SCHEDULES

SCHEDULE 1

Regulation 2(1)

Essential Requirements

General requirements

1. Equipment must be so designed and manufactured, having regard to the state of the art, as to ensure that—

(a) the electromagnetic disturbance generated does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended;

(b) it has a level of immunity to the electromagnetic disturbance to be expected in its intended use which allows it to operate without unacceptable degradation of its intended use.

Specific requirements for fixed installations

2. A fixed installation must be installed applying good engineering practices and respecting the information on the intended use of its components, with a view to meeting the essential requirements set out in paragraph 1 of this Schedule.

SCHEDULE 2

Regulation 9(b)(i)

Module A: internal production control

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in paragraphs 2 to 5 of this Schedule, and ensures and declares on the manufacturer's sole responsibility that the apparatus concerned satisfies the requirements of these Regulations that apply to it.

Electromagnetic compatibility assessment

2. The manufacturer must perform an electromagnetic compatibility assessment of the apparatus, on the basis of the relevant phenomena, with a view to meeting the essential requirements set out in paragraph 1 of Schedule 1.

3. The electromagnetic compatibility assessment must take into account all normal intended operating conditions. Where the apparatus is capable of taking different configurations, the electromagnetic compatibility assessment must confirm whether the apparatus meets the essential requirements set out in paragraph 1 of Schedule 1 in all the possible configurations identified by the manufacturer as representative of its intended use.

Technical documentation

4. The manufacturer must establish the technical documentation. The documentation must make it possible to assess the conformity of the apparatus to the relevant requirements, and must include an adequate analysis and assessment of the risks.

5. The technical documentation must specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the apparatus. The technical documentation must, wherever applicable, contain at least the following elements—

(a) a general description of the apparatus;

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.;

(c) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the apparatus;

(d) a list of the **[**F1designated**]** standards applied in full or in part F2... and, where those **[**F1designated**]** standards have not been applied, descriptions of the solutions adopted to meet the essential requirements of these Regulations, including a list of other relevant technical specifications applied. In the event of a partly applied **[**F1designated**]** standard, the technical documentation must specify the parts of the standard that have been applied;

(e) results of design calculations made, examinations carried out, etc.;

(f) test reports.

Manufacturing

6. The manufacturer must take all measures necessary so that the manufacturing process and its monitoring ensure the compliance of the manufactured apparatus with the technical documentation referred to in paragraphs 4 and 5 of this Schedule and the essential requirements set out in paragraph 1 of Schedule 1.

[F3CE][F3UK] marking and [F4EU] declaration of conformity

Textual Amendments

F3 Word in Sch. 2 para. 7 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. 35(b)(i)** (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 Sch. 2 para. 7 heading 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. 35(b)(ii)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

7. The manufacturer must affix the **[**F5UK**]** marking to each individual apparatus that satisfies the applicable requirements of these Regulations,

8. The manufacturer must draw up a written **[**F6EU**]** declaration of conformity for an apparatus model and keep it together with the technical documentation at the disposal of the national authorities for 10 years after the apparatus has been placed on the market. The **[**F6EU**]** declaration of conformity must identify the apparatus model for which it has been drawn up.

Textual Amendments

F6 Word in Sch. 2 para. 8 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. 35(d)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Authorised Representative

9. The manufacturer's obligations set out in paragraphs 7 and 8 may be fulfilled by the authorised representative, on the manufacturer's behalf and under the manufacturer's responsibility, provided that they are specified in the mandate.

SCHEDULE 3 Regulation 9(b)(i)

Applicable conformity assessment procedures

PART 1

Module B: [F7EU-type][F7Type] Examination

Textual Amendments

F7 Word in Sch. 3 Pt. 1 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. 36(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)

1. [F8Type] examination is the part of a conformity assessment procedure in which [F9an approved] body examines the technical design of an apparatus and verifies and attests that the technical design of the apparatus meets the essential requirements set out in paragraph 1 of Schedule 1.

2. [F10Type] examination must be carried out by an assessment of the adequacy of the technical design of the apparatus through examination of the technical documentation referred to in paragraphs 3 and 4 without examination of a specimen (design type). It may be restricted to some aspects of the essential requirements as specified by the manufacturer or the manufacturer's authorised representative.

3. The manufacturer must lodge an application for [F11Type] examination with a single [F12approved] body of the manufacturer's choice. The application must specify the aspects of the essential requirements for which examination is requested and must include—

(a) the name and address of the manufacturer or, if the application is lodged by an authorised representative, the name and address of the authorised representative and of the manufacturer;

(b) a written declaration that the same application has not been lodged with another [F12approved] body;

(c) the technical documentation.

