
STATUTORY INSTRUMENTS

2000 No. 730

The Radio Equipment and Telecommunications Terminal Equipment Regulations 2000

PART III

COMPLIANCE

General duty relating to the placing on the market and putting into service of apparatus

5.—(1) Subject to regulations 6, 7 and 8, no person shall place on the market or put into service any apparatus unless the requirements of paragraph (2) and (in the case of radio equipment) the requirements of paragraph (3) have been complied with in relation to it.

(2) The requirements in respect of any apparatus are that:

- (a) it satisfies the essential requirements set out in regulation 4: and without prejudice to other means of complying for the purpose of satisfying those requirements, where a harmonised standard covers one or more of the relevant essential requirements, any apparatus or part thereof constructed in accordance with that harmonised standard or part thereof shall be presumed to comply with that or, as the case may be, those essential requirements;
- (b) the information has been provided in accordance with regulation 11;
- (c) the appropriate conformity assessment procedures in respect of the apparatus have been carried out in accordance with regulation 9;
- (d) the CE marking has been affixed to it by the manufacturer of the apparatus or other responsible person in accordance with regulation 10 and Schedule 7; and
- (e) a declaration of conformity has been drawn up in respect of it by the manufacturer of the apparatus or other responsible person in accordance with Schedule 2, 3, 4 or 5.

(3) In respect of radio equipment using frequency bands whose use is not harmonised throughout the Community it is also a requirement that notification of intention to place it on the market shall have been given in accordance with regulation 12.

Exceptions in respect of placing on the market and putting into service

6.—(1) For the purposes of regulation 5, apparatus shall not be regarded as being placed on the market where that apparatus—

- (a) is intended to be exported to a country outside the Community; or
- (b) is imported into the Community for re-export to a country outside the Community; or
- (c) is transferred from the manufacturer in a third country to his authorised representative established within the Community who is responsible on behalf of the manufacturer for ensuring compliance with the Directive; or
- (d) is transferred to a manufacturer for further processing (for example, to modify the product or to integrate it into another product, or to put his own name on the product);

save that this paragraph shall not apply if the CE marking, or any inscription liable to be confused therewith, is affixed thereto.

(2) The following principles shall apply in respect of the application of the Act and the Wireless Telegraphy Acts 1949 to 1967⁽¹⁾:

- (a) the display at trade fairs, exhibitions and demonstrations of apparatus which does not comply with the provisions of these Regulations is permitted if a notice is displayed in relation to the apparatus to the effect—
 - (i) that it does not satisfy those provisions; and
 - (ii) that it may not be placed on the market or put into service until those provisions are satisfied by a responsible person; and
- (b) the switching on of radio equipment may be restricted for reasons related to the effective and appropriate use of the radio spectrum, avoidance of harmful interference or public health.

The right to connect

7.—(1) Operators of public telecommunications networks shall not refuse to connect telecommunications terminal equipment to appropriate interfaces on technical grounds, where that equipment complies with the requirements of regulation 4.

(2) Where they consider that apparatus declared to be compliant with the provisions of the Directive causes serious damage to a network or harmful interference or harm to the network or its functioning, the Secretary of State and the Director shall, in exercising their functions under Part II and sections 47 to 49 of the Act, ensure that public telecommunications operators may refuse connection, disconnect such apparatus or withdraw it from service.

(3) In exercising their functions under Part II and sections 47 to 49 of the Act, the Secretary of State and the Director shall ensure that in case of emergency, a public telecommunications operator may disconnect apparatus if the protection of the network requires the apparatus to be disconnected without delay, provided that the user is offered an alternative solution without delay and without cost to the user.

Transitional provisions in respect of placing on the market and putting into service

8. Notwithstanding the provisions of regulation 5, apparatus may be placed on the market before 8 April 2001, and apparatus so placed on the market may be put into service, if (in either case) it is in accordance with the provisions of Council Directive 98/13/EC⁽²⁾, the Telecommunications Terminal Equipment Regulations 1992⁽³⁾, or section 22 or 84 of the Act.

Conformity assessment procedures for apparatus

9.—(1) For the purposes of regulation 5(2)(c), the appropriate conformity assessment procedure for apparatus shall, subject to paragraph (2), be chosen from the procedures set out in Schedules 2, 3, 4 and 5 as follows:

- (a) for telecommunications terminal equipment which does not make use of the spectrum allocated to terrestrial/space radio communications and for the receiving parts of radio equipment, the conformity assessment procedures which may be chosen from are those laid down in Schedules 2, 4 and 5;

(1) 1949 c. 54 and 1967 c. 72.

