



# Product Security and Telecommunications Infrastructure Act 2022

## 2022 CHAPTER 46

### PART 1

#### PRODUCT SECURITY

#### CHAPTER 2

##### DUTIES OF RELEVANT PERSONS, ETC

##### *Duties of importers*

#### **14 Duty to comply with security requirements**

- (1) An importer of a relevant connectable product must comply with any relevant security requirements relating to the product if condition A or B is met.
- (2) Condition A is that the importer—
  - (a) intends the product to be a UK consumer connectable product, or
  - (b) is aware, or ought to be aware, that the product will be a UK consumer connectable product.
- (3) Condition B is that—
  - (a) the product is a UK consumer connectable product, and
  - (b) at the time it was made available by the importer, condition A was met in relation to the product.
- (4) For the meaning of “UK consumer connectable product”, see section 54.

## **15 Statements of compliance**

- (1) Subsection (2) applies if an importer of a relevant connectable product—
  - (a) intends the product to be a UK consumer connectable product, or
  - (b) is aware, or ought to be aware, that the product will be a UK consumer connectable product.
- (2) The importer may not make the product available in the United Kingdom unless it is accompanied by—
  - (a) a statement of compliance, or
  - (b) a summary of the statement of compliance prepared in accordance with section 9(2)(b).
- (3) The importer must retain a copy of the statement of compliance, or the summary of the statement of compliance (as the case may be), for a period specified in regulations made by the Secretary of State.
- (4) The Secretary of State may by regulations require an importer of a relevant connectable product to make available the statement of compliance relating to the product, or the summary of the statement of compliance (as the case may be), in accordance with provision made by the regulations.
- (5) In a case where regulations made under section 9(7) provide that a manufacturer of a relevant connectable product is to be treated as complying with section 9(2) if conditions specified in the regulations are met—
  - (a) an importer of the product who meets the condition in subsection (1)(a) or the condition in subsection (1)(b) of this section may not make the product available in the United Kingdom unless the importer is satisfied that the conditions specified in the regulations have been met, and
  - (b) subsections (2) and (3), and any regulations made under subsection (4), do not apply.
- (6) Regulations under this section are subject to the negative resolution procedure.

## **16 Duty not to supply products where compliance failure by manufacturer**

- (1) An importer of a relevant connectable product may not make the product available in the United Kingdom if—
  - (a) the importer—
    - (i) intends the product to be a UK consumer connectable product, or
    - (ii) is aware, or ought to be aware, that the product will be a UK consumer connectable product, and
  - (b) the importer knows or believes that there is a compliance failure in relation to the product.
- (2) In this section “compliance failure” means a failure by a manufacturer of a product to comply with a relevant security requirement relating to the product.

## **17 Duty to investigate potential compliance failures of importer or manufacturer**

- (1) This section applies if, at any time after an importer of a relevant connectable product makes it available in the United Kingdom—

- (a) the importer is informed that there is, or may be, a compliance failure in relation to the product, and
  - (b) the importer is aware, or ought to be aware, that the product is or will be a UK consumer connectable product.
- (2) The importer must take all reasonable steps to investigate whether there is a compliance failure in relation to the product.
- (3) In this section “compliance failure” means a failure by the importer, or by a manufacturer of the product, to comply with a relevant security requirement relating to the product.

## **18 Duties to take action in relation to importer’s compliance failure**

- (1) This section applies if, at any time after an importer of a relevant connectable product makes it available to a customer in the United Kingdom—
- (a) the importer becomes aware, or ought to be aware, of a compliance failure in relation to the product, and
  - (b) the importer is aware, or ought to be aware, that the product is a UK consumer connectable product.
- (2) The importer must, as soon as is practicable, take all reasonable steps to remedy the compliance failure.
- (3) The importer must notify the persons listed in subsection (4) of the compliance failure as soon as possible.
- (4) The persons referred to in subsection (3) are—
- (a) the enforcement authority, and
  - (b) in a case where specified conditions are met, any customer in the United Kingdom to whom the importer supplied the product.
- (5) In subsection (4)(b) “specified” means specified in regulations made by the Secretary of State.
- Regulations under this subsection are subject to the negative resolution procedure.
- (6) The notification under subsection (3) must include the following information—
- (a) details of the compliance failure;
  - (b) any risks of which the importer is aware that are posed by the compliance failure;
  - (c) any steps that have been taken by the importer to remedy the compliance failure and whether or not those steps have been successful.
- (7) In this section “compliance failure” means a failure by the importer to comply with a relevant security requirement relating to the product.

