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STATUTORY INSTRUMENTS

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**2008 No. 37**

**The Restriction of the Use of Certain Hazardous Substances  
in Electrical and Electronic Equipment Regulations 2008**

**PART 4**

Miscellaneous

**Continuity of obligations under the 2006 Regulations**

**24.—**(1) Any act or omission which would have constituted a failure to comply with the provisions of regulations 7, 8 or 9 of the 2006 Regulations while they were in force may be treated in all respects as a contravention of the corresponding requirements of Part 2 of these Regulations.

(2) This includes any act or omission relating to spare parts for the repair, or to the reuse, of electrical and electronic equipment put on the market after 1st July 2006, but the provisions of these Regulations shall not be applied in respect of spare parts for the repair, or to the reuse, of electrical and electronic equipment put on the market before 1st July 2006.

(3) Any question as to whether a requirement of regulations 7, 8 or 9 of the 2006 Regulations was complied with while they were in force may be investigated as if it was a question about compliance with the corresponding requirement of Part 2 of these Regulations, and regulation 16(2) and (3) shall apply accordingly in respect of any such investigation.

**Restrictions on enforcement powers and use of certain evidence under them**

**25.—**(1) Nothing in these Regulations shall be taken as—

- (a) requiring a person to produce any document which that person would be entitled to refuse to produce in any proceedings in any court on the grounds that it is the subject of legal professional privilege or, in Scotland, that it contains a confidential communication made by or to an advocate or solicitor in that capacity; or
- (b) authorising a person to take possession of any document which is in the possession of a person who would be so entitled.

(2) A statement by a person in response to a requirement imposed by virtue of regulation 11 may only be used in evidence against that person—

- (a) on a prosecution for an offence under regulation 16(3)(b); or
- (b) on a prosecution for some other offence where in giving evidence that person makes a statement inconsistent with it.

(3) But the statement may not be used against that person by virtue of paragraph (2)(b) unless evidence relating to it is adduced, or a question relating to it is asked, by or on behalf of that person in the proceedings arising out of the prosecution.

**Amendment of the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004**

**26.**—(1) The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004<sup>(1)</sup> is amended as follows.

(2) In Schedule 1, for the words “The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2006” substitute “The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008”.

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(1) [S.I. 2004/693](#).