

SCHEDULE 23

Regulation 26

Amendment of the Electrical Equipment (Safety) Regulations 2016

Introduction

1. The Electrical Equipment (Safety) Regulations 2016 are amended in accordance with paragraphs 2 to 32.

Amendment to regulation 2

2.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) for the definition of “authorised representative” substitute—

““authorised representative” means—

(a) a person who—

(i) immediately before exit day was established in the United Kingdom or an EEA state and was appointed by a manufacturer by written mandate to perform specified tasks for that manufacturer in accordance with regulation 14, as it had effect immediately before exit day; and

(ii) on or after exit day continues to be so established and appointed by the manufacturer to perform those tasks; or

(b) a person who, on or after exit day, is appointed in accordance with regulation 14;”;

(b) omit the definition of “CE marking”;

(c) after the definition of “authorised representative”, insert—

““declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation 6 (declaration of conformity);

“designated standard” has the meaning given to it in regulation 2A;”;

(d) in the definition of “the Directive”, at the end, insert “(as it has effect immediately before exit day)”;

(e) omit the definition of “EU declaration of conformity”;

(f) omit the definition of “harmonised standard”;

(g) for the definition of “importer” substitute—

““importer” means a person who—

(a) is established in the United Kingdom, and

(b) places electrical equipment from a country outside of the United Kingdom on the market;”;

(h) omit the definition of “international safety provision”;

(i) in the definition of “making available on the market”, for “EU” substitute “United Kingdom”;

(j) omit the definition of “Official Journal”;

(k) in the definition of “placing on the market”, for “EU” substitute “United Kingdom”;

(l) after the definition of “relevant economic operator” insert ----

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““relevant international safety provision” means a safety provision of a standard set out by the International Commission on the Rules for the Approval of Electrical Equipment or the International Electrotechnical Commission, which has been published by the Secretary of State in a manner the Secretary of State considers appropriate;”;

(m) after the definition of “technical specification”, insert—

“UK marking” means the marking in the form published in accordance with Article 30(1) of RAMS;”.

(3) Omit paragraph (5).

Insertion of regulation 2A

3. After regulation 2 insert—

“Designated standard

2A.—(1) Subject to paragraphs (6) and (7), in these Regulations a “designated standard” means a technical specification which is—

- (a) adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory; and
- (b) designated by the Secretary of State by publishing the reference to the standard and maintaining that publication in a manner the Secretary of State considers appropriate.

(2) For the purposes of paragraph (1), a “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—

- (a) the characteristics required of a product, including—
 - (i) the levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, and
 - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures; and
- (b) the production methods and processes relating to the product, where these have an effect on the characteristics of the product.

(3) For the purposes of this regulation a “recognised standardisation body” means any one of the following organisations—

- (a) the European Committee for Standardisation (CEN);
- (b) the European Committee for Electrotechnical Standardisation (Cenelec);
- (c) the European Telecommunications Standards Institute (ETSI);
- (d) the British Standards Institution (BSI).

(4) When considering whether the manner of publication of a reference is appropriate in accordance with paragraph (1)(b), the Secretary of State must have regard to whether the publication will draw the standard to the attention of any person who may have an interest in the standard.

(5) Before publishing the reference to a technical specification adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical

specification is consistent with technical specifications adopted by the other recognised standardisation bodies.

(6) The Secretary of State may remove from publication the reference to a standard which has been published in accordance with paragraph (1)(b).

(7) Where the Secretary of State removes the reference to a standard from publication, that standard is no longer a designated standard.

(8) In this regulation, a reference to a “product” is a reference to electrical equipment to which these Regulations apply.

(9) The Secretary of State may by regulations amend paragraph (3) to reflect any changes in the name or structure of the recognised standardisation bodies.

(10) Regulations made under paragraph (9) are to be made by statutory instrument.

(11) A statutory instrument containing regulations made under paragraph (9) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

Amendment to regulation 6

4. Regulation 6 (EU declaration of conformity and CE marking) is amended as follows—

(a) in the heading—

(i) for “EU declaration” substitute “Declaration”; and

(ii) for “CE” substitute “UK”;

(b) in paragraphs (1)(a) and (2), omit “EU”;

(c) in paragraph (1)(b), for “CE” substitute “UK”, in both places in which it occurs; and

(d) for paragraph (3) substitute—

“(3) Where electrical equipment is subject to more than one enactment requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity which identifies each enactment by its title.”.

Amendment to regulation 7

5. In regulation 7 (retention of technical documentation and EU declaration of conformity) and in the heading to that regulation omit “EU”.

Amendment to regulation 9

6. For regulation 9 (instructions and safety information), substitute—

“Instructions and safety information

9. When placing electrical equipment on the market, a manufacturer must ensure that it is accompanied by instructions and safety information that are clear, legible and in easily understandable English.”.

