STATUTORY INSTRUMENTS

2006 No. 1679

The Measuring Instruments (Active Electrical Energy Meters) Regulations 2006

PART 2

PLACING ON THE MARKET AND PUTTING INTO USE OF ACTIVE ELECTRICAL ENERGY METERS

Requirements for placing on the market and putting into use

4.—(1) No person shall place on the market or put into use a relevant instrument unless the following requirements, or the corresponding requirements of the Directive as implemented under the law of another member State, are met—

(a) the instrument is compliant with the essential requirements;

(b) the manufacturer has demonstrated its compliance with the essential requirements in accordance with regulation 5;

(c) the instrument has affixed to it the CE marking, the M marking and the identification number of the notified body which carried out the conformity assessment procedure in respect of the instrument; and

(d) the instrument is put into use in accordance with Part 2 of Schedule 1.

(2) Where a person fails to comply with the requirements of paragraph (1)(a), (b) or (c)—

(a) he shall be guilty of an offence; and

(b) any relevant instrument—

(i) to which the offence relates; and

(ii) which has not been put into use,

shall be liable to be forfeited.

Compliance with the essential requirements

5.—(1) A manufacturer may demonstrate that a relevant instrument is compliant with the essential requirements by—

(a) using any technical solution that is compliant with the essential requirements;

(b) correctly applying solutions set out in the relevant national standard; or

(c) correctly applying solutions set out in the relevant normative document,

and selecting and following one of the conformity assessment procedures.

(2) A relevant instrument which is compliant with the relevant national standard or relevant normative document shall be presumed to be compliant with the essential requirements.

(3) Where the relevant instrument is compliant only in part with the relevant national standard or relevant normative document, it shall be presumed to be compliant only with that part of the

essential requirements which corresponds to the element of the relevant national standard or relevant normative document with which the instrument is compliant.

Conformity assessment procedures

6.—(1) The conformity assessment procedures are the procedures as follows—

(a) B and F;

(b) B and D; and

(c) H1.

(2) The manufacturer or his authorised representative shall provide to the notified body carrying out the relevant conformity assessment procedure the technical documentation set out in Schedule 3.

(3) In this regulation—

(a) "B" means type examination, set out in Annex B;

(b) "D" means declaration of conformity to type based on quality assurance of the production process, set out in Annex D;

(c) "F" means declaration of conformity to type based on product verification, set out in Annex F; and

(d) "H1" means declaration of conformity based on full quality assurance plus design examination, set out in Annex H1.

Designation of United Kingdom notified bodies

7.—(1) GEMA, on the application of a person resident, incorporated or carrying on business in Great Britain, and NIAER, on the application of a person resident, incorporated or carrying on business in Northern Ireland, may designate that person to be a United Kingdom notified body.

(2) GEMA (or, as the case may be, NIAER) shall not make a designation under paragraph (1) unless it is satisfied that the person meets the notified body criteria.

(3) A person who meets the criteria laid down in a national standard shall be presumed to meet that part of the notified body criteria which corresponds to the criteria in the national standard.

(4) A designation under paragraph (1)—

(a) shall be in writing;

(b) may be made subject to such conditions as may be specified in the designation, which may include conditions which—

(i) are to apply upon or following termination of the designation;

(ii) require the use of test equipment for the purpose of conformity assessment appropriate to the relevant instrument being assessed; and

(iii) limit the description of any relevant instrument for which the person is designated;

(c) subject to regulation 10, may be for such period as may be specified in the designation;

(d) shall specify the conformity assessment procedures and specific tasks (which may be framed by reference to any circumstances) which the person has been designated to carry out; and

(e) may include a requirement to publish from time to time the scale of fees which the person charges pursuant to regulation 11 or such information about the basis of calculation of such fees as may be specified.

(5) In exercising the power conferred on it by paragraph (1), GEMA (or, as the case may be, NIAER) may (in addition to the matters of which it is required to satisfy itself pursuant to paragraph (2)) have regard to any matter appearing to it to be relevant.

(6) For the purpose of paragraph (3), "national standard" means a standard applicable to the designation of notified bodies—

(a) implementing a harmonised standard that has been published in the Official Journal of the European Union; and

(b) the reference of which is published—

(i) in the United Kingdom by the Secretary of State; or

(ii) in another member State by the competent authority pursuant to Article 11.2.

Functions of notified bodies

8. A notified body shall carry out the functions set out in Part 2 of Schedule 2.

Provisions supplemental to regulation 7

9.—(1) GEMA (except in relation to designations made by NIAER) and NIAER (in relation to designations made by it) shall, from time to time, publish a list of notified bodies indicating, in the case of each United Kingdom notified body, the descriptions of any relevant instrument in respect of which that notified body is designated; and such a list may include information concerning any condition to which the designation of any United Kingdom notified body is subject.

