
STATUTORY INSTRUMENTS

2016 No. 1091

The Electromagnetic Compatibility Regulations 2016

PART 1

Citation and commencement

1. These Regulations may be cited as the Electromagnetic Compatibility Regulations 2016 and come into force on 8th December 2016.

Interpretation

2.—(1) In these Regulations—

the “1987 Act” means the Consumer Protection Act 1987⁽¹⁾;

the “2006 Regulations” means the Electromagnetic Compatibility Regulations 2006⁽²⁾;

“accreditation” means accreditation as defined in paragraph 10 of Article 2 of RAMS (as amended from time to time);

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) or a national accreditation body in another member State, attesting that a conformity assessment body meets the notified body requirements;

“apparatus” means any finished appliance or combination thereof made available on the market as a single functional unit, intended for the end-user and liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance and includes—

- (a) components or sub-assemblies intended for incorporation into an apparatus by an end-user, which are liable to generate or be affected by electromagnetic disturbance;
- (b) a mobile installation defined as a combination of apparatus and, where applicable, other devices, intended to be moved and operated in a range of locations;

“authorised representative” means a person established within the EU appointed in accordance with regulation 38 (appointment of an authorised representative);

“CE marking” means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);

“competent national authority” means an authority having responsibility for enforcing the law of a member State which implements the Directive;

“conformity assessment” means the process demonstrating whether the essential requirements relating to apparatus have been fulfilled;

“conformity assessment body” means a body that performs conformity assessment activities;

(1) 1987 c.43.

(2) S.I. 2006/3418.

“the Directive” means [Directive 2014/30/EU](#) of the European Parliament and of the Council of 26 February 2014 on the harmonisation of laws of the Member States relating to electromagnetic compatibility (recast)([3](#));

“distributor” means any person in the supply chain, other than the manufacturer, authorised representative or importer, who makes apparatus available on the market;

“district council” means a district council within the meaning of the Local Government Act (Northern Ireland) 1972([4](#));

“economic operator” means a manufacturer, authorised representative, importer or distributor;

“electromagnetic compatibility” means the ability of equipment to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to other equipment in that environment;

“electromagnetic disturbance” means any electromagnetic phenomenon which may degrade the performance of equipment; an electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;

“electromagnetic environment” means all electromagnetic phenomena observable in a given location;

“enforcing authority” is to be interpreted in accordance with regulation [52](#) (designation of enforcing authorities);

“equipment” means any apparatus or fixed installation;

“essential requirements” means the requirements set out in Schedule 1;

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation [10\(1\)\(a\)](#) (EU declaration of conformity and CE marking);

“EU harmonisation legislation” means any EU legislation harmonising the conditions for the marketing of apparatus;

“European Commission” means the Commission of the European Union;

“fixed installation” means a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, installed and intended to be used permanently, at a predefined location;

“harmonised standard” has the meaning given by Article 2(1)(c) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation([5](#)) (as amended from time to time);

“immunity” means the ability of equipment to perform as intended without degradation in the presence of electromagnetic disturbance;

“importer” means any person established within the EU who places apparatus from a third country on the EU market;

“make available on the market” means any supply of apparatus for distribution or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions must be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures apparatus or has apparatus designed or manufactured; and
- (b) markets that apparatus under that person’s name or trademark;

(3) OJ L 96, 29.3.2014, p. 79.

(4) [1972 c.9](#).

(5) OJ L 316, 14.11.2012, p. 12.

“market surveillance authority” has the meaning given in regulation 53 (designation of market surveillance authorities);

“mobile installation” means a combination of apparatus and, where applicable, other devices, which are intended to be moved and operated in a range of locations;

“national accreditation body” has the meaning set out in point 11 of Article 2 of RAMS (as amended from time to time);

“notified body” means a body described in regulation 43 (notified bodies);

“notified body requirements” means the requirements set out in Schedule 5 (requirements for notified bodies);

“OFCOM” means the Office of Communications established under the Office of Communications Act 2002(6);

“Official Journal” means the Official Journal of the European Union;

“place on the market” means the first making available of apparatus on the EU market, and related expressions must be construed accordingly;

“put into service” means the first use of equipment in the EU by its end-user for the purposes for which it was intended, and related expressions must be construed accordingly;

“RAMS” means Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(7);

“recall” means any measure aimed at achieving the return of apparatus that has already been made available to the end-user, and related expressions must be construed accordingly;

“relevant conformity assessment procedure” means a conformity assessment procedure referred to in regulation 40 (conformity assessment procedures);

“relevant economic operator” means, in relation to apparatus, an economic operator with obligations in respect of that apparatus under Part 2;

“technical specification” means a document that prescribes technical requirements to be fulfilled by the equipment;

“weights and measures authority” means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985(8);

“withdrawal” means any measure aimed at preventing apparatus in the supply chain from being made available on the market, and related expressions must be construed accordingly.

