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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace The Electromagnetic Compatibility Regulations 1992 (SI 1992/2372) (“the 1992 Regulations”) which implement Council Directive [89/336/EEC](#) on the approximation of laws of the member States relating to electromagnetic compatibility as amended by Council Directives [92/31/EEC](#) and [93/68/EEC](#) (“the EMC Directive”).

These Regulations impose requirements concerning the electromagnetic compatibility (EMC) of most types of electrical and electronic apparatus which must be complied with if such apparatus is to be supplied or taken into service. The Regulations do not apply to any item of apparatus supplied or taken into service in the EEC before 28<sup>th</sup> October 1992 (regulation 10). These Regulations provide for a new enforcement authority, OFCOM, to act in place of the Radiocommunications Agency, consolidate the amendments to SI 1992/3272 and incorporate disapplications of the EMC Directive by product specific Directives pursuant to Article 2.2 of the EMC Directive.

These Regulations replace the regulations made under section 10 of the Wireless Telegraphy Act 1949 (“the 1949 Act”) listed in Schedule 1 to the extent that these Regulations impose electromagnetic compatibility requirements (excluding radio frequency planning requirements) which must be complied with if apparatus to which these regulations apply is to be supplied or taken into service and used for the purpose for which it was intended.

The meaning of electromagnetic disturbance is set out in regulation 4 and Schedule 2. Protection requirements for both immunity and emissions are set out in regulation 5.

Part II provides for the application of the Regulations, and apparatus to which they apply is referred to as relevant apparatus (regulation 6). They apply to all electrical and electronic appliances, and equipment and installations containing electrical or electronic components or both (regulation 7), other than apparatus excepted by regulations 10 to 29. These Regulations apply with certain modifications to educational electronic equipment (regulation 8) and test apparatus (regulation 9). The specific nature and intended function of an item of electrical apparatus will determine whether that apparatus comes within the scope or is outside the scope, of these Regulations.

Regulations 20 to 29 provide the complete or partial exclusions for certain types of apparatus specifically covered by other Directives.

Part III sets out the general requirements of the Regulations. Regulation 30 provides that relevant apparatus may not be supplied unless the requirements of regulation 32 are complied with, which are –

- (a) the relevant apparatus complies with the protection requirements;
- (b) the conformity assessment requirements have been complied with (regulation 33);
- (c) the CE mark (the form of which is shown in Schedule 4) has been properly affixed by the manufacturer or his authorised representative (regulation 35); and
- (d) the manufacturer or his authorised representative has issued an EC declaration of conformity (regulation 36).

Regulation 31 provides that relevant apparatus may not be taken into service unless it conforms with the protection requirements. (The protection requirements are found in regulation 5).

Regulation 37 requires that the responsible person must retain the EC declaration of conformity and, where applicable, the technical construction file or EC type-examination certificate, for ten years following the date on which the latest item of apparatus to which those documents apply is

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supplied. The responsible person may be required to produce such documentation (regulation 37 and 84).

The conformity assessment requirements are satisfied by one of three routes:

- (a) the standards route to compliance, set out in Part IV, which is satisfied where the manufacturer has applied standards in respect of the electromagnetic characteristics of the apparatus (regulation 39). Where the manufacturer or his authorised representative is in the United Kingdom he issues the EC declaration of conformity in accordance with regulation 42;
- (b) the technical construction file route to compliance set out in Part V. This is used where the manufacturer has not applied standards in respect of some or all of the EMC characteristics of the apparatus, either due to choice or because there is no appropriate standard. The manufacturer or his authorised representative must compose a technical construction file covering the electromagnetic characteristics in respect of which standards have not been applied and stating the standards which have been applied, which must contain a technical report or technical certificate issued by a competent body appointed by one of the member States. Regulations 48 to 58 and Schedule 5 make provision in respect of the appointment and functions of United Kingdom competent bodies, and related matters. Where this route is used and the manufacturer or his authorised representative is in the United Kingdom, the EC declaration of conformity is issued in accordance with regulation 59; and
- (c) the EC type-examination route to compliance for radiocommunication transmission apparatus, set out in Part VI. The manufacturer or his authorised representative must obtain an EC type-examination certificate from a notified body (regulation 63). Regulations 64 to 72 make provision in respect of the bodies which are United Kingdom notified bodies (these are the Civil Aviation Authority and OFCOM – the descriptions of apparatus in respect of which each body is authorised to act, are set out in Schedule 6). Where this route is used and the manufacturer or his authorised representative is in the United Kingdom, he issues the EC declarations of conformity in accordance with regulation 72. Certain apparatus is specifically excepted from the requirement to obtain an EC type-examination certificate.