(2) GEMA (in relation to designations made by it) and NIAER (in relation to designations made by it) shall, from time to time, carry out an inspection of each United Kingdom notified body with a view to verifying that it—

(a) meets the notified body criteria;

(b) complies with any condition to which its designation is subject; and

(c) complies with these Regulations,

but, unless it appears that there are circumstances which make it necessary or expedient to do so, shall not carry out an inspection within two years from the date of designation under regulation 7, or of any later inspection under this paragraph.

Variation and termination of designation

10.—(1) GEMA (in relation to designations made by it) or NIAER (in relation to designations made by it) may vary a designation made under regulation 7 if—

(a) the United Kingdom notified body so requests; or

(b) it appears to GEMA (or, as the case may be, NIAER) necessary or expedient to do so.

(2) GEMA (in relation to designations made by it) or NIAER (in relation to designations made by it) may terminate a designation made under regulation 7—

(a) on the expiry of 90 days' notice in writing at the request of the United Kingdom notified body;

(b) if it appears to GEMA (or, as the case may be, NIAER) that any condition of the designation is not complied with; or

(c) if in the opinion of GEMA (or, as the case may be, NIAER) the United Kingdom notified body ceases to satisfy the notified body criteria.

(3) Where GEMA (or, as the case may be, NIAER) is minded to—

(a) vary a designation pursuant to paragraph (1)(b); or

(b) terminate a designation pursuant to paragraph (2)(b) or (c),

it shall—

(i) give notice in writing to the United Kingdom notified body of its reasons; and

(ii) give that notified body the opportunity to make representations within a period of 21 days from the date of that notice and consider any representations made to it within that period.

(4) If a designation is terminated under paragraph (2), GEMA (or, as the case may be, NIAER) may—

(a) give such directions (either to the United Kingdom notified body the subject of the termination or to another United Kingdom notified body) for the purposes of making arrangements for the determination of outstanding applications as it considers appropriate; and

(b) notwithstanding sub-paragraph (a), authorise another United Kingdom notified body to take over the functions of the United Kingdom notified body the subject of the termination in respect of such cases as GEMA (or, as the case may be, NIAER) may specify.

Fees

11.—(1) A United Kingdom notified body may charge such fees in connection with, or incidental to, the carrying out of conformity assessment procedures or specific tasks as it may determine.

(2) The fees referred to in paragraph (1) shall not exceed the following—

(a) the costs incurred or to be incurred by the United Kingdom 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 that notified body on behalf of the applicant; and

(ii) the commercial rate normally charged on account of profit for that work or similar work..

(3) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate of such fees in advance of carrying out the work requested by the applicant.

(4) Where any fees payable to a United Kingdom notified body pursuant to this regulation remain unpaid 28 days after either the work has been completed or payment of the fees has been requested in writing, whichever is the later, the notified body may by 14 days' notice in writing provide that, unless the fees are paid before the expiry of the notice, the certificate or notification appropriate to the relevant conformity assessment procedure will be suspended until payment of the fees has been received.

(5) GEMA or NIAER may charge any person fees to recover the full costs reasonably incurred by it in—

(a) making a designation under regulation 7; or

(b) carrying out an inspection under regulation 9.

(6) Where, in accordance with regulation 25, GEMA, acting on behalf of NIAER, makes a designation under regulation 7 or carries out an inspection under regulation 9, GEMA may charge any person fees to recover the full costs reasonably incurred by it in making the designation or carrying out the inspection.

Marking and identification requirements

12.—(1) Where a relevant instrument is compliant with the essential requirements—

(a) the manufacturer shall affix the CE mark and the M mark to the instrument; and

(b) the notified body which carries out the conformity assessment procedure in respect of that instrument shall affix its identification number to the instrument, or may agree that the manufacturer shall do so on its behalf.

(2) Any other marking may be affixed to the relevant instrument provided that the visibility and legibility of the CE marking, the M marking and the identification number of the notified body are not reduced.

(3) For the purposes of paragraph (1)—

(a) the CE marking means the symbol "CE", which shall be compliant with the requirements of paragraphs 1, 4 and 5 of Schedule 4;

(b) the M marking means the capital letter "M" which shall be compliant with the requirements of paragraphs 2, 4 and 5 of Schedule 4; and

(c) the identification number of the notified body shall be compliant with the requirements of paragraphs 3, 4 and 5 of Schedule 4.

Conformity with other directives

13.—(1) Where a relevant instrument falls within the scope of other directives which provide for the affixing of the CE marking, the affixing of the CE marking under these Regulations shall indicate that the instrument is also presumed to be compliant with the requirements of those other directives.

(2) Where paragraph (1) applies, the publication reference of such other directives in the Official Journal of the European Union must be given in the documents, notices or instructions required to accompany the relevant instrument.