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STATUTORY INSTRUMENTS

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**2005 No. 281**

**The Electromagnetic Compatibility Regulations 2005**

**PART VI**

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

*United Kingdom notified bodies*

**Bodies and scope of authority**

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

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

**Power of CAA and OFCOM to charge fees**

**65.—**(1) Subject to paragraph (2) below, the CAA and OFCOM may charge applicants for EC type-examination certificates such fees as they may determine provided that such fees shall not exceed the sum of the following –

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

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

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

**Applications for EC type-examination certificates**

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

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

- (a) examine the apparatus and the design thereof;
- (b) subject the apparatus or cause it to be subjected to such tests as the body considers appropriate to determine whether or not the apparatus conforms with the protection requirements in all the circumstances (having regard, without prejudice to the generality of the foregoing, to the actual or usual electromagnetic environment in which the apparatus is to be used), and, where there is a relevant transposed harmonised standard or a recognised national standard and the body considers it appropriate to apply that standard, such tests as may be provided for thereby.

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

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

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

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

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

### **Limitations on duty to exercise functions**

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

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

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

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

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

### **Contractors etc.**

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

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

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

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

### **Conditions of EC type-examination certificates**

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

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

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

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

### **Withdrawal of EC type-examination certificates**

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

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

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

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

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

the United Kingdom notified body shall—

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