4. The technical documentation referred to in paragraph 3(c) of this Schedule must make it possible to assess the conformity of the apparatus with the applicable requirements of these Regulations and must include an adequate analysis and assessment of the risks posed by the apparatus. The technical documentation must specify the applicable requirements and cover, as far as is relevant for the assessment, the design, manufacture and operation of the apparatus. The technical documentation must contain, where applicable, at least the following elements—

(a) a general description of the apparatus;

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.

(c) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the apparatus;

(d) a list of the **[**F13designated**]** standards applied in full or in part F14... and, where the harmonised standards have not been applied, descriptions of the solutions adopted to meet the essential requirements of these Regulations, including a list of other relevant technical specifications applied. In the event of a partly applied harmonised standard, the technical documentation must specify the parts of the standard that have been applied;

(e) results of design calculations made, examinations carried out, etc.;

(f) test reports.

5. The **[**F15approved**]** body must examine the technical documentation to assess the adequacy of the technical design of the apparatus in relation to the aspects of the essential requirements for which examination is requested.

6. The **[**F16approved**]** body must draw up an evaluation report which records the activities undertaken in accordance with paragraph 5 and their outcomes. Without prejudice to its obligations to the notifying authorities, the **[**F16approved**]** body must release the content of that report, in full or in part, only with the agreement of the manufacturer.

7. Where the type meets the requirements of these Regulations that apply to the apparatus concerned, the **[**F17approved**]** body must issue **[**F18a Type**]** examination certificate to the manufacturer.

8. The **[**F19Type**]** examination certificate, which may be accompanied by one or more annexes, must contain—

(a) the name and address of the manufacturer;

(b) the conclusions of the examination of the apparatus;

(c) the aspects of the essential requirements covered by the examination;

(d) the conditions (if any) for the validity of the certificate; and

(e) the necessary data for the identification of the approved type.

9. The **[**F20Type**]** examination certificate and any annexes to that certificate must contain all relevant information to allow the conformity of manufactured apparatus with the examined type to be evaluated and to allow for in-service control.

10. Where the type does not satisfy the applicable requirements of these Regulations, the **[**F21approved**]** body must refuse to issue the **[**F22Type**]** examination certificate and must inform the applicant accordingly, giving detailed reasons for its refusal.

11. The **[**F23approved**]** body must keep itself apprised of any changes in the generally acknowledged state of the art which indicate that the approved type may no longer comply with the applicable requirements of these Regulations and must determine whether such changes require further investigation. If so, the **[**F23approved**]** body must inform the manufacturer accordingly.

12. The manufacturer must inform the **[**F24approved**]** body that holds the technical documentation relating to the **[**F25Type**]** examination certificate of all modifications to the approved type that may affect the conformity of the apparatus with the essential requirements of these Regulations or the conditions for validity of that certificate. Such modifications must require additional approval in the form of an addition to the **[**F25Type**]** examination certificate.

13. Each **[**F26approved**]** body must inform its notifying authority of any **[**F27Type**]** examination certificates or any additions thereto, which it has issued or withdrawn and, must periodically or upon request, make available to its notifying authority a list of such certificates and additions thereto that it has refused, suspended or otherwise restricted.

14. Each **[**F28approved**]** body must inform the other **[**F28approved**]** bodies of any **[**F29Type**]** examination certificates or any additions thereto which it has refused, withdrawn, suspended or otherwise restricted. Upon request from another **[**F28approved**]** body, **[**F30an approved**]** body must inform the requesting body of the **[**F29Type**]** examination certificates that it has issued.

15. **[**F31The Secretary of State**]** and the other **[**F32approved**]** bodies may, on request, obtain a copy of the **[**F33Type**]** examination certificate and any additions thereto. On request, the Commission and the Member States may obtain a copy of the technical documentation and the results of the examination carried out by the **[**F32approved**]** body. The **[**F32approved**]** body must keep a copy of the **[**F33Type**]** examination certificate, its annexes and additions, as well as the technical file including the documentation submitted by the manufacturer, until the expiry of the validity of that certificate.

16. The manufacturer must keep a copy of the **[**F34Type**]** examination certificate, its annexes and additions, together with the technical documentation at the disposal of the national authorities for 10 years after the apparatus has been placed on the market.

17. The manufacturer's authorised representative may lodge the application referred to in paragraph 3 and fulfil the obligations set out in paragraphs 12 and 16 of this Schedule, provided that these obligations are specified in the authorised representative's written mandate.

PART 2

Module C: conformity to type based on internal production control

18. Conformity to type based on internal production control is the part of a conformity assessment procedure whereby the manufacturer fulfils the obligations set out in paragraphs 19 and 20 of this Schedule and ensures and declares that the apparatus concerned is in conformity with the type described in the **[**F35Type**]** Examination certificate and satisfies the requirements of these Regulations that apply to it.

Manufacturing E+W+S

19. The manufacturer must take all measures necessary to ensure that the manufacturing process and the monitoring of that process ensure the conformity of the manufactured apparatus with the approved type described in the **[**F36Type**]** examination certificate and with the requirements of these Regulations that apply to it.

