impair the quality of any telecommunication service provided by means of that system or any system connected to it (other than the system being connected).

**5.4** No apparatus or system is required under paragraph 5.1 or 5.2 to be, or to be permitted to be, connected or kept connected to the Applicable Systems if that apparatus, or any apparatus comprised in that system, as the case may be:

- (a) conformed to the relevant standard or standards at the time when the connection to the Applicable Systems was made but no longer does so and does not conform to the relevant standard or standards (if any) for the time being designated under section 22(6) of the Act;
- (b) was at the time when the connection to the Applicable Systems was made but has since ceased to be Compliant Terminal Equipment; or
- (c) is in the opinion of the Secretary of State and the Director causing serious damage to a network or harmful radio interference or harm to the network or its functioning and the Licensee has been authorised by the Secretary of State and the Director to refuse connection, or to disconnect such apparatus or withdraw it from service.
- (d) is, in case of emergency, required to be disconnected to protect the network, provided that:
  - (i) the user may be offered, without delay and without costs, an alternative solution, and
  - (ii) the Licensee immediately informs the Secretary of State and the Director.

**5.5** Paragraphs 5.1, 5.2, 5.3 and 5.4 do not apply to any system run by a Schedule 2 Public Operator to which Condition 9 or Part C applies, or to apparatus comprised in such a system.

**5.6** Except with the consent of the Director the Licensee shall not connect nor permit to be connected any Relevant Terminal Apparatus to any of the Applicable Systems on Served Premises except by means of Network Termination and Testing Apparatus.

## **Condition 15**

### **PUBLICATION OF INTERFACES**

#### **Publication of Commonly Provided Interfaces**

- (a) (a) The Licensee shall, in relation to all commonly provided Customer Interfaces in use by the Licensee at the time this Condition comes into force, notify such Interfaces to the Director and publish within 90 days of this Condition coming into force, in an accurate and adequate manner and in accordance with paragraph 15.6 below the Interface Specifications;



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Where the Licensee wishes to introduce new, or up-date the existing Interface Specifications, the Licensee must publish, up to twelve months prior to the provisions of any service provided through such Interfaces or within a lesser period with the consent of the Director, in an accurate and adequate manner, the new or amended Interface Specifications in accordance with paragraph 15.6 below.

- (b) The Licensee shall, in relation to Network Interconnection Interfaces relating to any service described in sub-paragraph (i) or (ii) in the definition of Network Services, in use by the Licensee at the time this Condition comes into force, notify such Interfaces to the Director and publish Interface Specifications relating to such Interfaces within 90 days of this Condition coming into force, in accordance with paragraph 15.6 (a), (d) and (e) below.

### **Publication of new Commonly Provided Interfaces**

**15.2** Where the Director has determined that the Licensee has Interface Control in relation to any new commonly provided Interface Specification relating to any service described in sub-paragraph (i) or (ii) of the definition of Network Services, which the Licensee intends to use and which is not published under paragraph 15.1:

- (a) the Licensee shall notify such Interface Specification to the Director at the commencement of the Relevant Consulting Period;
- (b) the Licensee shall, if so directed by the Director, consult with Interested Parties during the Relevant Consulting Period;
- (c) the Licensee may, during and after the Relevant Consulting Period, modify any such Interface Specification in line with representations made and any advice offered by the Director to the Licensee relating to such representations;
- (d) the Licensee shall, after the end of the Relevant Consulting Period, publish the Interface in accordance with sub-paragraph 15.6 below; and
- (e) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 12 months, except where the Director has consented to a shorter period following the written application of the Licensee.

**15.3** Where the Licensee does not have Interface Control in relation to any new commonly provided Interface Specification relating to any service described in sub-paragraph (i) or (ii) of the definition of Network Service, which the Licensee intends to use, and which is not published under paragraph 15.1 above:

- (a) the Licensee shall notify such Interface Specification to the Director;
- (b) the Licensee shall publish the Interface Specification in accordance with paragraph 15.6 below; and
- (c) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 12 months, except where the Director has consented to a shorter period following the written application of the Licensee, or, in the case of an interface specification related to the provision of Mobile Radio Telecommunication Services not less than 90 days.

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### **Modifications of Commonly Provided Interface Specifications**

**15.4** Where any Interface Specification to which paragraph 15.1, 15.2 or 15.3 apply is modified by the Licensee:

- (a) the Licensee shall notify such modification to the Director and publish such modification in accordance with paragraph 15.6 below;
- (b) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall be not less than 3 months, except where the Director has consented to a shorter period following the written application of the Licensee; and
- (c) the modification shall include any change in the description of any Interface which may affect the maintenance of effective interoperability of services by means of the Interface described in the relevant Interface Specification.