Standards will prescribe the technical specifications that relevant apparatus is required to meet in respect of its EMC characteristics (regulation 39).

The standards and technical construction file routes to compliance are applicable (regulations 38 and 43) for all descriptions of relevant apparatus (including radio receivers) except radiocommunication transmission apparatus (that is, transmitters and transceivers), for which the EC type examination route is the only route (regulation 61).

The Regulations make provision for the charging of fees (which may include a reasonable profit) by the United Kingdom competent bodies (other than government departments) (regulation 51) and the Civil Aviation Authority and OFCOM in their capacities as United Kingdom notified bodies (regulation 65). Where a United Kingdom competent body is a government department, provision is made for its fees in separate regulations made under section 56 of the Finance Act 1973 (c. 51).

Regulation 73 provides a saving for the requirements of regulations, orders, licences and continuation notices under the 1949 Act, the Telecommunications 1984 Act (c.12), the Broadcasting Act 1990 (c. 42), the Broadcasting Act 1996 (c. 55), the Wireless Telegraphy Act 1967 (c. 72) and the Communications Act 2003 (c. 21). It also provides that EC type-examination certificates issued by notified bodies pursuant to regulation 60 of the 1992 Regulations continue to be valid. This is in reference to certificates issued by the Defence Research Agency of the Ministry of Defence, the British Approvals Board for Telecommunications and the Radiocommunications Agency in relation to equipment which, as at 8<sup>th</sup> April 2000, came within the scope of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (S.I. 2000/730) (“the RTTE Regulations.”). These bodies ceased to operate as notified bodies under the 1992 Regulations.

Part VII makes provision for the enforcement of the Regulations. Regulation 75 provides for enforcement authorities. Generally the weights and measures authorities (the Department for

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Enterprise, Trade and Investment in Northern Ireland) have the duty to enforce the Regulations. Under the 1992 Regulations certain functions relating to enforcement were carried out by the Secretary of State at the Radiocommunications Agency. Those functions are now to be carried out by OFCOM (regulation 75(1)(a)(i)). The Secretary of State may also enforce them (regulation 75(2), save in respect of certain specialised descriptions of apparatus. The Civil Aviation Authority is the enforcement authority for aeronautical apparatus, and the Northern Ireland Authority for Energy Regulation, in Northern Ireland, is authorised in respect of electricity meters other than those which operate by radiocommunications (regulation 75).

Regulations 76 to 84 make provision in respect of the powers of enforcement authorities, these include powers to make test purchases, to search, to seize and detain apparatus. Regulation 79 makes provision for appeals against detention of apparatus. Schedule 7 makes provision in respect of appeals against prohibition notices served under regulation 81 and regulation 83 makes provision in respect of appeals against suspension notices.

Enforcement authorities, in exercising their functions under these Regulations, may exercise those functions in relation to electrical apparatus which is in the possession of a user for the purpose of ascertaining whether any relevant apparatus does not conform to the requirements of these Regulations.

Regulations 85 to 90 provide that certain actions are to be offences –

- (a) Supplying or taking into service apparatus in contravention of regulation 30 or 31 (regulation 85);
- (b) Contravening a prohibition or suspension notice (regulation 86);
- (c) giving false or misleading information (regulation 87);
- (d) Misusing the CE mark or improperly issuing an EC declaration of conformity (regulation 88);
- (e) obstructing officers of enforcement authorities, failing to assist such officers when required to do so or to comply with a requirement made by such officers under Part VII, and failure to comply with a court order under regulation 96 (requiring a matter to be remedied) (regulation 89(1));
- (f) falsely pretending to be an officer of an enforcement authority (regulation 89(2)); and
- (g) failure to retain the EC declaration of conformity, EC type-examination certificate or technical construction file in accordance with regulation 37 (regulation 90).

The court may order relevant apparatus which does not comply with these Regulations, and other electrical apparatus in certain circumstances, to be forfeited (regulations 97 and 98). Forfeiture may be ordered on the application of an enforcement authority, or on conviction of an offence under the Regulations.

Part VIII makes provision in respect of certain miscellaneous and supplemental matters including consequential amendments to the RTTE Regulations to reflect the scope of application in accordance with Regulation 29. The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004 is also amended to replace the reference to the 1992 Regulations with the reference to these Regulations in Schedule 1 of that Order.

A full regulatory impact assessment has not been produced for this instrument as it has no new impact on the costs of business. As this instrument consolidates previous Regulations, no transposition note has been prepared.

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**Changes and effects yet to be applied to :**

- reg 29 subst by [S.I. 2006/1449](#) SI 1449