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STATUTORY INSTRUMENTS

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**2016 No. 1091**

**The Electromagnetic Compatibility Regulations 2016**

**PART 2**

Obligations of economic operators

Importers

**Prohibition on placing apparatus on the market which is not in conformity**

17. An importer must not place apparatus on the market unless it is in conformity with the essential requirements.

**Requirements that must be satisfied before an importer places apparatus on the market**

18.—(1) Before placing apparatus on the market an importer must ensure that—

- (a) a relevant conformity assessment has been carried out by the manufacturer;
- (b) the manufacturer has drawn up the technical documentation;
- (c) the apparatus—
  - (i) bears the CE marking; and
  - (ii) is accompanied by the required documents; and
- (d) the manufacturer has complied with the requirements of regulation 13 (information identifying manufacturer).

(2) In paragraph (1)(c)(ii) “required documents” means any documents that are required to be provided pursuant to regulation 13(2).

**Duty not to place non-conforming apparatus on the market**

19.—(1) Where an importer considers or has reason to believe that apparatus is not in conformity with the essential requirements, the importer must not place the apparatus on the market.

(2) Where apparatus presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

**Information identifying importer**

20.—(1) An importer must, before placing apparatus on the market, ensure that the following appear on the apparatus or, where that is not possible, on the packaging of the apparatus or in a document accompanying the apparatus—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a postal address at which the importer can be contacted.

(2) The information specified in paragraph (1) must be in a language which can be easily understood by end-users and the competent national authority in the member State in which it is to be made available.

### **Instructions and information**

**21.**—(1) When placing apparatus on the market, an importer must ensure that the apparatus is accompanied by instructions and the information referred to in regulation 36 (information concerning the use of apparatus) which is in a language which can be easily understood by consumers and other end-users in the member State in which the apparatus is to be made available.

(2) When the apparatus is being made available to consumers and other end-users in the United Kingdom, the language referred to in paragraph (1) is English.

### **Storage and transport**

**22.** Where an importer has responsibility for apparatus, the importer must ensure that the conditions under which the apparatus is stored or transported do not jeopardise its conformity with the essential requirements.

### **Importer's duty to take action in respect of apparatus placed on the market which is considered not to be in conformity**

**23.**—(1) An importer who considers or has reason to believe that apparatus that the importer has placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the apparatus into conformity;
- (b) withdraw the apparatus; or
- (c) recall the apparatus.

(2) Where the apparatus presents a risk, the importer must immediately inform the market surveillance authority and the competent authorities of any member State in which the importer has made the apparatus available on the market of the risk, giving details of—

- (a) the respect in which the apparatus is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

### **Retention of technical documentation and EU declaration of conformity**

**24.** An importer must keep the technical documentation and the EU declaration of conformity (as referred to in regulation 41) drawn up in respect of the apparatus for a period of 10 years beginning on the day on which the apparatus is placed on the market.

### **Provision of information and co-operation**

**25.**—(1) An importer must, when requested by an enforcing authority and within such period as the authority may specify, provide the authority with all of the information and documentation necessary to demonstrate the conformity of the apparatus with Part 2.

(2) A request made under paragraph (1) must be accompanied by the reasons for making the request.

(3) The information and documentation referred to in paragraph (1) —

- (a) may be provided in paper or electronic form; and
- (b) must be in a language that can be easily understood by the enforcing authority.

(4) An importer must, at the request of the enforcing authority, co-operate with the authority on any action taken to—

- (a) evaluate the apparatus in accordance with regulation 56 (evaluation of apparatus presenting a risk); and
- (b) eliminate the risks posed by apparatus that importer has placed on the market.