
STATUTORY INSTRUMENTS

2012 No. 3032

**The Restriction of the Use of Certain Hazardous Substances
in Electrical and Electronic Equipment Regulations 2012**

PART 2

Prohibitions and Obligations on Economic Operators

Manufacturers and their authorised representatives

Prohibitions on placing EEE on the market

10.—(1) A manufacturer must not place EEE on the market unless the EEE complies with the requirements of regulation 3 (restriction on the use of certain hazardous substances in EEE).

(2) A manufacturer must not place EEE on the market without having complied with—

- (a) regulation 11 (design and manufacture of EEE);
- (b) regulation 12 (conformity assessment procedure and drawing up of technical documentation);
- (c) regulation 13 (EU declaration of conformity and CE marking);
- (d) regulation 17 (compliance procedures for series production); and
- (e) regulation 18 (information identifying EEE and manufacturer).

Design and manufacture of EEE

11. A manufacturer must ensure that the EEE has been designed and manufactured to comply with the requirements of regulation 3.

Conformity assessment procedure and drawing up of technical documentation

12.—(1) A manufacturer must—

- (a) draw up technical documentation; and
- (b) carry out, and comply with their obligations under, the internal production control procedure,

in relation to the EEE, in line with Module A of Annex II to Decision [768/2008/EC](#) of the European Parliament and of the Council on a common framework for the marketing of products and repealing Council Decision [93/465/EEC](#)(1).

(2) Where other applicable EU legislation or legislation giving effect to EU legislation requires the EEE to be subject to a conformity assessment procedure which is at least as stringent as that required under paragraph (1), compliance with the requirements of regulation 3 may be demonstrated within the context of that procedure and a single set of technical documentation may be drawn up.

(1) OJ L218, 13.8.08, p 82.

EU declaration of conformity and CE marking

13. Where the compliance of the EEE with the requirements of regulation 3 has been demonstrated by the procedure referred to in regulation 12, a manufacturer must—

- (a) draw up an EU declaration of conformity in accordance with regulation 14; and
- (b) affix the CE marking in relation to the EEE in accordance with regulation 16.

14.—(1) The EU declaration of conformity must state that it has been demonstrated that the requirements specified in Article 4 of the Directive have been met in relation to the EEE.

(2) The EU declaration of conformity must also follow the structure, and include the information, specified in Annex VI to the Directive.

(3) The manufacturer must keep up to date the EU declaration of conformity drawn up in relation to EEE.

(4) The manufacturer must translate the EU declaration of conformity into the language required by each member State on the market of which they make the EEE available.

(5) An EU declaration of conformity in relation to EEE which is made available on the market in the United Kingdom must be drawn up in or translated into English.

(6) By drawing up the EU declaration of conformity, the manufacturer assumes responsibility for the compliance of the EEE.

Duty to keep technical documentation and EU declaration of conformity

15. A manufacturer must keep the technical documentation and the EU declaration of conformity for EEE available for inspection by the market surveillance authority for a period of ten years from the day on which the EEE was placed on the market.

EEE to bear CE marking

16.—(1) The CE marking which a manufacturer must affix under regulation 13 must be affixed visibly, legibly and indelibly.

(2) The CE marking must be affixed to—

- (a) the EEE; or
- (b) a data plate affixed to the EEE.

(3) Where due to the nature of the EEE it is not possible or not warranted for the CE marking to be affixed in accordance with paragraph (2), the manufacturer must instead affix the CE marking to—

- (a) the packaging of the EEE; and
- (b) any documents that accompany the EEE.

Compliance procedures for series production

17.—(1) A manufacturer of EEE which is manufactured by means of series production must ensure that procedures are in place to ensure that any EEE so manufactured complies with the requirements of regulation 3.

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

- (a) any changes in the design or characteristics of the EEE; and
- (b) any changes to any harmonised standards or technical specifications referred to in the EU declaration of conformity drawn up in relation to the EEE.

(3) In this regulation “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process or service.

Information identifying EEE and manufacturer

18.—(1) A manufacturer must ensure that a type, batch or serial number or other element allowing the EEE to be identified is marked—

- (a) on the EEE; or
- (b) where the size or nature of the EEE does not allow this, on the packaging of the EEE or in a document accompanying the EEE.

(2) A manufacturer must indicate the manufacturer’s name, registered trade name or registered trade mark and a single address at which they can be contacted—

- (a) on the EEE; or
- (b) where that is not possible, on the packaging of the EEE or in a document accompanying the EEE.

(3) Where other applicable EU legislation or legislation giving effect to EU legislation contains provisions for the affixing of the manufacturer’s name and address to the EEE which are at least as stringent as those set out in this regulation, the provisions of this regulation may be met by satisfying the provisions of that other legislation.

Register of EEE

19. A manufacturer must keep a register of any EEE placed on the market that the manufacturer has manufactured, or had designed and manufactured,—

- (a) in relation to which any provision of these Regulations has not been complied with; or
- (b) which has been recalled,

and keep distributors informed of these matters.

