STATUTORY INSTRUMENTS

2016 No. 1091

The Electromagnetic Compatibility Regulations 2016

PART 2

Obligations of economic operators

Distributors

Duty to act with due care

26. When making apparatus available on the market, a distributor must act with due care to ensure that it is in conformity with Part 2.

Making available on the market

27.—(1) Before making apparatus available on the market, a distributor must verify that—

(a) the apparatus—

(i) bears the CE marking;

(ii) is accompanied by the required documents;

(iii) 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 on the market;

(b) the manufacturer has complied with the requirements of regulation 13 (information identifying manufacturer); and

(c) the importer has complied with the requirements of regulation 20 (information identifying importer).

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

Duty not to make non-conforming apparatus available on the market

28.—(1) Where a distributor considers or has reason to believe that apparatus is not in conformity with the essential requirements, the distributor must not make the apparatus available on the market.

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

Storage and transport

29. Where a distributor has responsibility for apparatus, the distributor must ensure that the conditions under which the apparatus is stored or transported do not jeopardise its conformity with the essential requirements.

Duty to take action in respect of apparatus placed on the market or made available on the market which is considered not to be in conformity

30.—(1) A distributor who considers or has reason to believe that apparatus that the distributor has made available 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) to withdraw the apparatus; or

(c) recall the apparatus.

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

(a) the respect in which the apparatus is not considered to be in conformity with Part 2; and

(b) any corrective measures taken.

Provision of information and co-operation

31.—(1) A distributor 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 referred to in 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) A distributor 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 they have made available on the market.