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STATUTORY INSTRUMENTS

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**2016 No. 1091**

**The Electromagnetic Compatibility Regulations 2016**

**PART 2**

**Obligations of economic operators**

All economic operators

**Cases in which the obligations of manufacturers apply to importers and distributors**

**32.** An economic operator (“A”) who would, but for this regulation, be considered an importer or distributor, is to be considered a manufacturer for the purposes of these Regulations and is subject to the obligations of a manufacturer under Part 2, where A—

- (a) places apparatus on the market under A’s own name or trademark; or
- (b) modifies apparatus already placed on the market in such a way that it may affect whether the apparatus is in conformity with Part 2.

**Identification of economic operators**

**33.—**(1) An economic operator (“E”), who receives a request in relation to apparatus from the market surveillance authority before the end of the relevant period, must, within such period as the authority may specify, identify to the authority—

- (a) any other economic operator who has supplied E with apparatus; and
  - (b) any other economic operator to whom E has supplied apparatus.
- (2) The relevant period is—
- (a) in the case of paragraph (1)(a), the period of 10 years beginning on the day on which E was supplied with the apparatus;
  - (b) in the case of paragraph (1)(b), the period of 10 years beginning on the day on which E supplied the apparatus.

**Translation of EU declaration of conformity**

**34.—**(1) Before placing apparatus on the market or making apparatus available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the member State in which it is to be placed on the market or made available on the market.

(2) Where the apparatus is to be placed on the market or made available on the market in the United Kingdom, the language referred to in paragraph (1) is English.

**Prohibition on improper use of CE marking**

**35.—**(1) An economic operator must not affix the CE marking to apparatus unless—

- (a) that economic operator is the manufacturer of the apparatus; and
  - (b) the conformity of apparatus with the essential requirements has been demonstrated by a relevant conformity procedure.
- (2) An economic operator must not affix a marking (other than CE marking) to equipment which purports to attest to the conformity of the equipment with the essential requirements.
- (3) An economic operator must not affix to equipment a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.
- (4) An economic operator must not affix to equipment any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

### **Information concerning the use of apparatus**

- 36.**—(1) A person who places apparatus on the market must provide with the apparatus—
- (a) information on any specific precautions which must be taken during assembly, installation, maintenance or use to ensure that the apparatus will be in conformity with the requirements of paragraph 1 of Schedule 1 when it is put into service;
  - (b) information on the restrictions on the use of the apparatus in residential areas where the conformity of the apparatus with paragraph 1 of Schedule 1 cannot be ensured; and
  - (c) information required to enable the apparatus to be used in accordance with its intended purpose.
- (2) Where appropriate, the information referred to in paragraph (1)(b) must also be included on the packaging of the apparatus.

### **Fixed installations**

- 37.**—(1) Subject to paragraph (2), apparatus that has been made available on the market and which can be incorporated into a fixed installation is subject to all of the relevant provisions for apparatus in these Regulations.
- (2) Where apparatus is intended for incorporation into a particular fixed installation and is not otherwise made available on the market, the requirements of Part 2 and Part 3 do not apply.
- (3) A person who places apparatus of the type referred to in paragraph (2) on the market must provide information with the apparatus which—
- (a) identifies the fixed installation in which it is to be incorporated and the electromagnetic compatibility characteristics of that fixed installation;
  - (b) sets out the precautions to be taken when the apparatus is incorporated into the fixed installation to ensure the conformity of the installation with Part 2;
  - (c) includes the information referred to in—
    - (i) regulation 13 (information identifying manufacturer); and
    - (ii) if relevant, regulation 20 (information identifying importer).
- (4) The good engineering practices referred to in paragraph 2 of Schedule 1 must be documented and the documentation held by the person who installed the fixed installation during the period of operation of the fixed installation.
- (5) The person referred to in paragraph (4) must ensure that the documentation can be made available to the relevant national authorities upon request during the period of operation of that fixed installation.
- (6) Where the enforcing authority has received complaints about disturbances being generated by the fixed installation or has reason to believe that a fixed installation may not be in conformity

with these Regulations, the enforcing authority may request evidence of conformity of the fixed installation and may initiate an evaluation of the fixed installation.

(7) Where the enforcing authority considers that the evaluation referred to in paragraph (6) has established that the fixed installation is not in conformity with these Regulations, the enforcing authority must ensure that appropriate measures are taken to ensure that the fixed installation is brought into conformity with the essential requirements in Schedule 1.

(8) The person referred to in paragraph (4) is responsible for ensuring that the installation is in conformity with the relevant essential requirements.