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STATUTORY INSTRUMENTS

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**2017 No. 1206**

**The Radio Equipment Regulations 2017**

**PART 2**

Obligations of economic operators

CHAPTER 1

General

**Essential requirements**

- 6.—(1) Radio equipment must be constructed so as to ensure—
- (a) the protection of health and safety of persons and of domestic animals and the protection of property, including the objectives with respect to safety requirements set out in Directive 2014/35/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (but as if there were no voltage limit),
  - (b) an adequate level of electromagnetic compatibility as set out in Directive 2014/30/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to electromagnetic compatibility.
- (2) Radio equipment must be constructed so that it both effectively uses and supports the efficient use of radio spectrum in order to avoid harmful interference.

CHAPTER 2

Manufacturers

**Design and manufacture in accordance with essential requirements**

7. Before placing radio equipment on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential requirements.

**Construction must allow operation in at least one Member State**

8. Before placing radio equipment on the market, a manufacturer must ensure it has been constructed so that the radio equipment can be operated in at least one Member State without causing an infringement of the applicable requirements on the use of the radio spectrum in the relevant Member State or Member States.

**Technical documentation and conformity assessment**

9. Before placing radio equipment on the market, a manufacturer must—
- (a) draw up the relevant technical documentation in accordance with regulation 45 (technical documentation), and

- (b) ensure the relevant conformity assessment procedure is carried out.

### **EU declaration of conformity and CE marking**

**10.**—(1) Where the compliance of radio equipment with the essential requirements has been demonstrated by a relevant conformity assessment procedure, the manufacturer must, before placing the radio equipment on the market—

- (a) draw up an EU declaration of conformity in accordance with regulation 42 (EU declaration of conformity), and

- (b) affix the CE marking in accordance with regulation 44 (CE marking).

(2) The manufacturer must keep the EU declaration of conformity up to date.

(3) Where radio equipment is subject to more than one EU instrument requiring an EU declaration of conformity to be drawn up, the manufacturer must draw up a single EU declaration of conformity which—

- (a) meets the requirements of all of the EU instruments concerned,

- (b) identifies the EU instruments, and

- (c) includes references to the publication of those EU instruments in the Official Journal.

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

**11.** A manufacturer must, for a period of 10 years beginning on the day on which the radio equipment is placed on the market, keep and, upon request, make available to an enforcing authority the following in relation to radio equipment—

- (a) a copy of the EU declaration of conformity, and

- (b) the technical documentation.

### **Identification of the radio equipment and manufacturer**

**12.**—(1) Before placing radio equipment on the market, a manufacturer must ensure that the radio equipment bears—

- (a) a type, batch or serial number, or

- (b) another element which allows the radio equipment to be identified.

(2) Before placing radio equipment on the market, a manufacturer must indicate on the radio equipment—

- (a) the name, registered trade name or registered trade mark of the manufacturer,

- (b) a postal address at which the manufacturer can be contacted.

(3) The information specified in paragraph (2) 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 to such end-users.

(4) Where the size or nature of the radio equipment prohibits a manufacturer from complying with the requirement in paragraph (1) or paragraph (2), the manufacturer must provide the required information either on the radio equipment's packaging or in a document which accompanies the radio equipment.

(5) The manufacturer's postal address must indicate a single point at which the manufacturer can be contacted.

### Instructions and information to be included with the radio equipment

13.—(1) When placing radio equipment on the market, a manufacturer must ensure that radio equipment is accompanied with instructions and safety information which—

- (a) are in a language which can be easily understood by consumers and other end-users in the Member State in which the radio equipment is to be made available to such consumers and other end-users,
- (b) include information required to use the radio equipment in accordance with its intended use,
- (c) include a description of accessories and components, including software, which allow the radio equipment to operate as intended, and
- (d) are clear and understandable.

(2) In the case of radio equipment which can intentionally emit radio waves, the manufacturer must also include information about—

- (a) the frequency band or bands in which the radio equipment can operate, and
- (b) the maximum radio-frequency power transmitted in the frequency band or bands in which the radio equipment operates.

(3) When placing radio equipment on the market, a manufacturer must ensure that each item of radio equipment is accompanied by either a copy of the EU declaration of conformity or a simplified EU declaration of conformity drawn up in accordance with regulation 43 (simplified EU declaration of conformity).

(4) Where the radio equipment is to be made available to consumers and other end-users in the United Kingdom, the language which can be easily understood is English.

### Information to be included where there are restrictions on putting into service or requirements for authorisation of use

14.—(1) Where there are restrictions on putting into service or requirements for authorisation of use, a manufacturer must include information on the packaging of the radio equipment which identifies the Member States and the geographical area within a Member State where the restrictions on putting into service or the requirements for authorisation of use exist.

