
STATUTORY INSTRUMENTS

1992 No. 2373

ELECTROMAGNETIC COMPATIBILITY

The Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Test Fees Regulations 1992

<i>Made</i>	- - - -	<i>5th October 1992</i>
<i>Laid before Parliament</i>		<i>7th October 1992</i>
<i>Coming into force</i>	- -	<i>28th October 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 56(1) and (2) of the Finance Act 1973⁽¹⁾, with the consent of the Treasury, and of the powers conferred on him by section 128 of the Finance Act 1990⁽²⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electromagnetic Compatibility (Wireless Telegraphy Apparatus) Certification and Test Fees Regulations 1992 and shall come into force on 28th October 1992.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“apparatus” means wireless telegraphy apparatus or apparatus designed or adapted for use in connection with wireless telegraphy apparatus of a description mentioned or referred to in paragraph 4 of Schedule 6 to the EMC Regulations;

“application” means an application for the issue of a technical report, a technical certificate or an EC type—examination certificate as the case may be and includes an application for the variation of the same;

“certification fee” shall be construed in accordance with regulation 5;

“certified apparatus” means apparatus in respect of which an EC type—examination certificate, a technical report or a technical certificate as the case may be has been issued;

“the EMC Regulations” means the Electromagnetic Compatibility Regulations 1992⁽³⁾

(1) 1973 c. 51.

(2) 1990 c. 29.

(3) S.I. 1992/2372.

“examination” means the supervision by an officer of a test carried out by a person other than an officer and inspection of apparatus;

“modification” means any change to certified apparatus which is effected by or on behalf of a person other than the manufacturer of that apparatus;

“officer” means a person engaged in testing on behalf of the Secretary of State;

“technical change” means any change to certified apparatus which affects or is capable of affecting the radio frequency characteristics of that apparatus which is effected by or on behalf of the manufacturer;

“test” includes examination;

“test fee” shall be construed in accordance with regulation 4; and

“variation” means a modification or a technical change.

(2) For the purposes of these Regulations—

“EC type—examination certificate”, “technical certificate” and “technical report” shall have the meanings given respectively by the EMC Regulations.

(3) For the purposes of these Regulations—

(a) the setting up and dismantling of the apparatus tested and any other equipment required to conduct a test;

(b) the analysis of test results;

(c) the compiling of a test report; and

(d) unpacking and repacking the apparatus tested,

shall be treated as part of the test.

(4) For the purposes of these Regulations, “visit” means a continuous period of time during which an officer is reasonably absent from his work place for the purposes of conducting a test and includes the time spent in conducting the test, time reasonably spent in travel wholly undertaken for the purposes of a test wholly or partly conducted at a place other than the officer’s work place, any period in which overnight accommodation (including a berth on a boat or train) is reasonably occupied (an “overnight stay”) and any other rest periods reasonably taken whilst so absent.

(5) In calculating an officer’s subsistence costs, a visit shall be divided into periods of time in the following order:—

(a) each complete period of 24 hours (a “24 hour period”);

(b) any—

(i) single period of less than 24 hours; or

(ii) period of less than 24 hours remaining after any 24 hour periods have been taken into account,

which includes an overnight stay (an “overnight period”);

(c) where—

(i) the visit does not involve an overnight stay; or

(ii) the visit involves one or more 24 hour periods, but no overnight period is counted, any period of—

(aa) 10 hours or more but less than 24 hours (a “day period”); or

(bb) 5 hours or more but less than 10 hours (a “half-day period”); and

(d) any remaining period of less than 5 hours, which shall be disregarded.

(6) In calculating a test fee or a variable fee, each period of time taken by each officer involved in conducting a test shall be counted separately, and the total for each officer be aggregated, and the aggregate for all officers involved divided into complete periods of 15 minutes, with any remaining period of 7.5 minutes or more but less than 15 minutes being counted as a complete period of 15 minutes, and any remaining period of less than 7.5 minutes being disregarded.

Application

3. These Regulations apply to the charging of fees for the purpose of determining an application and in respect of the testing of apparatus for that purpose conducted by the Secretary of State.

Test fees

4.—(1) This regulation applies to the charging of fees, “test fees”, in respect of the testing of apparatus conducted by the Secretary of State for the purpose of determining an application for the issue of a technical report or technical certificate or variation thereof.

(2) The test fee shall be the sum of—

- (a) the amount calculated in accordance with Schedule 1 hereto; and
- (b) an amount equal to the value added tax chargeable on the supply of that testing.

(3) For the purposes of this regulation, the value of the supply of testing by reference to which value added tax is chargeable shall be the amount calculated in accordance with Schedule 1 hereto.

Certification Fees

5.—(1) This regulation applies to the charging of fees, “certification fees”, in respect of the determination of an application for the issue of an EC type—examination certificate or the variation thereof by the Secretary of State including the charging of fees in respect of any testing carried out as part of that determination.