(2) OJL No. 74, 12.3.1998, p 1.

(3) S.I.1992/2423, amended by S.I. 1994/3129, 1995/144.

- (b) where radio equipment is not within the scope of subparagraph (a) above and the manufacturer has fully applied harmonised standards, the conformity assessment procedures which may be chosen from are those laid down in Schedules 3, 4 and 5;
- (c) where radio equipment is not within the scope of subparagraph (a) above and the manufacturer has not applied harmonised standards or has applied them only in part, the conformity assessment procedures which may be chosen from are those laid down in Schedules 4 and 5.

(2) As an alternative to the procedures set out in paragraph (1), compliance of the apparatus with the essential requirements identified in—

- (a) regulation 4(2)(a) may be demonstrated by using the procedures specified in Council Directive [73/23/EEC](#), and
- (b) regulation 4(2)(b) may be demonstrated by using the procedures specified in Article 10(1) and 10(2) of Directive [89/336/EEC](#),

where apparatus is within the scope of either of those Directives.

(3) Any technical documentation or other information in relation to apparatus required to be retained under the conformity assessment procedure used shall be retained by the person specified in that respect in that conformity assessment procedure for the appropriate period specified in that procedure.

CE marking

10.—(1) In these Regulations, “the CE marking” means a marking in the form set out in paragraph 1 of Annex VII as set out in Schedule 7.

(2) The CE marking shall be accompanied by—

- (a) the identification number of all notified bodies used where the conformity assessment procedure is carried out in accordance with Schedule 3, 4 or 5;
- (b) in the case of radio equipment, the equipment class identifier where one has been assigned.

(3) There shall be marked on the apparatus, on any instructions accompanying it or on any packaging relating to it—

- (a) the name of the responsible person; and
- (b) the type and batch or serial number assigned to the apparatus by the manufacturer.

(4) Where apparatus is subject to other directives concerning other aspects and which also provide for the affixing of the CE marking, the markings shall indicate that the apparatus in question is also presumed to conform to the provisions of those other directives. However, should one or more of those directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those directives applied by the manufacturer. In this case the particulars of those directives, as published in the Official Journal, must be given in the documents, notices or instructions required by those directives and accompanying such products.

(5) Subject to paragraph (6) any other marking may be affixed to apparatus provided that the visibility and legibility of the CE marking is not thereby reduced.

(6) The affixing of markings on apparatus which are likely to mislead third parties as to the meaning or form of the CE marking is prohibited.

Information accompanying apparatus

11. There shall be prominently displayed on or accompany the apparatus information for the user as follows:

- (a) in the case of all apparatus—
 - (i) its intended use; and
 - (ii) a declaration of its conformity to the applicable essential requirements;
- (b) in the case of radio equipment, sufficient information on the packaging and the instructions for use to identify the Member States or the geographical area within the Member States where it is intended to be used; and marking on the apparatus as provided for in paragraph 5 of Schedule 7 shall be used when appropriate to alert the user that restrictions or requirements for authorisation of the use of the radio equipment apply in certain Member States;
- (c) in the case of telecommunications terminal equipment, sufficient information to identify the interfaces of public telecommunications networks to which the equipment is intended to be connected.

Notice to be given to the Secretary of State before placing radio equipment on the market

12.—(1) The responsible person shall, not less than four weeks before the date it is intended to place on the market in the United Kingdom radio equipment using frequency bands whose use is not harmonised throughout the Community, give notice in writing to the Secretary of State at the Radiocommunications Agency which contains—

- (a) such information as is required by the Secretary of State about the radio characteristics of the equipment, in particular its frequency bands, channel spacing, type of modulation and RF power; and
- (b) where appropriate the identification number of all the notified bodies used.

(2) Notice given under paragraph (1) shall be effective in respect of all items of equipment, whether placed on the market at the same time or at different times, which are in all material respects identical to each other.

Publication of and access to information

13. In exercising their functions under Part II of the Act, the Secretary of State and the Director shall ensure that operators of public telecommunications networks shall—

- (a) publish and make readily available accurate and adequate technical specifications of all interfaces offered by them before services provided through such interfaces are made publicly available, and shall regularly publish any updated specifications, and
- (b) provide in such publication the following information:
 - (i) sufficient details of technical interface specifications to permit the design of telecommunications terminal equipment capable of utilising all services provided through the corresponding interface;
 - (ii) details of changes in existing interface specifications, including information on network characteristics which are found to affect the correct operation of terminal equipment;
 - (iii) all the information necessary to allow manufacturers to carry out relevant tests, at their choice, for the essential requirements applicable to telecommunications terminal equipment.

