

**EXPLANATORY MEMORANDUM TO THE
ELECTROMAGNETIC COMPATIBILITY REGULATIONS 2005**

2005 No. 281

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. **Description**

This instrument has been made to consolidate the Electromagnetic Compatibility (“EMC”) Regulations 1992 (SI 1992/2372) and subsequent Amendment Regulations (SI 1994/3080 and SI 1995/3180) that implement Council Directive 89/336/EEC as amended by Directives 92/21/EEC and 93/68/EEC (the “EMC Directive”) and to reflect changes in scope and the appointment of OFCOM as an enforcement authority and notified body under the Regulations. The EMC Directive provides for protection requirements governing electromagnetic disturbance emitted by relevant apparatus and the immunity of apparatus to such disturbance. The Regulations impose requirements concerning the electromagnetic compatibility of most types of electrical and electronic apparatus which must be complied with prior to supplying such apparatus or taking it into service.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The appointment of OFCOM as an enforcement authority does not constitute the addition of a new regulatory body since OFCOM is taking over the role previously performed by the Radiocommunications Agency following the incorporation of the Agency into the new communications regulator OFCOM.
- 3.2 The Regulations address issues previously reported by the JCSI in relation to SI 1992/2372 in their 13th Report Session 1992-93 where the relevant provisions are carried forward to these Regulations. The 7th report of Session 1994-95 related to SI 1994/3080 in respect of which a memorandum was issued by the DTI.

4. **Legislative Background**

- 4.1 These Regulations consolidate the three sets of EMC Regulations made to date, the last being made in 1995. It was considered appropriate to consolidate the Regulations, particularly in view of the various disapplications of the EMC Directive by subsequent Directives pursuant to Article 2.2.

- 4.2 The EMC Directive 89/336/EEC, containing essential requirements for the manufacture and installation of electronic equipment, was implemented in the EMC Regulations (SI 1992/2372) which came into force on 28 October 1992.
- 4.3 The EMC Regulations were amended by SI 1994/3080, which mainly gave effect to Directive 93/68/EEC (the CE Marking Directive), providing for the affixing of CE marking and a compliance notice procedure in relation to the CE mark and CE marking and recognised the extension of the EMC Directive to the European Economic Area. SI 1995/3180, which disapplied the EMC Regulations in respect of “vehicles”, “components” and “separate technical units” as defined in Council Directive 70/156/EEC (as amended) pursuant to Directive 72/245/EEC (the Automotive EMC Directive) as amended by Directive 95/54/EC.
- 4.4 The EMC Directive was further disapplied by a number of Directives. The impact was to remove from the scope of the EMC Directive apparatus covered by those Directives and these Regulations reflect the current scope of the EMC Regulations.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 The decision to consolidate the EMC Regulations was taken as the original Regulations had been amended on two occasions previously, the last some 10 years ago.
- 7.2 There was also a need to appoint an enforcement authority with responsibility for protection and management of the radio spectrum given that this role was previously carried out by the Secretary of State acting through the Radiocommunications Agency. The Communications Act 2003 (c.21) provided for the establishment of a new communications regulator, OFCOM in place of the Radiocommunications Agency which had previously acted as both a notified body and an enforcement agency for the Secretary of State. OFCOM will be appointed as a notified body in respect of radiocommunication transmission apparatus, other than that for which the Civil Aviation Authority is responsible, and an enforcement authority in as far as the action relates to the protection and management of the radio spectrum.

- 7.3 In addition since the EMC Regulations were last amended there have been various product-specific Directives adopted by the Commission that have further disapplied the EMC Directive to particular types of apparatus (see Article 2.2 of the EMC Directive) and this should be reflected in the EMC Regulations.
- 7.4 Accordingly, the Department has taken the opportunity to consolidate the Regulations, rather than make further separate amending Regulations in the interests of substantially greater simplicity for the benefit of those persons subject to the requirements of the EMC Regulations 1992 as amended.
- 7.5 There has been no consultation on these Regulations since they do not introduce new provisions that impact on business or consumers.

8. Impact

In view of the nature of the amendments introduced by this instrument a Regulatory Impact Assessment has not been prepared, as it has no impact on business, charities or voluntary bodies beyond that of the existing Regulations.

9. Contact

Derek German at the Department of Trade and Industry, tele: 020 7215 4176 or email: derek.german@dti.gsi.gov.uk, can answer queries regarding this instrument.