SCHEDULE 9

Regulation 53

Operational obligations of [F1notified][F1approved] bodies

F1 Word in Sch. 9 heading substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 29 para. 54(a)(i)** (with Sch. 29 para. 44) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

1. [F2An approved] body must carry out conformity assessments in accordance with the relevant conformity assessment procedures in Schedule 3 (conformity assessment concerning EU-type examination) or Schedule 4 (conformity assessment concerning quality system approval).

2. [F3An approved] body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

3. A conformity assessment body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the radio equipment technology in question and the mass or serial nature of the production process.

4. A conformity assessment body must respect the degree of rigour and the level of protection required to ensure that the radio equipment is in conformity with the requirements of these Regulations.

5. Where [F4an approved] body finds that the essential requirements or the corresponding [F5designated] standards have not been met by the manufacturer, that body must require that manufacturer to take appropriate corrective measures and must not issue [F6a Type] examination certificate or quality system approval until the appropriate corrective measures have been taken.

6. Where, in the course of the monitoring of conformity following the issue of [F7a Type] examination certificate or a quality system approval, [F8an approved] body finds that the radio equipment is no longer in conformity with the essential requirements, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the [F9Type] examination certificate or quality system approval (if necessary).

7. Where the [F10approved] body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the [F10approved] body must restrict, suspend or withdraw any [F11Type] examination certificates or quality system approvals as appropriate.

8. Paragraph 9 applies where [F12an approved] body is minded to—

(a) refuse to issue [F13a Type] examination certificate,

(b) refuse to grant a quality system approval, or

(c) restrict, suspend or withdraw [F13a Type] examination certificate or quality system approval.

9. Where this paragraph applies, the [F14approved] body must—

(a) give the person applying for the [F15Type] examination certificate or quality system approval, or the person to whom the [F15Type] examination certificate or quality system approval was given—

(i) a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect, and

(ii) an opportunity to make representations within a reasonable period from the date of the notice, and

(b) take account of any representations made under sub-paragraph (a)(ii) before taking its decision.

10. **[**[F16]An approved**]** body must inform the Secretary of State of—

(a) any refusal, restriction, suspension or withdrawal of **[**[F17]a Type**]** examination certificate or quality system approval in accordance with the requirements of Schedule 3 or Schedule 4 as appropriate,

(b) any circumstances affecting the scope of, or conditions for, **[**[F18]approval**]** under regulation 47 (**[**[F19]approval of conformity assessment bodies**]**),

(c) any request for information which it has received from an enforcing authority [F20]... regarding conformity assessment activities, and

(d) on request, conformity assessment activities performed within the scope of its notification under regulation 47 and any other activity performed, including cross-border activities and subcontracting.

11. **[**[F21]An approved**]** body must make provision in its contracts with its clients enabling such clients to appeal against a decision—

(a) to refuse to issue **[**[F22]a Type**]** examination certificate or quality system approval decision, or

(b) to restrict, suspend or withdraw **[**[F22]a Type**]** examination certificate or quality system approval decision.

12. **[**[F23]An approved**]** body must, in accordance with the requirements in Schedule 3 and Schedule 4, provide other bodies **[**[F24]approved**]** under **[**[F25]these Regulations**]** carrying out similar conformity assessment activities covering the same type of radio equipment with relevant information on issues relating to negative and, on request, positive conformity assessment results.

13. **[**[F26]An approved**]** body must participate in the work of any **[**[F27]approved**]** body coordination group established **[**[F28]by the Secretary of State**]**, directly or by means of its designated representatives.

14. **[**[F29]An approved**]** body must fulfil any information obligations under Schedules 3 and 4.

Changes to legislation:
There are currently no known outstanding effects for the The Radio Equipment Regulations 2017, SCHEDULE 9.