### **Withdrawals of Commonly Provided Interfaces**

**15.5** Where any interface described in any Interface Specification to which paragraph 15.1, 15.2 or 15.3 apply is withdrawn by the Licensee:

- (a) the Licensee shall notify such withdrawal to the Director and publish such withdrawal in accordance with paragraph 15.6 below; and
- (b) the Licensee shall not make any modifications to the Applicable Systems conforming to the new Interface Specification until a sufficient period has elapsed after publication of the Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems. Such period shall not be less than 12 months, except where the Director has consented to a shorter period following the written application of the Licensee.

### **Publication Requirements**

**15.6** The requirements as to publication are that:

- (a) the description of the Technical Characteristics must be such as to assist in securing the effective interoperability of telecommunication systems and apparatus, and, in particular, (although without prejudice to the generality of the foregoing) the correct operation of Terminal Equipment;
- (b) the Interface Specification published shall: (i) be in sufficient detail to permit the design of telecommunications terminal equipment capable of utilising all services provided through the corresponding interface; (ii) detail any changes in existing Interface Specifications; and (iii) include, inter alia, all the information necessary to allow manufacturers to carry out, at their choice, the relevant tests for the essential requirements applicable to the telecommunications terminal equipment;
- (c) the Interface Specifications shall be made readily available by the Licensee;
- (d) the Licensee shall ensure that each Interface Specification is published in a manner appropriate for bringing the matters to which the Interface Specification relates to the attention of:
  - (i) the Secretary of State, the British Standards Institution, all persons to whom functions have been delegated pursuant to section 25 of the Act, all Operators with whom the Licensee is obliged to negotiate Interconnection under Condition 9, or offer to enter into Interconnection agreements with, as the case may be, under Part

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- C of this Licence, appropriate representatives of suppliers, and manufacturers of Telecommunication apparatus and systems and appropriate representatives of users or consumer interests; and
- (ii) any person whom the Director considers likely to be affected by or to have an interest in such matters and whom the Director has determined for the purpose of this sub-paragraph; and
  - (iii) any other person likely to be affected by or to have an interest in such matters; and
- (e) where the Director considers it necessary to enable Interested Parties to obtain easy access to the information contained in Interface Specifications, he may direct the Licensee to send copies of any Interface Specification, or any class of Interface Specification, to any person specified by him for the purposes of this sub-paragraph.

### **Amendments of Interface Specifications directed by the Director**

**15.7** If, following any representation made to him, the Director concludes that any Interface Specification contains insufficient information for its purpose he may direct the Licensee to:

- (a) amend the Interface Specification in order to remedy the defect; and
- (b) publish the amended Interface Specification in accordance with the provisions of paragraph 15.6 and in relation to any period specified by the Director which takes into account the need to ensure a sufficient period has elapsed after publication of the amended Interface Specification to enable any Relevant Party to have a reasonable period in which to make any appropriate modifications to apparatus connected to the Applicable Systems.

**15.8** To the extent that the Licensee is running a Fixed Public Telephone System by means of which it provides Fixed Publicly Available Telephone Services, the Licensee shall inform the Director in writing, without undue delay, of any particular network characteristics which are found to affect the correct operation of apparatus. Such information shall be made available to Terminal Equipment suppliers at their request by the Director pursuant to Regulation 17(4)(c) of the Revised Voice Telephony Regulations.

**15.9** Nothing in this Condition shall require the Licensee to publish or send to the Director information which it has already published or sent to the Director.

## **PART III**

### **OTHER SUBSTITUTE CONDITIONS**

#### **TECHNICAL REQUIREMENTS**

The Applicable Systems shall, unless the Director agrees otherwise, be connected to a public telecommunication system only if such relevant technical requirements, if any, for connection to that public telecommunication system, as the Director may from time to time specify, and which are described in a list kept for the purpose by the Director and made available by him for inspection by the general public, are complied with provided that those relevant technical requirements do not impose requirements that are not within the appropriate essential requirements of Regulation 4 of the RTTE Regulations.

#### **APPROVAL OF EQUIPMENT**

**1.** Where Apparatus comprised in the Applicable Systems is connected to a public telecommunication system, it shall either be approved for such connection under section 22 of the Act, or Compliant Terminal Equipment, or included in Schedule 1 to the RTTE Regulations.

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2. Where the Applicable Systems are capable of conveying Messages which have been or are to be conveyed also by a public telecommunication system, any Apparatus comprised in the Applicable Systems which interworks with the public telecommunication system at any time:
- (a) in the case of Apparatus to which the Terminal Equipment Regulations apply, shall be Compliant Terminal Equipment; or
  - (b) in the case of Apparatus to which the RTTE Regulations apply, shall be compliant with the appropriate essential requirements of Regulation 4 of the Regulations, unless it is Apparatus included in Schedule 1 to the Regulations; or
  - (c) in other cases, shall unless the Director has consented otherwise and has not withdrawn that consent, be Apparatus which is approved for the time being under section 22 of the Act for connection to the Applicable Systems.
3. For the purposes of this Condition, approvals framed by reference to branch systems should be regarded as approvals for connection to the Applicable Systems.