Notified bodies

14. For the purposes of these Regulations, a notified body is a body which has been—

- (a) appointed as a notified body pursuant to regulation 15; or

- (b) appointed by a Member State other than the United Kingdom and notified to the Commission and the other Member States pursuant to Article 11 of the Directive.

Notified bodies appointed by the Secretary of State

15.—(1) The Secretary of State, applying the criteria in Schedule 6 and such other criteria as he thinks fit, may from time to time appoint such persons as he thinks fit to be notified bodies.

(2) An appointment—

- (a) may relate to such descriptions of apparatus as the Secretary of State may from time to time determine;
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, and such conditions may include conditions which are to apply upon or following termination of the appointment;
- (c) shall, without prejudice to the generality of subparagraph (b) and subject to paragraph (4), require the appointed body to carry out the procedures and specific tasks for which it has been appointed including (where so provided as part of those procedures) surveillance to ensure that the responsible person duly fulfils the obligations arising out of the relevant conformity assessment procedure;
- (d) shall be terminated upon 90 days' notice in writing given to the Secretary of State by the notified body; and
- (e) may be terminated if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.

(3) Subject to paragraph (2)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.

(4) A notified body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) if—

- (a) the documents submitted to it in relation to carrying out such functions are not in English or another language acceptable to that body; or
- (b) the responsible person has not submitted with his application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 16.

(5) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may—

- (a) give such directions (either to the body the subject of the termination or to another notified body) for the purpose of making such arrangements for the determination of outstanding applications as he considers appropriate; and
- (b) without prejudice to the generality of the foregoing, authorise another notified body to take over its functions in respect of such cases as he may specify.

Fees

16.—(1) A notified body appointed by the Secretary of State may charge such fees in connection with, or incidental to, the performance of its functions as it may determine: provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—

- (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
- (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) A notified body may require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

Modification of Licences

17.—(1) The following amendments shall be made to Schedule 1 to the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999⁽⁴⁾ (“the Standard Schedule Regulations”):

- (a) in Part 1 of Schedule 1 thereof—
 - (i) for the definitions of “Applicable Terminal Equipment”, “Approved Apparatus” and “Compliant Terminal Equipment”, there shall be substituted the definitions set out in Part I of Schedule 8; and
 - (ii) after the definition of “Revised Voice Telephony Regulations” there shall be inserted the following definition:

““RTTE Regulations” means the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000”;
- (b) in Part 2 of Schedule 1 thereof—
 - (i) there shall be substituted for conditions 5 and 15 the conditions set out in Part II of Schedule 8;
 - (ii) in condition 20.8, after the word “Regulations” there shall be inserted the words “or the RTTE Regulations”; and
 - (iii) in condition 55.11, there shall be substituted for the words “Council Directive 91/263/EEC or Council Directive 93/97 EEC” the words “the Terminal Equipment Regulations or with the appropriate essential requirements of the RTTE Regulations”.
- (c) in Schedule 3 thereof for the definition of “Applicable Terminal Equipment” and “Compliant Terminal Equipment” there shall be substituted the definitions thereof set out in Part 1 of Schedule 8.

(2) Each licence issued under section 7 of the Act which, other than by virtue of incorporation of the standard Schedules as defined in regulation 2 of the Standard Schedule Regulations, contains—

- (a) a definition or condition substantially in the same terms as any of those referred to in subparagraphs (a)(i), (b)(i) and (c) of paragraph (1) shall be modified by the substitution therefor of the equivalent set out in Part I or II of Schedule 8; or
- (b) a condition substantially in the same terms as condition 20.8 or 55.11 in Part 2 of Schedule 1 to the Standard Schedule Regulations shall be modified by the substitution therefor of a condition in the same terms as condition 20.8 or 55.11 amended in accordance with subparagraph (ii) or (iii) of paragraph (1)(b); or
- (c) a condition relating to Technical Requirements or Approval of Equipment shall be modified by the substitution therefor of the condition relating thereto set out in Part III of Schedule 8;

(4) S.I. 1999/2450.

and in each such licence there shall be inserted in the appropriate place in alphabetical order the definitions set out in paragraph (1)(a)(ii) and (if no such definition is in the licence already) the definition of “Terminal Equipment Regulations” set out in Part 1 of Schedule 1 to the Standard Schedule Regulations.