Extent Information

E20 This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F36 Word in Sch. 3 para. 19 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. 37(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)

Manufacturing N.I.

19. The manufacturer must take all measures necessary to ensure that the manufacturing process and the monitoring of that process ensure the conformity of the manufactured apparatus with the approved type described in the EU-type examination certificate and with the requirements of these Regulations that apply to it.

[F37UK] marking and F38... declaration of conformity E+W+S

20.—(1) The manufacturer must affix the **[**F39UK**]** marking to each individual apparatus that is in conformity with the type described on the **[**F40Type**]** examination certificate and satisfies the applicable requirements of these Regulations.

(2) The manufacturer must draw up a written F41... declaration of conformity for each apparatus model and keep it at the disposal of the national authorities for 10 years after the apparatus has been placed on the market. The F41... declaration of conformity must identify the apparatus model for which it has been drawn up.

(3) A copy of the F42... declaration of conformity must be made available to the relevant authorities upon request.

Extent Information

E21 This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F37 Word in Sch. 3 para. 20 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. 37(b)(i)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F38 Word in Sch. 3 para. 20 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. 37(b)(ii)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F39 Word in Sch. 3 para. 20(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. 37(c)(i)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F40 Word in Sch. 3 para. 20(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. 37(c)(ii)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F41 Word in Sch. 3 para. 20(2) 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. 37(d)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F42 Word in Sch. 3 para. 20(3) 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. 37(d)** (with Sch. 20 para. 33) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

CE marking and EU declaration of conformity N.I.

20.—(1) The manufacturer must affix the CE marking to each individual apparatus that is in conformity with the type described on the EU-type examination certificate and satisfies the applicable requirements of these Regulations.

(2) The manufacturer must draw up a written EU declaration of conformity for each apparatus model and keep it at the disposal of the national authorities for 10 years after the apparatus has been placed on the market. The EU declaration of conformity must identify the apparatus model for which it has been drawn up.

(3) A copy of the EU declaration of conformity must be made available to the relevant authorities upon request.

Authorised representative

21. The manufacturer's obligations set out in paragraph 20 of this Schedule may be fulfilled by an authorised representative on behalf of the manufacturer and under the responsibility of the manufacturer provided that these responsibilities are set out in the authorised representative's written mandate.

SCHEDULE 4

Regulation 41

[F43EU declaration][F43Declaration] of conformity

Textual Amendments

F43 Word in Sch. 4 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. 38(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)

[F44EU declaration][F44Declaration] of conformity (No xxxx) M1

1. Apparatus model (apparatus, type, batch or serial number):

Textual Amendments

F44 Word in Sch. 4 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. 38(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)

Marginal Citations

M1 It is optional for the manufacturer to assign a number to the declaration of conformity.

2. Name and address of manufacturer or the manufacturer's authorised representative:

3. This declaration of conformity is issued under the sole responsibility of the manufacturer.

4. Object of the declaration (identification of apparatus allowing traceability; it may include a colour image of sufficient clarity where necessary for the identification of the apparatus):

5. The object of the declaration described above is in conformity with the relevant [F45statutory requirements]:

6. References to the relevant **[**[F46]designated**]** standards used, including the date of the standard, or references to the other technical specifications, including the date of the specification, in relation to which conformity is declared:

7. Where applicable, the **[**[F47]approved**]** body … (name, number) performed … (description of intervention) and issued the certificate:

8. Additional information:

Signed for and on behalf of:

(place and date of issue):

(name, function) (signature):

SCHEDULE 5

Regulation 2(1)

Requirements for **[**[F48]notified**]****[**[F48]approved**]** bodies

Textual Amendments

F48 Word in Sch. 5 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. 39(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)

[[F49]**1.**—(1) A conformity assessment body must have legal personality and must be established in—

(a) the United Kingdom; or

(b) the territory of a party to the CPTPP.

(2) In sub-paragraph (1) "the CPTPP" has the meaning set out in section 1 of the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2024.**]**

Textual Amendments

F49 Sch. 5 para. 1 substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Treatment of Conformity Assessment Bodies (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Regulations 2024 (S.I. 2024/504), **reg. 7**

2.—(1) A conformity assessment body must be a third party body independent of the organisation or the apparatus it assesses.

(2) A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of apparatus which it assesses may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered an independent body under sub-paragraph (1).

3. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the apparatus which the conformity assessment body assesses, nor the representative of any of those parties.

4. Nothing in paragraph 3 of this Schedule precludes the use of assessed apparatus that is necessary for the operations of the conformity assessment body or the use of such apparatus for personal purposes.

5. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of the apparatus, or represent the parties engaged in those activities.

6. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not engage in any activity, including consultancy services, that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are **[**F50approved**]**.

