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## EXPLANATORY NOTE

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

These Regulations implement Directive [2004/108/EC](#) of the European Parliament and of the Council on the approximation of the laws of member States relating to electromagnetic compatibility and repealing Directive [89/336/EEC](#) (“the EMC Directive”) (OJ No. L390, 31.12.04, p.24). They revoke and replace the Electromagnetic Compatibility Regulations 2005 ([SI 2005/281](#)) (“the 2005 Regulations”) which implemented the EMC Directive.

Part I provides that the Regulations, with the exception of regulations 1, 3, 24 and 25 and Schedule 5, come into force on 20th July 2007. Those regulations come into force on 20th January 2007. Regulation 2 revokes the 2005 Regulations and provides for the disapplication of regulations made under Section 10 of the Wireless Telegraphy Act 1949 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 the Regulations apply is to be supplied or taken into service and used for the purpose for which it was intended.

Regulations 4 and 5 impose essential requirements concerning the electromagnetic compatibility of equipment (apparatus and fixed installations) which must be complied with if such equipment is to be placed on the market or put into service, or both.

Part II provides for the application of the Regulations. The Regulations do not apply to a fixed installation put into service before 20th July 2007 unless it is modified after that date in a way that may affect its electromagnetic compatibility (regulation 6). Regulations 8 – 14 and Schedule 4 set out the exclusions to the application of the Regulations. Regulation 17 provides that the essential requirements do not apply to the placing on the market of apparatus and the putting into service of apparatus placed on the market before 20th July 2009 where a declaration of conformity has been issued in respect of such apparatus on or before 19th July 2007 in accordance with the provisions of Articles 10.1 or 10.2 of Directive [89/336/EEC](#) as implemented in the UK.

Part III sets out the general requirements relating to apparatus. Regulation 15 provides that apparatus may not be placed on the market unless the requirements set out in that regulation have been complied with.

Regulation 16 provides that apparatus may not be put into service unless the essential requirements are complied with when it is properly installed, maintained and used for its intended purpose.

Regulation 18 provides that compliance can be demonstrated by the internal production control procedure set out in regulation 19 or in addition through the appointment of a notified body pursuant to regulation 20. Regulation 21 sets out provisions relating to the CE marking including the requirements for properly affixing the CE marking. Regulation 22 sets out the provisions relating to the issue of an EC declaration of conformity. Regulation 23 provides for the retention of certain documents by the responsible person.

Part IV sets out the provisions relating to the appointment and functions of United Kingdom notified bodies.

Part V sets out the general requirements relating to the putting into service of fixed installations. These are specified in regulation 35. Regulation 34 provides for an exemption from compliance with the requirements set out in regulation 15, 16 and 23 for apparatus intended for incorporation into a fixed installation and otherwise not commercially available, subject to compliance with the

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

provisions of that regulation. Regulation 36 relates to provision of evidence of compliance with the Regulations.

Part VI sets out provisions relating to enforcement of the Regulations. These include the appointment of enforcement authorities (regulation 37) and their powers to make test purchases, search, seize and detain and require production of documents and information (regulations 38 to 45). Regulation 41 makes provision for appeals against detention of apparatus etc and regulation 44 makes provision in respect of appeals against suspension notices.

Regulations 46 to 51 set out the offences under the Regulations. Regulation 52 provides for a defence of due diligence and regulation 54 provides for third party liability in certain circumstances. Regulation 54 extends the time limit in the Magistrates Courts Act 1980 and the Criminal Procedure (Scotland) Act 1995 for the commencement of summary proceedings.

Regulations 56 to 60 set out the powers of the court including power to require a matter to be remedied, power of forfeiture and recovery of costs of enforcement.

Part VII makes provision in respect of miscellaneous matters relating to service of documents (regulation 61), duty to inform the Secretary of State of certain actions (regulation 62) and savings for certain privileges and actions taken under other enactments (regulations 63 and 64). Regulation 65 amends The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004 to replace the reference to the 2005 Regulations with the reference to these Regulations in Schedule 1 of that Order.

A Regulatory Impact Assessment (RIA) in respect of these Regulations is available and a copy can be obtained from SDRD 151 Buckingham Palace Road, London SW1 – 9SS or from the website at <http://www.dti.gov.uk/innovation/strd/ecdirect/page12469.html>. As these Regulations transpose the EMC Directive, a transposition note (TN) setting out how the Government has transposed the EMC Directive into United Kingdom law has been prepared. Copies of the RIA and TN are available from SDRD as above. Copies of these documents have been placed in the libraries of both Houses of Parliament.