
STATUTORY INSTRUMENTS

2016 No. 1091

The Electromagnetic Compatibility Regulations 2016

PART 5

Enforcement and market surveillance

EU safeguard procedure

58.—(1) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

- (a) any measures taken by the enforcing authority in respect of the apparatus; and
- (b) any additional information which the enforcing authority has at its disposal relating to the lack of conformity of the apparatus.

(2) Where another member State has initiated the procedure under Article 38 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other member States of—

- (a) any measure taken by an enforcing authority in respect of the apparatus;
- (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of the apparatus; and
- (c) any objections that the Secretary of State may have to the measure taken by the member State initiating the procedure.

(3) Where a measure taken by another member State in respect of apparatus is considered justified under Article 38(7) of the Directive (as amended from time to time), the market surveillance authority must ensure that appropriate measures, such as the withdrawal of apparatus, are taken in respect of the apparatus without delay.

(4) Where a measure taken by another member State in respect of apparatus is considered justified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that the apparatus is withdrawn from the United Kingdom market.

(5) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraph (3) or (4), it must inform the Secretary of State.

(6) Where the Secretary of State receives a notice under paragraph (5) or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken.

(7) If a measure taken by an enforcing authority pursuant to regulation 57 is considered unjustified by the European Commission under Article 39(1) of the Directive (as amended from time to time), the enforcing authority must withdraw that measure.