

## STATUTORY INSTRUMENTS

# 2016 No. 1091

## The Electromagnetic Compatibility Regulations 2016

### PART 3

#### Conformity of apparatus and equipment

##### Presumption of conformity **E+W+S**

**39.**—(1) Equipment which is in conformity with a [<sup>F1</sup>designated] standard (or part of such a standard) <sup>F2</sup>... is to be presumed to be in conformity with the essential requirements covered by that standard (or that part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

##### Extent Information

**E1** This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

##### Textual Amendments

- F1** Word in [reg. 39\(1\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 20 para. 25\(a\)](#) (with [Sch. 20 para. 33](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 39\(1\)](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), [reg. 1](#), [Sch. 20 para. 25\(b\)](#) (with [Sch. 20 para. 33](#)) (as amended by [S.I. 2020/676](#), [regs. 1\(1\), 2](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

##### Presumption of conformity **N.I.**

**39.**—(1) Equipment which is in conformity with a harmonised standard (or part of such a standard) the reference to which has been published in the Official Journal is to be presumed to be in conformity with the essential requirements covered by that standard (or that part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

##### Conformity assessment procedures

**40.**—(1) Subject to paragraph (2), the manufacturer must demonstrate the conformity of the apparatus with the essential requirements by means of either—

- (a) the procedure set out in Schedule 2 (Module A: internal production control); or
- (b) the procedures set out in Schedule 3 (Module B: EU type examination followed by Module C: conformity to type based on internal production control).

**Status:** Point in time view as at 09/12/2021.

**Changes to legislation:** The Electromagnetic Compatibility Regulations 2016, PART 3 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) The manufacturer may choose to demonstrate the conformity of apparatus with some of the essential requirements by following the procedure referred to in paragraph (1)(b) provided that the procedure referred to in paragraph (1)(a) is followed for the remaining essential requirements.

### [<sup>F3</sup>Declaration] of conformity **E+W+S**

41. The <sup>F4</sup>... declaration of conformity for apparatus must—
- (a) state that the fulfilment of the essential requirements has been demonstrated in respect of the apparatus;
  - (b) contain the elements of the relevant conformity assessment procedure or procedures followed in respect of the apparatus; and
  - (c) have the model structure set out in Schedule 4.

#### Extent Information

- E2** This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F3** Word in reg. 41 heading substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 20 para. 26(a)** (with Sch. 20 para. 33) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Word in reg. 41 omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 20 para. 26(b)** (with Sch. 20 para. 33) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

### EU declaration of conformity **N.I.**

41. The EU declaration of conformity for apparatus must—
- (a) state that the fulfilment of the essential requirements has been demonstrated in respect of the apparatus;
  - (b) contain the elements of the relevant conformity assessment procedure or procedures followed in respect of the apparatus; and
  - (c) have the model structure set out in Schedule 4.

### [<sup>F5</sup>UK] marking **E+W+S**

- 42.—[<sup>F6</sup>(1) The UK marking must be affixed visibly, legibly and indelibly—
- (a) to the apparatus;
  - (b) to its data plate; or
  - (c) where paragraph (1A) applies, to—
    - (i) a label affixed to the apparatus or its data plate; or
    - (ii) to a document accompanying the apparatus.]

[<sup>F7</sup>(1A) For a period of [<sup>F8</sup>36 months] beginning with IP completion day, the UK marking may be affixed to—

- (a) a label affixed to the apparatus or its data plate; or
- (b) a document accompanying the apparatus.]

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(2) Where [<sup>F9</sup>paragraph (1A) does not apply and] it is not possible or warranted, on account of the nature of the apparatus, to affix the [<sup>F10</sup>UK] marking in accordance with paragraph (1), the CE marking must be affixed to—

- (a) the packaging; and
- (b) the accompanying documents.

#### Extent Information

**E3** This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F5** Word in [reg. 42](#) heading substituted (31.12.2020) by [S.I. 2019/696](#), [Sch. 20 para. 27\(a\)](#) (as substituted by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(4\)](#), [Sch. 3 para. 12\(4\)](#))
- F6** [Reg. 42\(1\)](#) substituted (31.12.2020) by [S.I. 2019/696](#), [Sch. 20 para. 27\(b\)](#) (as substituted by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(4\)](#), [Sch. 3 para. 12\(4\)](#))
- F7** [Reg. 42\(1A\)](#) inserted by [S.I. 2019/696](#), [Sch. 20 para. 27\(c\)](#) (as substituted) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(4\)](#), [Sch. 3 para. 12\(4\)](#))
- F8** Words in [reg. 42\(1A\)](#) substituted (E.W.S.) (9.12.2021) by [The Product Safety and Metrology etc. \(Amendment\) Regulations 2021 \(S.I. 2021/1273\)](#), [regs. 1, 8](#), [Sch. 2 para. \(i\)](#)
- F9** Words in [reg. 42\(2\)](#) inserted (31.12.2020) by [S.I. 2019/696](#), [Sch. 20 para. 27\(d\)](#) (as substituted by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(4\)](#), [Sch. 3 para. 12\(4\)](#))
- F10** Word in [reg. 42\(2\)](#) substituted (31.12.2020) by [S.I. 2019/696](#), [Sch. 20 para. 27\(a\)](#) (as substituted by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(4\)](#), [Sch. 3 para. 12\(4\)](#))

#### CE marking **N.I.**

**42.—(1)** The CE marking must be affixed visibly, legibly and indelibly to the apparatus or to its data plate.

(2) Where it is not possible or warranted, on account of the nature of the apparatus, to affix the CE marking in accordance with paragraph (1), the CE marking must be affixed to—

- (a) the packaging; and
- (b) the accompanying documents.

#### [<sup>F11</sup>UK(NI) indication

**42A.—(1)** Where the CE marking is affixed on the basis of an assessment or a certificate issued by a notified body established in the United Kingdom, a UK(NI) indication must be affixed in relation to the apparatus, in accordance with this regulation.

(2) The UK(NI) indication must be affixed—

- (a) visibly, legibly and indelibly; and
- (b) before apparatus is placed on the market in Northern Ireland.

(3) The UK(NI) indication must accompany the CE marking, wherever that is affixed in accordance with regulation 42.

**Status:** Point in time view as at 09/12/2021.

**Changes to legislation:** The Electromagnetic Compatibility Regulations 2016, PART 3 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The UK(NI) indication must be affixed by—
- (a) the manufacturer; or
  - (b) the manufacturer's authorised representative.
- (5) When placing apparatus on the market in Northern Ireland, an importer must ensure that the manufacturer has complied with their obligations under this regulation.

#### Textual Amendments

**F11** Regs. 42A, 42B inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), reg. 1(2), **Sch. 2 para. 7(3)**

#### Register of UK notified bodies

- 42B.**—(1) The Secretary of State must ensure that—
- (a) each notified body established in the United Kingdom is assigned an identification number; and
  - (b) there is a register of—
    - (i) notified bodies established in the United Kingdom;
    - (ii) their notified body identification number;
    - (iii) the activities for which they have been notified;
    - (iv) any restrictions on those activities.
- (2) The Secretary of State must ensure that the register referred to in paragraph (1) is maintained and made publicly available.
- (3) The Secretary of State may authorise the United Kingdom Accreditation Service to compile and maintain the register in accordance with paragraph (1)(b).]

#### Textual Amendments

**F11** Regs. 42A, 42B inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), reg. 1(2), **Sch. 2 para. 7(3)**

**Status:**

Point in time view as at 09/12/2021.

**Changes to legislation:**

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