Non-compliant EEE

20. Where a manufacturer has placed EEE on the market and has reason to believe that any provision of these Regulations has not been complied with by the manufacturer in relation to the EEE, the manufacturer must immediately—

- (a) take the corrective measures which are necessary to ensure that the provision is complied with in relation to the EEE, withdraw the EEE or recall it, if appropriate; and
- (b) provide the market surveillance authority and the competent national authorities of any other member States in which they made the EEE available with information about the non-compliance and any such corrective measures taken.

Co-operation with the authorities

21.—(1) The market surveillance authority may, during the period of 10 years from the day on which EEE was placed on the market, request the manufacturer who placed EEE on the market to—

- (a) provide it within such period as the authority may specify with all the information and documentation necessary to demonstrate that the provisions of these Regulations have been complied with in relation to the EEE; and
- (b) co-operate with that authority on any action taken or to be taken to ensure that the provisions of these Regulations are complied with in relation to the EEE.

(2) A request under paragraph (1)(a) must be accompanied by the reasons for making the request.

(3) The manufacturer must comply with a request made under paragraph (1).

(4) The information and documentation supplied pursuant to a request under paragraph (1)(a) must be drawn up in or translated into English.

Manufacturers' authorised representatives

22.—(1) A manufacturer may, by written mandate, appoint a person established within the EU as their authorised representative to act on the manufacturer's behalf in relation to specified tasks.

(2) The mandate must allow the authorised representative to do at least the following in relation to EEE covered by the mandate—

- (a) perform the manufacturer's obligations under regulation 15 (duty to keep technical documentation and EU declaration of conformity); and
- (b) perform the manufacturer's obligations under paragraph (4) of regulation 21 (cooperation with the authorities).

(3) An authorised representative may not be appointed to perform the manufacturer's obligations under regulation 11 (design and manufacture of EEE) or paragraph (1)(a) of regulation 12 (conformity assessment procedure and drawing up of technical documentation).

(4) An authorised representative must comply with all the duties imposed on the manufacturer in relation to each obligation under these Regulations that the representative is appointed by the mandate to perform and, accordingly—

- (a) as far as those duties 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 duties, the authorised representative may be proceeded against as though the authorised representative were the manufacturer.

(5) 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.

Importers

Prohibition on placing EEE on the market

23. An importer must not place EEE on the market unless—

- (a) the EEE complies with the requirements of regulation 3;
- (b) the importer has ensured that the manufacturer has done all of the following in relation to the EEE—
 - (i) carried out the conformity assessment procedure and drawn up the technical documentation in accordance with paragraph (1) of regulation 12 (conformity assessment procedure and drawing up of technical documentation);
 - (ii) affixed the CE marking in accordance with regulation 16 (EEE to bear CE marking);
 - (iii) complied with paragraph (1) of regulation 18 (information identifying EEE and manufacturer); and
 - (iv) complied with regulation 19 (register of EEE);
- (c) the EEE is accompanied by the required documents; and
- (d) the importer has complied with regulation 24 (information identifying importers).

Information identifying importers

- 24.**—(1) An importer must ensure that the following information is marked on the EEE—
- (a) the importer’s name, registered trade name or registered trade mark; and
 - (b) an address at which the importer can be contacted.
- (2) Where it is not possible to mark the information on the EEE the information may instead be marked on the packaging of the EEE or in a document accompanying the EEE.
- (3) Where the importer complies with other applicable EU legislation, or legislation giving effect to EU legislation, containing provisions for the affixing of the importer’s name and address which are at least as stringent as those set out in this regulation, it is sufficient to satisfy this regulation.

Monitoring of EEE

- 25.** An importer must keep a register of any EEE which they have placed on the market—
- (a) in relation to which any provision of these Regulations has not been complied with; or
 - (b) any EEE which has been recalled,
- and keep distributors informed of these matters.

Non-compliant EEE

- 26.**—(1) If an importer has reason to believe that EEE which the importer was intending to place on the market does not comply with the requirements of regulation 3, the importer must inform the manufacturer and the market surveillance authority of the non-compliance.
- (2) An importer who has placed EEE on the market and has reason to believe that any provision of these Regulations has not been complied with in relation to the EEE must immediately—
- (a) take the corrective measures which are necessary to ensure that the provision is complied with in relation to the EEE, withdraw the EEE or recall it, if appropriate; and
 - (b) provide the market surveillance authority and the competent national authorities of any other member States in which they made the EEE available with information about the non-compliance and any corrective measures taken in accordance with sub-paragraph (a).

