

Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC (Text with EEA relevance) (repealed)

CHAPTER II

APPARATUS

Article 10

Safeguards

1 Where a Member State ascertains that apparatus bearing the ‘CE’ marking does not comply with the requirements of this Directive, it shall take all appropriate measures to withdraw the apparatus from the market, to prohibit its placing on the market or its putting into service, or to restrict the free movement thereof.

2 The Member State concerned shall immediately inform the Commission and the other Member States of any such measure, indicating the reasons and specifying, in particular, whether non-compliance is due to:

- a failure to satisfy the essential requirements referred to in Annex I, where the apparatus does not comply with the harmonised standards referred to in Article 6;
- b incorrect application of the harmonised standards referred to in Article 6;
- c shortcomings in the harmonised standards referred to in Article 6.

3 The Commission shall consult the parties concerned as soon as possible, following which it shall inform the Member States whether or not it finds the measure to be justified.

4 Where the measure referred to in paragraph 1 is attributed to a shortcoming in harmonised standards, the Commission, after consulting the parties, shall, if the Member State concerned intends to uphold the measure, bring the matter before the Committee and initiate the procedure laid down in Article 6(3) and (4).

5 Where the non-compliant apparatus has been subject to the conformity assessment procedure referred to in Annex III, the Member State concerned shall take appropriate action in respect of the author of the statement referred to in Annex III, point 3, and shall inform the Commission and the other Member States accordingly.