

SCHEDULE 20

Amendment of the Electromagnetic Compatibility Regulations 2016

Insertion of regulation 38A

24. After regulation 38 insert—

“Obligations which are met by complying with obligations in the Directive

38A.—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
- (b) “CE marking” has the meaning given to it in Article 3(25);
- (c) “harmonised standard” has the meaning given to it in Article 3(17).

(2) Paragraph (3) applies where, before placing apparatus on the market, the manufacturer—

- (a) ensures that the apparatus has been designed and manufactured in accordance with the essential requirements set out in Annex I;
- (b) draws up the technical documentation relating to such apparatus referred to in Annex III;
- (c) ensures that the relevant conformity assessment procedure relating to such apparatus referred to in Article 14 has been carried out;
- (d) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedure are prepared in or translated into English;
- (e) affixes a CE marking, in accordance with Articles 16 and 17(1) to (2);
- (f) draws up an EU declaration of conformity, in accordance with Article 15; and
- (g) ensures that the EU declaration of conformity is prepared in or translated into English.

(3) Where this paragraph applies—

- (a) the requirements of regulations 8, 9, 10(1)(a) and (b) and (3) and 42(1) are to be treated as being satisfied;
- (b) regulations 2(2)(a), 10(2), 11, 12, 38(2) and 35 apply subject to the modifications in paragraph (8);
- (c) Part 4 does not apply; and
- (d) regulation 59 does not apply.

(4) Paragraph (5) applies where, before placing a category apparatus on the market, the importer ensures that—

- (a) the relevant conformity assessment procedure referred to in Article 14 has been carried out;
- (b) the manufacturer has drawn up the technical documentation referred to in Annex III; and
- (c) the apparatus bears the CE marking.

(5) Where this paragraph applies—

- (a) the requirements of regulation 18(a) to (c) are to be treated as being satisfied; and

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- (b) regulations 2(2)(a), 17, 19(1), 22 and 24 apply subject to the modifications in paragraph (8).
- (6) Paragraph (7) applies where, before making apparatus available on the market, a distributor ensures that the apparatus bears the CE marking.
- (7) Where this paragraph applies—
 - (a) regulation 27(1)(a) is to be treated as being satisfied; and
 - (b) regulations 2(2)(a), 28(1) and 29 apply subject to the modifications in paragraph (10).
- (8) The modifications referred to in sub-paragraphs (3)(b), (5)(b) and (9)(b) are that—
 - (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
 - (b) any reference to “UK marking” is to be read as a reference to the CE marking;
 - (c) any reference to “essential requirements” is to be read as a reference to the essential safety requirements referred to in Annex I;
 - (d) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (e) any reference to “relevant conformity assessment procedure” is to be read as a reference to the relevant conformity assessment procedures referred to in Article 14;
 - (f) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex III.

[^{F1}Expiry of regulation 38A

38B.—(1) Subject to paragraph (2), regulation 38A ceases to have effect at the end of the period of 12 months beginning with IP completion day.

- (2) Notwithstanding the expiry of regulation 38A—
 - (a) any apparatus which was placed on the market pursuant to regulation 38A may continue to be made available on the market on or after the expiry of regulation 38A;
 - (b) any obligation to which a person was subject under regulation 38A in respect of apparatus placed on the market pursuant to regulation 38A continues to have effect after the expiry of regulation 38A, in respect of that apparatus.

Qualifying Northern Ireland Goods

38C.—(1) Where paragraph (2) applies, apparatus is to be treated as being in conformity with Part 2.

- (2) This paragraph applies where—
 - (a) apparatus—
 - (i) is in conformity with Part 2, as that Part applies in Northern Ireland; and
 - (ii) is qualifying Northern Ireland goods; and
 - (b) an importer has complied with the obligations set out in paragraph (3).
- (3) The obligations referred to in paragraph (2)(b) are that, before placing the apparatus on the market, the importer—
 - (a) complies with regulation 20;

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- (b) ensures that—
- (i) the relevant conformity assessment procedure has been carried out in relation to the apparatus;
 - (ii) the manufacturer has drawn up the technical documentation; and
 - (iii) the apparatus bears the CE marking.
- (4) In this regulation—
- “CE marking” has the meaning given to it in regulation 2(1), as it applies in Northern Ireland;
- “qualifying Northern Ireland goods” has the meaning given to it in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018;
- “relevant conformity assessment procedure” has the meaning given to it in regulation 2(1), as it applies in Northern Ireland;
- “technical documentation” means the documentation a manufacturer must draw up, in accordance with regulation 9(b), as it applies in Northern Ireland.”].

F1 Words in Sch. 20 para. 24 inserted (31.12.2020 immediately before IP completion day) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), reg. 1(4), **Sch. 3 para. 12(3)**

Commencement Information

II Sch. 20 para. 24 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), **Sch. 5 para. 1(1)**), see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019, Paragraph 24.