Amendment to regulation 10

7. In regulation 10 (compliance procedures for series production), in paragraph (2)(b)—

(a) for “harmonised” substitute “designated”; and

(b) omit “EU”.

Amendment to regulation 12

8. In regulation 12 (duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity), in paragraph (2) omit “and the competent national authorities of any other member State in which the manufacturer made the electrical equipment available on the market.”.

Amendment to regulation 14

9. In regulation 14 (manufacturer’s authorised representatives)—
- (a) in paragraph (1) after “a person” insert “established in the United Kingdom”;
 - (b) in paragraph (2)(a) omit “EU”.

Amendment to regulation 16

10. In regulation 16 (requirements which must be satisfied before an importer places electrical equipment on the market), in paragraph (c) for “CE” substitute “UK”.

Amendment to regulation 18

11. Regulation 18 (information identifying importer) is amended as follows –
- (a) in paragraph (2) omit “in the member State in which it is to be made available to such end-users”; and
 - (b) for paragraph (3) substitute—
 - “(3) Paragraph (1) does not apply where—
 - (a) either—
 - (i) it is not possible to set out the information referred to in paragraph (1) on the electrical equipment; or
 - (ii) the importer has imported the electrical equipment from an EEA state and places it on the market within the period of 18 months beginning with exit day; and
 - (b) before placing the electrical equipment on the market, the importer sets out the information referred to in paragraph (1)—
 - (i) on the packaging; or
 - (ii) in a document accompanying the safety component.”.

Amendment to regulation 19

12. For regulation 19 (instructions and safety information), substitute—

“Instructions and safety information

19. When placing electrical equipment on the market, an importer must ensure that it is accompanied by instructions and safety information that are clear, legible and in easily understandable English.”.

Amendment to regulation 21

13. In regulation 21 (retention of technical documentation and EU declaration of conformity), in the heading to that regulation and in paragraph (a), omit “EU”.

Amendment to regulation 23

14. In regulation 23 (duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity), in paragraph (2), omit “and the competent national authorities of any other member State in which the manufacturer made the electrical equipment available on the market”.

Amendment to regulation 26

15. Regulation 26 (requirements which must be satisfied before a distributor makes electrical equipment available on the market), is amended as follows—

- (a) in paragraph (1)(a)(i), for “CE” substitute “UK”;
- (b) for paragraph (1)(a)(iii) substitute—
 - “(iii) is accompanied by instructions and safety information that are clear, legible and easily understandable English;”;
- (c) omit paragraph (3).

Amendment to regulation 29

16. In regulation 29 (duty to take action in respect of electrical equipment made available on the market which is considered not to be in conformity), in paragraph (2) omit “and the competent national authorities of the other member States in which the distributor has made the electrical equipment available on the market,”.

Omission of regulation 32

17. Omit regulation 32 (translation of declaration of conformity).

Amendment to regulation 34

18. In regulation 34 (prohibition on improper use of CE marking), in the heading and all places where it occurs, for “CE” substitute “UK”.

Insertion of regulation 34A

19. After regulation 34 insert—

“Obligations which are met by complying with obligations in the Directive

34A.—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
- (b) “CE marking” has the meaning given to it in Article 2(14); and
- (c) “harmonised standard” has the meaning given to it in Article 2(9).

(2) Paragraph (3) applies where, before placing electrical equipment on the market, the manufacturer—

- (a) ensures that the electrical equipment has been designed and manufactured in accordance with the principal elements of the safety objectives set out in Annex I;
- (b) ensures that the conformity assessment procedure that applies to that equipment in accordance with Annex III has been carried out;
- (c) draws up the technical documentation referred to in Annex III;

- (d) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedures are prepared or translated into English;
 - (e) affixes a CE marking, in accordance with Articles 16 and 17(1) and (2);
 - (f) draws up an EU declaration of conformity, in accordance with Article 15; and
 - (g) ensures that the EU declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of regulations 4, 5, 6(1) and (3) are to be treated as being satisfied;
 - (b) regulations 2(2)(a), 6(2), 7, 10(2), 14(2), and 34 apply subject to the modifications in paragraph (8);
 - (c) Part 3 does not apply; and
 - (d) regulation 48(1) does not apply.
- (4) Paragraph (5) applies where, before placing electrical equipment on the market, the importer ensures that—
- (a) the conformity assessment procedure that applies to that equipment in accordance with Annex III has been carried out;
 - (b) the manufacturer has drawn up the technical documentation referred to in Annex III; and
 - (c) the equipment bears the CE marking.
- (5) Where this paragraph applies—
- (a) the requirements of regulation 16(a) to (c) are to be treated as being satisfied; and
 - (b) regulations 2(2)(a), 17(1), 20 and 21 apply subject to the modifications in paragraph (8).
- (6) Paragraph (7) applies where, before making electrical equipment available on the market, a distributor ensures that the equipment bears the CE marking.
- (7) Where this paragraph applies—
- (a) regulation 26(1)(a)(i) is to be treated as being satisfied; and
 - (b) regulations 27(1) and 28 apply subject to the modifications in paragraph (10).
- (8) The modifications referred to in sub-paragraphs (3)(b), (5)(b) and (7)(b) are that—
- (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
 - (b) any reference to “UK marking” is to be read as a reference to the CE marking;
 - (c) any reference to “principal elements of the safety objectives” is to be read as a reference to the principal elements of the safety objectives referred to in Annex I;
 - (d) any reference to “designated standard” is to be read as a reference to a harmonised standard within the meaning of Article 2(9);
 - (e) any reference to “conformity assessment procedure” is to be read as a reference to the conformity assessment procedure that applies to the equipment in accordance with Annex III; and
 - (f) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex III.”.