(2) In these Regulations, a reference to apparatus or equipment being “in conformity with Part 2” means that—

- (a) the apparatus or equipment is in conformity with the essential requirements; and
- (b) each relevant economic operator has complied with the obligations imposed on them under Part 2 which must be satisfied at or before the time at which they make the apparatus or equipment available on the market.

(3) In these Regulations, “risk” means a risk to aspects of public interest protection referred to in the Directive.

(6) 2002 c.11.

(7) OJ L 218, 13.8.2008, p. 30.

(8) 1985 c.72; section 69 was amended by Schedule 1 to the Statute Law (Repeals) Act 1989 (c.43); paragraph 75 of Schedule 16 to the Local Government (Wales) Act 1994 (c.19); and paragraph 144 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

- (a) (4) (a) Subject to sub-paragraph (b), in these Regulations, a reference to a member State must be read as a reference to an EEA State and a reference to the EU must be read as a reference to the European Economic Area.
- (b) Sub-paragraph (a) will not apply until the entry into force of any amendment made to Annex II (technical regulations, standards, testing and certification) to the EEA Agreement by a Decision of the EEA Joint Committee, inserting a reference to the Directive into that Annex.

Application

3.—(1) Subject to paragraphs (2) to (4) and regulations 4 to 6, these Regulations apply to all equipment.

(2) These Regulations do not apply to—

- (a) equipment to which [Directive 1999/5/EC](#) of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity⁽⁹⁾ applies;
- (b) aeronautical apparatus, parts and appliances as referred to in Regulation [\(EC\) 216/2008](#) of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency and repealing Council [Directive 91/670/EEC](#), Regulation [\(EC\) No 1592/2002](#) and [Directive 2004/36/EC](#)⁽¹⁰⁾;
- (c) radio equipment used by radio amateurs within the meaning of the Radio Regulations adopted in the framework of the Constitution of the International Telecommunication Union and the Convention of the International Telecommunication Union⁽¹¹⁾;
- (d) equipment the inherent nature and physical characteristics of which is such that—
 - (i) it is incapable of generating or contributing to electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and
 - (ii) it operates without an unacceptable degradation in the presence of the electromagnetic disturbance normally consequent upon its intended use;
- (e) custom built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

(3) These Regulations do not apply to kits of components to be assembled by radio amateurs and equipment made available on the market and modified by and for the use of radio amateurs.

(4) These Regulations do not apply to equipment covered by [Directive 2014/32/EU](#) of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast)⁽¹²⁾ as regards the immunity of such equipment.

(5) Each provision of these Regulations applies to equipment in so far as there are no specific provisions in rules of EU law governing the conformity of the equipment with the essential requirements, other than the Directive. Where equipment is subject to essential requirements imposed by rules of EU law other than the Directive, these Regulations only apply insofar as the equipment is not covered by the other provisions of EU law.

⁽⁹⁾ OJ L 91, 7.4.1999, p. 10, as last amended by Regulation [\(EC\) 596/2009](#) (OJ L 188, 18.7.2009, p.14).

⁽¹⁰⁾ OJ L 79, 19.3.2008, p. 1, as last amended by Regulation (EU) 2016/4 (OJ L 3, 6.1.2016, p.1).

⁽¹¹⁾ Constitution and Convention of the International Telecommunications Union adopted by the Additional Plenipotentiary Conference (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994).

⁽¹²⁾ OJ L 96, 29.3.2014, p.149.

Application of safety legislation

4. Nothing in these Regulations affects the application of EU or national legislation regulating the safety of equipment.

Exhibition at trade fairs

5. Nothing in these Regulations prevents the display or demonstration at a trade fair, exhibition or similar event of equipment which does not comply with these Regulations provided that a visible sign clearly indicates that the equipment—

- (a) is not in conformity with Part 2; and
- (b) will not be made available on the market or put into service until it has been brought into conformity with Part 2.

Making available or putting into service

6. Nothing in these Regulations prevents the making available on the market, or the putting into service in the United Kingdom, of equipment which is in conformity with Part 2 when the equipment is properly installed, maintained and used for its intended purpose.