(2) The information referred to in paragraph (1) must—

- (a) be completed in the instructions required by regulation 13,
- (b) subject to paragraph (3), be presented in the manner and form specified in Commission Implementing Regulation specifying how to present the information provided for in Article 10(10) of Directive 2014/53/EU of the European Parliament and the Council (EU) 2017/1354<sup>M1</sup>.

(3) Paragraph (2)(b) of this Regulation applies to radio equipment placed on the market or after 8th August 2018.

#### Marginal Citations

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### **Duty to take action in respect of radio equipment placed on the market which is considered not to be in conformity**

15.—(1) A manufacturer who considers, or has reason to believe, that radio equipment which they have placed on the market is not in conformity with Part 2, if appropriate, must immediately take the corrective measures necessary to—

- (a) bring the radio equipment into conformity,
- (b) withdraw the radio equipment, or
- (c) recall the radio equipment.

(2) Where the radio equipment presents a risk, the manufacturer must immediately inform the market surveillance authority, and the competent national authorities of any other Member State in which the manufacturer made the radio equipment available on the market, of the risk, giving details of—

- (a) the respect in which the radio equipment is considered not to be in conformity with Part 2, and
- (b) any corrective measures taken and the results of those measures.

### **Provision of information and cooperation**

16.—(1) Further to a request from—

- (a) an enforcing authority, where radio equipment has been placed by a manufacturer on the market in the United Kingdom, or
- (b) a competent national authority, where the radio equipment has been placed by a manufacturer on the market in another Member State,

the manufacturer must, within such reasonable period as the authority may specify, provide the authority concerned with all the information and documentation necessary to demonstrate that the radio equipment is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) is one that was made during the period of 10 years beginning on the day that the manufacturer places the radio equipment on the market, and
- (b) must be accompanied by the reasons for making the request.

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

- (a) may be provided in electronic form, and
- (b) must be in a language which can be easily understood by the authority concerned.

(4) A manufacturer must, at the request of the authority concerned, cooperate with that authority on any action taken to—

- (a) evaluate radio equipment in accordance with regulation 59 (evaluation of radio equipment presenting a risk),
- (b) eliminate the risks posed by radio equipment which the manufacturer has placed on the market.

### **Compliance procedures for series production**

17.—(1) A manufacturer must ensure, before placing radio equipment on the market, that procedures are in place to ensure that series production remains in conformity with Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any change in radio equipment design or characteristics, and

- (b) any change in a harmonised standard or in another technical specification by reference to which the EU declaration of conformity was drawn up.

### Monitoring

**18.**—(1) When appropriate, with regard to the risks to the health and safety of end-users presented by radio equipment, a manufacturer must—

- (a) carry out sample testing of radio equipment manufactured by it which has been made available on the market,
- (b) investigate complaints that radio equipment manufactured by it is not in conformity with Part 2,
- (c) keep a register of—
  - (i) complaints that radio equipment is not in conformity with Part 2,
  - (ii) radio equipment which is not in conformity with Part 2, and
  - (iii) radio equipment recalls, and
- (d) keep distributors informed of any monitoring carried out under this regulation.

(2) A manufacturer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

### Authorised representatives

**19.**—(1) A manufacturer may, by written mandate, appoint a person established within the EU as their authorised representative to perform specified tasks on that manufacturer's behalf.

- (2) The authorised representative must perform the tasks specified in the mandate.
- (3) The mandate must allow the authorised representative to do at least the following—
  - (a) perform the manufacturer's obligations under regulation 11 (retention of technical documentation and EU declaration of conformity),
  - (b) perform the manufacturer's obligations under regulation 16 (provision of information and cooperation).
- (4) The mandate must not include the obligations contained in—
  - (a) regulation 7 (design and manufacture in accordance with essential requirements),
  - (b) regulation 9 (technical documentation and conformity assessment), or
  - (c) regulation 10 (EU declaration of conformity and CE marking).

(5) An authorised representative must comply with all the obligations imposed on the manufacturer by these Regulations which relate to the tasks that the authorised representative is appointed by the manufacturer to perform and, accordingly—

- (a) as far as those obligations are concerned, references in these Regulations to the manufacturer are to be taken as including a reference to the authorised representative, and
- (b) if the authorised representative contravenes or fails to comply with any of those obligations, the authorised representative may be proceeded against as though the authorised representative was the manufacturer.