## SCHEDULE 9

Regulation 18

### ENFORCEMENT

#### **Enforcement in Great Britain**

1.—(1) In Great Britain, it shall be the duty of the Secretary of State, and of every weights and measures authority within their area, to enforce these Regulations; and a reference in the provisions applied to these Regulations by sub-paragraph (2) to an “enforcement authority” shall be construed accordingly.

(2) Sections 14, 15, 28 to 35, 37, 38, 44 and 47 of the Consumer Protection Act 1987, shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if—

- (a) references to safety provisions were references to these Regulations;
- (b) references to goods were references to apparatus as the context may require;
- (c) in section 14, in sub-section (6), for “six months” there was substituted “three months”;
- (d) references to proceedings for the forfeiture of goods under section 16 or 17 were references to the forfeiture of apparatus under paragraph 3 or 4.
- (e) in sections 28, 29, 30, 33, 34 and 35, the words “or any provision made by or under Part III of this Act” on each occasion that they occur, were omitted;
- (f) in section 28, sub-sections (3), (4), and (5) were omitted;
- (g) in section 29, sub-section (4) was omitted;
- (h) in section 30, sub-sections (7) and (8) were omitted; and
- (i) in section 38(1), paragraphs (a) and (b) were omitted.

(3) Sections 39 and 40 of the 1987 Act shall apply to offences under section 32 of that Act as it is applied to these Regulations by sub-paragraph(2).

(4) In England and Wales, a magistrates' court may try an information in respect of an offence committed under these Regulations if the information is laid within twelve months from the time when the offence is committed, and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

## **Enforcement in Northern Ireland**

2.—(1) In Northern Ireland, it shall be the duty of the Secretary of State, and of every district council within their area, to enforce these Regulations; and a reference in the provisions applied to these Regulations by sub-paragraph (2) and paragraph 1(2) to an “enforcement authority” shall be construed accordingly.

(2) The provisions of paragraph 1(2) and (3) shall have effect.

(3) A magistrates' court may try a complaint in respect of an offence committed under these Regulations if the complaint is made within twelve months from the time when the offence is committed.

## **Forfeiture of apparatus: England and Wales and Northern Ireland**

3.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this paragraph for an order for the forfeiture of any apparatus on the grounds that there has been a contravention in relation thereto of regulation 5.

(2) An application under this paragraph 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 19 to that court; and
- (b) where no application for the forfeiture of the apparatus has been made under sub-paragraph (a), by way of complaint to a magistrates' court.

(3) On an application under this paragraph the court shall make an order for the forfeiture of the apparatus if it is satisfied that there has been a contravention in relation thereto of regulation 5.

(4) For the avoidance of doubt it is hereby declared that a court may infer for the purposes of this paragraph that there has been a contravention in relation to any apparatus of regulation 5 if it is satisfied that regulation has been contravened in relation to any 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 paragraph 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' Court Act 1980<sup>(4)</sup>, or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(5)</sup> (statement of case)).

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

(7) On making an order under this paragraph 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 apparatus to any person otherwise than—
  - (i) to a person who carries on a business of buying of the same description as the first mentioned product 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

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(4) 1980 c. 43.

(5) S.I.1981/1675 (N.I.26).

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- (b) complies with any order to pay costs or expenses which has been made against that person in the proceedings for the order for forfeiture.

### **Forfeiture of apparatus: Scotland**

4.—(1) In Scotland a sheriff may make an order for forfeiture of any apparatus for private use or consumption in relation to which there has been a contravention of any provision of regulation 5—

- (a) on an application by the procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995<sup>(6)</sup>; or
- (b) 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 sub-paragraph (1)(a) 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 sub-paragraph (2) 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 sub-paragraph (2) 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 paragraph relates shall be entitled to appear at the hearing of the application to show cause why the apparatus as the case may be should not be forfeited.

- (5) The sheriff shall not make an order following an application under sub-paragraph (1)(a)—
  - (a) if any person on which notice is served under sub-paragraph (2) does not appear, unless service of the notice on that person is proved; or
  - (b) if no notice under sub-paragraph (2) 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 paragraph only if he is satisfied that there has been a contravention in relation to the apparatus of regulation 5.

(7) For the avoidance of doubt it is declared that the sheriff may infer for the purposes of this paragraph that there has been a contravention in relation to any apparatus of regulation 5 if he is satisfied that that regulation has been contravened in relation to an item of 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 sub-paragraph (1)(a), 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 sub-paragraph as it applies to a stated case under Part X of that Act.

- (9) An order following an application under sub-paragraph (1)(a) 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 sub-paragraph (8) within that period, until the appeal is determined or abandoned.

(10) An order under sub-paragraph (1)(b) shall not take effect—

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(6) 1995 c. 46.

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- (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 sub-paragraph (12), apparatus forfeited under this paragraph 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 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 and repairing or reconditioning it; or
  - (b) as scrap (that is to say, for the value of materials included in the apparatus rather for the value of the apparatus).