Retention of documentation and co-operation with the authorities

- 27.**—(1) An importer must for a period of ten years from the day on which they placed an item of EEE on the market—
- (a) keep a copy of the EU declaration of conformity for the EEE; and
 - (b) ensure that the technical documentation is available for inspection by the market surveillance authority on request by the authority.
- (2) The market surveillance authority may during the ten year period mentioned in paragraph (1) request an importer who has placed EEE on the market to—
- (a) provide it within such period as the authority may specify with all the information and documentation necessary to demonstrate that the provisions of these Regulations have been complied with in relation to the EEE; and
 - (b) co-operate with that authority on any action taken or to be taken to ensure that the provisions of these Regulations are complied with in relation to the EEE.
- (3) A request under paragraph (2)(a) must be accompanied by the reasons for making the request.
- (4) The importer must comply with a request under paragraph (2).

(5) The information and documentation supplied pursuant to a request under paragraph (2)(a) must be drawn up in or translated into English.

Duty in certain circumstances to comply with manufacturers' duties in place of importers' duties

28.—(1) An importer who places EEE on the market under the importer's name or trademark must comply with all of the duties imposed by these Regulations on manufacturers, and in such a case, a reference to the manufacturer in these Regulations is to be taken as being a reference to the importer.

(2) Such an importer is not required to comply with the duties imposed by these Regulations on importers.

Distributors

Duty to act with due care and prohibition on making EEE available on the market

29.—(1) When making EEE available on the market, a distributor must act with due care in relation to the requirements applicable, in particular by verifying that—

- (a) the EEE bears the CE marking;
- (b) the EEE is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market;
- (c) the manufacturer has complied with regulation 18 (information identifying EEE and manufacturer);
- (d) the importer has complied with regulation 24 (information identifying importers).

(2) A distributor must not make EEE available on the market if the distributor has reason to believe that the EEE does not comply with the requirements of regulation 3.

Non-compliant EEE

30.—(1) If a distributor has reason to believe that EEE which the distributor was intending to make available on the market does not comply with the requirements of regulation 3, the distributor must inform the following to that effect—

- (a) the importer (if there is one);
- (b) the manufacturer (if there is no importer); and
- (c) the market surveillance authority.

(2) A distributor who has reason to believe that EEE which the distributor has made available on the market is not in conformity with these Regulations must—

- (a) take the corrective measures which are necessary to ensure that the provision is complied with in relation to the EEE, withdraw the EEE or recall it, if appropriate; and
- (b) immediately provide the market surveillance authority and the competent national authorities of any other member States in which they made the EEE available with information about the non-compliance and any corrective measures taken under subparagraph (a).

Co-operation with the authorities

31.—(1) The market surveillance authority may request a distributor who has made EEE available on the market to—

- (a) provide it within such period as the authority may specify with all the information and documentation within the distributor’s knowledge or possession which demonstrate that the provisions of these Regulations have been complied with in relation to the EEE; and
- (b) co-operate with that authority on any action taken or to be taken to ensure that the provisions of these Regulations are complied with in relation to the EEE.

(2) A request under paragraph (1)(a) must be accompanied by the reasons for making the request.

(3) The distributor must comply with a request under paragraph (1).

(4) A request for information or documents may not be made more than 10 years after the day on which the EEE is placed on the market.

Duty in certain circumstances to comply with manufacturers’ duties in place of distributors’ duties

32. A distributor who modifies EEE already placed on the market in such a way that compliance with the requirements of regulation 3 may be affected must comply with all of the duties imposed by these Regulations on manufacturers, and in such a case, a reference to the manufacturer in these Regulations is to be taken as being a reference to the distributor.

All economic operators

Identification of economic operators to the market surveillance authority

33.—(1) The market surveillance authority may, for ten years following the placing on the market of the EEE, request an economic operator to identify to the authority, within such period as the authority may specify—

- (a) any economic operator who has supplied it with EEE; and
- (b) any economic operator to whom it has supplied EEE.

(2) The economic operator must comply with the request.

Protection of CE marking

34.—(1) A person must not affix a CE marking in relation to EEE unless—

- (a) the person is—
 - (i) the manufacturer; or
 - (ii) an authorised representative of the manufacturer who has been appointed by the manufacturer in accordance with regulation 22(1) to affix the CE marking on the manufacturer’s behalf; and
- (b) it has been demonstrated by performance of the conformity assessment procedure referred to in regulation 12 (conformity assessment procedure and drawing up of technical documentation) that the EEE complies with the requirements of regulation 3.

(2) A person must not affix any marking in relation to EEE which—

- (a) is not a CE marking; but
- (b) purports to attest that the EEE satisfies the requirements of regulation 3.

Status: Point in time view as at 02/01/2013.

Changes to legislation: There are currently no known outstanding effects for the The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012, PART 2. (See end of Document for details)

(3) A person must not affix in relation to EEE any marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking affixed in relation to the EEE.

(4) Any other marking may be affixed in relation to EEE provided that the visibility, legibility and meaning of the CE marking is not thereby impaired.

Status:

Point in time view as at 02/01/2013.

Changes to legislation:

There are currently no known outstanding effects for the The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012, PART 2.