(6) A manufacturer who has appointed an authorised representative to perform, on the manufacturer's behalf, an obligation under these Regulations remains responsible for the proper performance of that obligation.

## CHAPTER 3

### Importers

#### **Prohibition on placing on the market radio equipment which is not in conformity**

**20.** An importer must not place radio equipment on the market unless it is in conformity with the essential requirements.

#### **Requirements which must be satisfied before an importer places radio equipment on the market**

- 21.** Before placing radio equipment on the market, an importer must ensure that—
- (a) a relevant conformity assessment has been carried out by the manufacturer,
  - (b) that the radio equipment has been constructed so that it can be operated in at least one Member State without causing an infringement of the applicable requirements on the use of the radio spectrum in the relevant Member State or Member States,
  - (c) the manufacturer has drawn up the technical documentation,
  - (d) the radio equipment—
    - (i) bears the CE marking, and
    - (ii) is accompanied by the information and documents referred to in regulations 13 (instructions and information to be included with the radio equipment) and 14 (information to be included where there are restrictions on putting into service or requirements for authorisation of use),
  - (e) the manufacturer has complied with the requirements set out in regulation 12 (identification of the radio equipment and manufacturer).

#### **Prohibition on placing on the market radio equipment considered not to be in conformity with the essential requirements**

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

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

#### **Information identifying importer**

**23.—(1)** Before placing radio equipment on the market, an importer must indicate on the radio equipment—

- (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 to such end-users.

(3) Where it is not possible to indicate the information specified in paragraph (1) on the radio equipment, the importer must indicate that information—

- (a) on the packaging, or
- (b) in a document accompanying the radio equipment.

### Instructions and safety information

24.—(1) When placing radio equipment on the market, an importer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the radio equipment is to be made available to such consumers and other end-users.

(2) Where the radio equipment is being made available to consumers and other end-users in the United Kingdom, the language which can be easily understood by consumers and other end-users is English.

### Storage and transport

25. Where an importer has responsibility for radio equipment, the importer must ensure that the conditions under which the radio equipment is stored or transported do not jeopardise the radio equipment's conformity with the essential requirements.

### Monitoring

26.—(1) When appropriate, with regard to the risks to the health and safety of end-users presented by radio equipment, an importer must—

- (a) carry out sample testing of radio equipment made available by the importer on the market,
- (b) investigate complaints that radio equipment made available on the market by the importer is not in conformity with Part 2,
- (c) keep a register of—
  - (i) complaints that radio equipment is not in conformity with Part 2,
  - (ii) radio equipment which is not in conformity with Part 2, and
  - (iii) radio equipment recalls, and
- (d) keep distributors informed of any monitoring carried out under this regulation.

(2) An importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

### Duty to take action in respect of radio equipment placed on the market which is considered not to be in conformity

27.—(1) An importer who considers, or has reason to believe, that radio equipment which they have placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the radio equipment into conformity,
- (b) withdraw the radio equipment, or
- (c) recall the radio equipment.

(2) Where the radio equipment presents a risk, the importer must immediately inform the market surveillance authority, and the competent national authorities of any other Member State in which the importer made the radio equipment available on the market, of the risk, giving details of—

- (a) the respect in which the radio equipment 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**

**28.** An importer must, for a period of 10 years beginning on the day on which the radio equipment is placed on the market, upon request, make available to an enforcing authority the following in relation to radio equipment—

- (a) a copy of the EU declaration of conformity, and
- (b) the technical documentation.

### **Provision of information and cooperation**

**29.**—(1) Further to a reasoned request from an enforcing authority or a competent national authority of another Member State, an importer, within such period as the authority may specify, must provide the authority with all the information and documentation necessary to demonstrate that the radio equipment is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of 10 years beginning on the day that the importer places the radio equipment on the market, and
- (b) must be accompanied by the reasons for making the request.

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

- (a) may be provided in electronic form, and
- (b) must be in a language which can be easily understood by the authority concerned.

(4) An importer must, at the request of the enforcing authority or the competent national authority, cooperate with the authority on any action taken to—

- (a) evaluate radio equipment in accordance with regulation 59 (evaluation of radio equipment presenting a risk),
- (b) eliminate the risks posed by radio equipment which the importer has placed on the market.