## **19 Duties to take action in relation to manufacturer’s compliance failure**

- (1) This section applies if, at any time after an importer of a relevant connectable product makes it available in the United Kingdom—
- (a) the importer becomes aware, or ought to be aware, of a compliance failure in relation to the product, and

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*Status: This is the original version (as it was originally enacted).*

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(b) the importer is aware, or ought to be aware, that the product is or will be a UK consumer connectable product.

(2) In this section “compliance failure” means a failure by a manufacturer of the product to comply with a relevant security requirement relating to the product.

(3) The importer must contact the manufacturer about the compliance failure as soon as possible.

This is subject to subsection (10)(b).

(4) If it appears to the importer that it is unlikely that the compliance failure will be remedied in accordance with section 11(2)(b), the importer must, as soon as is practicable, take all reasonable steps to prevent the product from being made available to customers in the United Kingdom (where it has not already been so made available).

(5) The importer must notify the persons listed in subsection (6) of the compliance failure as soon as possible after the importer has contacted (or attempted to contact) the manufacturer in accordance with subsection (3) (or, if subsection (10)(b) applies, as soon as possible).

This is subject to subsection (10)(a) and (c).

(6) The persons referred to in subsection (5) are—

- (a) the enforcement authority,
- (b) any distributor to whom the importer supplied the product, and
- (c) in a case where specified conditions are met, any customer in the United Kingdom to whom the importer supplied the product.

(7) In subsection (6)(c) “specified” means specified in regulations made by the Secretary of State.

Regulations under this subsection are subject to the negative resolution procedure.

(8) The notification under subsection (5) must include the following information—

- (a) details of the compliance failure;
- (b) any risks of which the importer is aware that are posed by the compliance failure;
- (c) any steps of which the importer is aware that have been taken by the manufacturer to remedy the compliance failure and whether or not those steps have been successful.

(9) When the importer notifies a person within subsection (6)(b) of the compliance failure, the importer must also inform the person whether or not—

- (a) the manufacturer is aware of the compliance failure;
- (b) the enforcement authority has been notified of the compliance failure.

(10) Where the importer became aware of the compliance failure as a result of being notified of it by a relevant person in accordance with this Chapter—

- (a) the importer does not need to notify the relevant person of the compliance failure,
- (b) if the relevant person—
  - (i) is the manufacturer, or
  - (ii) informs the importer that the manufacturer is aware of the compliance failure,

the importer does not need to contact the manufacturer about the compliance failure, and

- (c) if the relevant person informs the importer that the enforcement authority has been notified of the compliance failure, the importer does not need to notify the enforcement authority of the compliance failure.

## **20 Duty to maintain records of investigations**

- (1) An importer of a relevant connectable product must maintain a record of—
  - (a) any investigations carried out by the importer (whether or not as a result of information received as mentioned in section 17(1)(a)) in relation to a compliance failure, or suspected compliance failure, by—
    - (i) the importer, or
    - (ii) a manufacturer of the product;
  - (b) any investigations of which the importer is aware that have been carried out by a manufacturer of the product in relation to a compliance failure, or suspected compliance failure, by the manufacturer.
- (2) A record of an investigation must contain the following information—
  - (a) the outcome of the investigation;
  - (b) where it was determined that there was a compliance failure, details of that compliance failure;
  - (c) any steps taken by the importer or the manufacturer (as the case may be) to remedy the compliance failure and whether or not those steps were successful.
- (3) An importer is not to be regarded as having failed to comply with the duty imposed by subsection (1)(b) to maintain a record of an investigation carried out by a manufacturer if—
  - (a) the record of the investigation does not contain all of the information required by subsection (2),
  - (b) the missing information may only be obtained from the manufacturer, and
  - (c) the importer has taken reasonable steps to obtain that information from the manufacturer.
- (4) A record of an investigation must be retained for a period of 10 years beginning with the day on which the record is made.
- (5) In this section “compliance failure”, in relation to a product, means a failure to comply with a relevant security requirement relating to the product.