Amendment to regulation 36

20. Regulation 36 (presumption of conformity on the basis of harmonised standards), is amended as follows—

- (a) for “harmonised” substitute “designated” in the heading and in paragraph (1); and
- (b) in paragraph (1), omit “the reference to which has been published in the Official Journal”.

Amendment to regulation 37

21. Regulation 37 (conformity with other standards and requirements) is amended as follows—

- (a) in paragraph (1)—
 - (i) for “harmonised” substitute “designated”; and
 - (ii) for “which satisfies safety provisions of international standards notified by the Commission” substitute “which complies with relevant international safety provisions”;
- (b) in paragraph (2), for “harmonised” substitute “designated”; and
- (c) omit paragraph (3).

Amendment to regulation 38

22. Regulation 38 (EU declaration of conformity), is amended as follows—

- (a) in the heading, for “EU declaration” substitute “Declaration”;
- (b) in the first line of the regulation, omit “EU”.

Amendment to regulation 39

23. In regulation 39 (CE marking), in the heading and in each place in which it occurs, for “CE” substitute “UK”.

Amendment to regulation 43

24. In regulation 43 (exercise of enforcement powers), omit paragraph (c).

Amendment to regulation 45

25. Regulation 45 (enforcement action in respect of electrical equipment which is not in conformity and which presents a risk) is amended as follows—

- (a) omit paragraphs (3) and (6);
- (b) in paragraph (7), for “notices in paragraphs (5) and (6)”, substitute “notice in paragraph (5)”; and
- (c) in paragraph (7)(f)(ii), for “harmonised” substitute “designated”.

Omission of regulation 46

26. Omit regulation 46 (EU safeguard procedure).

Amendment to regulation 47

27. Regulation 47 (enforcement action in respect of electrical equipment which is in conformity, but presents a risk) is amended as follows—

- (a) omit paragraph (3); and
- (b) in paragraph (4) for “notices referred to in paragraphs (2) and (3)” substitute “notice referred to in paragraph (2)”.

Amendment to regulation 48

28. Regulation 48 (enforcement action in cases of formal non-compliance) is amended as follows—

- (a) in paragraphs (1)(a) and (b) in all places where it occurs, for “CE” substitute “UK”; and
- (b) in paragraph (1)(b) in all places where it occurs, omit “EU”.

Amendment to regulation 62

29. In regulation 62, at the end of paragraph (1), insert “subject to the modification that references to the Community are to be read as including the United Kingdom”.

Transitional provision in relation to EU Exit

30. After Regulation 62 insert—

“Transitional provision in relation to EU Exit

62A.—(1) In this regulation—

“pre-exit period” means the period beginning with the commencement date and ending immediately before exit day;

“product” means electrical equipment to which these Regulations apply.

(2) Subject to paragraph (3), where a product was made available on the market during the pre-exit period, despite the amendments made by Schedule 23 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁾, any obligation to which a person was subject under these Regulations as they had effect immediately before exit day, continues to have effect as it did immediately before exit day, in relation to that product.

(3) Paragraph (2) does not apply to—

- (a) any obligation of any enforcing authority to inform the European Commission or the Member States of any matter; or
- (b) any obligation to take action outside of the United Kingdom in respect of that product.”

Amendment to Schedule 2

31. Schedule 2 (conformity assessment procedures) is amended as follows—

- (a) in paragraph 2(4)(d)—
 - (i) for “harmonised” substitute “designated” in each place in which it occurs,
 - (ii) omit “the references to which have been published in the Official Journal”;
- (b) in paragraph 4—
 - (i) omit “EU” in the heading and each place in which it occurs,
 - (ii) for “CE” substitute “UK” in the heading and in sub-paragraph (1).

(1) S.I. 2009/XXXX.

Amendment to Schedule 8

32. Schedule 8 (EU declaration of conformity) is amended as follows—

- (a) in the title of the Schedule, omit “EU”;
- (b) in the heading before paragraph 1, for “EU declaration” substitute “Declaration”;
- (c) in paragraph 5, for “Union harmonisation legislation” substitute “statutory requirements”;
and
- (d) in paragraph 6, for “harmonised” substitute “designated”.