## **CHAPTER 4**

### **Distributors**

#### **Duty to act with due care**

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

#### **Requirements which must be satisfied before a distributor makes radio equipment available on the market**

**31.**—(1) Before making radio equipment available on the market, the distributor must verify that—

- (a) the radio equipment—
  - (i) bears the CE marking,
  - (ii) is accompanied by the required documents,
  - (iii) is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the radio equipment is to be made available on the market,
- (b) the manufacturer has complied with the requirements set out in—
  - (i) regulation 8 (construction must allow operation in at least one Member State),



- (ii) regulation 12 (identification of the radio equipment and manufacturer),
  - (iii) regulation 13 (instructions and information to be included with the radio equipment),
  - (iv) regulation 14 (information to be included where there are restrictions on putting into service or requirements for authorisation of use), and
- (c) the importer has complied with the requirements set out in regulation 23 (information identifying importer).
- (2) Where the radio equipment is to be made available to consumers and other end-users in the United Kingdom, the language which can easily be understood is English.
- (3) In paragraph (1)(a)(ii), “required documents” means any documents that are required to be provided pursuant to regulations 12(4), 14 and 23(3).

### **Prohibition on making available on the market where radio equipment not considered to be in conformity with the essential requirements**

- 32.—(1) Where a distributor considers, or has reason to believe, that radio equipment is not in conformity with the essential requirements, the distributor must not make the radio equipment available on the market.
- (2) Where the radio equipment presents a risk, the distributor must inform the following persons of the risk—
- (a) the manufacturer or, where appropriate, the importer, and
  - (b) the market surveillance authority.

### **Storage and transport**

33. Where a distributor has responsibility for radio equipment, the distributor must ensure that the conditions under which it is stored or transported do not jeopardise the radio equipment's conformity with the essential requirements.

### **Duty to take action in respect of radio equipment made available on the market which is not in conformity**

- 34.—(1) A distributor who considers, or has reason to believe, that radio equipment which the distributor has made available on the market is not in conformity with Part 2 must make sure that the necessary corrective measures are taken to—
- (a) bring that radio equipment into conformity,
  - (b) withdraw the radio equipment, or
  - (c) recall the radio equipment.
- (2) Where the radio equipment presents a risk, the distributor must immediately inform the market surveillance authority, and the competent national authorities of the other Member States in which the distributor has made the radio equipment available on the market, of that risk, giving details of—
- (a) the respect in which the radio equipment is considered not to be in conformity with Part 2, and
  - (b) any corrective measures taken.

### **Provision of information and cooperation**

35.—(1) Further to a reasoned request from an enforcing authority or a competent national authority of another Member State, a distributor, within such period as the authority may specify,

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must provide the authority with all the information and documentation necessary to demonstrate that the radio equipment is in conformity with Part 2.

- (2) A request referred to in paragraph (1)—
  - (a) may only be made during the period of 10 years beginning on the day on which the radio equipment was made available on the market, and
  - (b) must be accompanied by the reasons for making the request.
- (3) The information referred to in paragraph (1)—
  - (a) may be provided in electronic form, and
  - (b) must be in a language which can be easily understood by the authority concerned.
- (4) A distributor must, at the request of the enforcing authority or a competent national authority of another Member State, cooperate with the authority on any action taken to—
  - (a) evaluate radio equipment in accordance with regulation 59 (evaluation of radio equipment presenting a risk), and
  - (b) eliminate the risks posed by radio equipment which the distributor has made available on the market.

## CHAPTER 5

### Importers and distributors

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

**36.** 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 radio equipment on the market under A's own name or trademark, or
- (b) modifies radio equipment already placed on the market in such a way that it may affect whether the radio equipment is in conformity with Part 2.

## CHAPTER 6

### All economic operators

#### **Translation of declaration of conformity**

**37.**—(1) Before placing radio equipment on the market or making radio equipment available on the market, an economic operator must ensure that the EU declaration of conformity and, where appropriate, the simplified 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 radio equipment is to be placed on the market or made available on the market in the United Kingdom, the language required is English.

#### **Identification of economic operators**

**38.**—(1) An economic operator (“E”), who receives a request 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 economic operator who has supplied E with radio equipment, and
- (b) any economic operator to whom E has supplied radio equipment.

- (2) The relevant period is—
  - (a) for information under paragraph (1)(a), 10 years beginning on the day on which E was supplied with the radio equipment,
  - (b) for information under paragraph (1)(b), 10 years beginning on the day on which E supplied the radio equipment.

### **Prohibition on improper use of CE marking**

- 39.**—(1) An economic operator must not affix the CE marking to radio equipment unless—
- (a) that economic operator is the manufacturer, and
  - (b) the conformity of the radio equipment with the essential requirements has been demonstrated by a relevant conformity assessment procedure.
- (2) An economic operator must not affix to radio equipment a marking other than the CE marking which purports to attest that the radio equipment is in conformity with the essential requirements.
- (3) An economic operator must not affix to radio 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 radio equipment any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

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