(2) The certification fee, which is payable whether or not the application is granted, shall be the sum of—

- (a) the sum specified in relation to the type of application appearing in Schedule 2 hereto (“the fixed fee”); and
- (b) if the determination of an application includes a visit, the sum of—
 - (i) an amount calculated in accordance with Schedule 3 hereto (“the variable fee”); and
 - (ii) an amount equal to the value added tax chargeable on the supply of that testing.

(3) For the purposes of this regulation, the value of the supply of testing by reference to which value added tax is chargeable shall be the variable fee.

Timing of payment of fees

6.—(1) Where a test fee is payable the Secretary of State shall—

- (a) on receipt of an application for a technical report or technical certificate or variation thereof, estimate in complete periods of 15 minutes the time to be taken in conducting the test and thereby estimate the amount to be payable in accordance with regulation 4 above, and shall serve an invoice on the applicant for the amount so estimated, which shall thereupon be due and payable to the Secretary of State;
- (b) on completion of the test, the Secretary of State shall—

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- (i) serve an invoice on the applicant for the final amount of the test fee, which shall thereupon, and before disclosure of the test report, be due and payable to the Secretary of State; or
- (ii) if the amount received under paragraph (1)(a) above exceeds the final amount of the test fee, repay the balance to the applicant.

(2) Where a variable fee is payable the Secretary of State shall on completion of the visit notify the applicant of the amount of the variable fee which shall thereupon, and before disclosure and notification of the result of the application, be due and payable to the Secretary of State.

(3) The fixed fee shall be due and payable on the making of the application.

E. Leigh
Parliamentary Under Secretary of State for
Technology,
Department of Trade and Industry

5th October 1992

We consent to these Regulations

Tim Boswell
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury

24th September 1992

SCHEDULE 1

regulation 4

CALCULATION OF TEST FEES

The amount to be included in the test fee for the purposes of regulation 4(2)(a) shall be £55.00 per hour taken in conducting the test, subject to—

- (a) a minimum of £200.00; and
- (b) a maximum of £8,800.00.

SCHEDULE 2

regulation 5(2)

FIXED FEES

Type of Application	Fee
EC type—examination Certificate	£300
Variation of EC type—examination Certificate	—150

SCHEDULE 3

regulation 5(2)

CALCULATION OF VARIABLE FEES

The amount to be included in the variable fee for the purposes of regulation 5(2)(b)(i) shall be the sum of the following:—

- (a) an amount per officer for time spent in conducting the test, calculated in accordance with the following table—

Grade of Officer	Amount per hour
Grade 7	£46.86
Senior Professional and Technology Officer	£41.50
Senior Telecommunications Technical Officer	£41.22
Higher Professional and Technology Officer	£35.89
Higher Telecommunications Technical Officer	£35.59
Telecommunications Technical Officer	£30.48

- (b) any travelling costs reasonably incurred; and
- (c) where a test involves a visit of 5 hours or more, each officer’s reasonable subsistence costs.

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EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations provide for the charging of fees in relation to the determination of applications for a technical report or technical certificate for wireless telegraphy apparatus and the testing of such apparatus for that purpose by the Secretary of State pursuant to the provisions of the Electromagnetic Compatibility Regulations 1992 (S.I.1992/2372) (regulation 4); the Secretary of State is a body responsible for issuing technical reports and technical certificates for certain wireless telegraphy apparatus pursuant to Article 10.2 of Council Directive 89/336/EEC on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJNo. L139, 23.5.89, p. 19; as amended by Council Directive 91/263/EEC (OJ No. L128, 23.5.91, p. 1) and Council Directive 92/31/EEC (OJ No. L126, p. 11)). Fees are set at a level to achieve full cost recovery.

Further, these Regulations prescribe fees (“the fixed fee”) for the determination of an application for the issue of an EC type—examination certificate for radio transmission apparatus by the Secretary of State, and they provide for the charging of fees if testing is carried out as part of that determination by the Secretary of State (regulation 5); the Secretary of State is a body responsible for issuing EC type—examination certificates for certain wireless telegraphy apparatus pursuant to the provisions of the 1992 Regulations. Fees are set at a level to achieve full cost recovery.

An application for an EC type—examination certificate or variation thereof may be made in conjunction with an application for approval of apparatus pursuant to section 84 of the Telecommunications Act 1984; if a simultaneous application is made, the Wireless Telegraphy Apparatus Approval and Test Fees Order 1992 (S.I. 1992/2087) makes provision for a reduction in the fees it prescribes for the determination of an application for approval made under it.

These Regulations provide that the fixed fee is due and payable on the making of an application thereunder, and that such fee and the test fee and variable fee are payable irrespective of whether a technical report, technical certificate or EC type—examination certificate or variation thereof issues (regulation 6).