7. A conformity assessment body must ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

8. A conformity assessment body and its personnel must carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

9. A conformity assessment body must be capable of carrying out all of the conformity assessment activities in relation to which it has been, or is to be, **[**F51approved**]**, whether those activities are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

10. A conformity assessment body must have at its disposal—

(a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;

(b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and ability of reproduction of those procedures;

(c) policies and procedures in place to distinguish between tasks that it carries out as **[**F52an approved**]** body and other activities;

(d) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the apparatus in question and the mass or serial nature of the production process.

11. A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to all necessary equipment and facilities.

12. The personnel responsible for carrying out the conformity assessment activities must have—

(a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been **[**F53approved**]**;

(b) satisfactory knowledge of the requirements of the assessments that they carry out and adequate authority to carry out those assessments;

(c) appropriate knowledge and understanding of the essential requirements, of the applicable **[**F54designated**]** standards and F55... of these Regulations;

(d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

13. A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.

14. The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.

15. A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.

16. A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations and that proprietary rights are protected.

17. Paragraph 16 does not prevent the personnel from providing information to the Secretary of State or an enforcing authority.

18. A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any **[**F56approved**]** body coordination group established **[**F57by the Secretary of State**]** and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

SCHEDULE 6

Regulation 50

Operational obligations of **[**F58notified**]****[**F58approved**]** bodies

Textual Amendments

F58 Word in Sch. 6 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. 40(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)

1. **[**F59An approved**]** body must carry out conformity assessments in accordance with the relevant conformity assessment procedures.

2. **[**F60An approved**]** body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens for economic operators.

3. Conformity assessment bodies must perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the apparatus technology in question and the mass or serial nature of the production process.

4. Conformity assessment bodies must respect the degree of rigour and level of protection required for the compliance of the apparatus with these Regulations.

5. Where **[**F61an approved**]** body finds that the essential requirements or the corresponding **[**F62designated**]** standards or other technical specifications have not been met by a manufacturer, it must require that manufacturer to take appropriate corrective measures and must not issue a certificate.

6. Where, in the course of the monitoring of the conformity of apparatus following the issue of a certificate, **[**[F63]an approved**]** body finds that apparatus is no longer in conformity, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate if necessary.

7. Where corrective measures are not taken or do not have the required corrective effect, the **[**[F64]approved**]** body must restrict, suspend or withdraw any certificate as appropriate.

8. Paragraph 9 applies where **[**[F65]an approved**]** body is minded to—

(a) refuse to issue a certificate; or

(b) restrict, suspend or withdraw a certificate.

9. Where this paragraph applies, the **[**[F66]approved**]** body must—

(a) give the person applying for the certificate, or the person to whom the certificate was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;

(b) give the person applying for the certificate, or the person to whom the certificate was given, an opportunity to make representations within a reasonable period from the date of the notice; and

(c) take account of any such representations before taking its decision.

10. **[**[F67]An approved**]** body must inform the Secretary of State of—

(a) any refusal, restriction, suspension or withdrawal of a certificate;

(b) any circumstances affecting the scope of, or conditions for, notification under regulation 44 (notification);

(c) any request for information which it has received from the market surveillance authority regarding conformity assessment activities; and

(d) on request, conformity assessment activities performed within the scope of its notifications under regulation 44 and any other activity performed, including cross-border activities and subcontracting.

11. **[**[F68]An approved**]** body must make provision in its contracts with its clients enabling such clients to appeal against a decision—

(a) to refuse to issue a certificate; or

(b) to restrict, suspend or withdraw a certificate.

12. **[**[F69]An approved**]** body must provide other bodies **[**[F70]approved under these Regulations**]** carrying out similar conformity assessment activities covering the same type of apparatus with relevant information on issues relating to negative and, on request, positive conformity assessment results.

13. **[**[F71]An approved**]** body must participate in the work of **[**[F72]any approved**]** body coordination group established **[**[F73]by the Secretary of State**]**, directly or by means of its designated representatives.

SCHEDULE 7 Regulation 53

Enforcement and investigatory powers conferred on the enforcing authority and the market surveillance authority

PART 1

ENFORCEMENT AND INVESTIGATORY POWERS

Enforcement powers under the 1987 Act

1. For the purposes of enforcing these Regulations, the following sections of the 1987 Act apply subject to the modifications in paragraph 2—

(a) section 13 (prohibition notices and notices to warn);

(b) section 14 (suspension notices);

(c) section 16 (forfeiture: England and Wales and Northern Ireland);

(d) section 17 (forfeiture: Scotland);

(e) section 18 (power to obtain information);

(f) section 19 (interpretation of Part II);

(g) section 29 (powers of search etc);

(h) section 30 (provisions supplemental to s 29);

(i) section 31 (powers of customs officer to detain goods);

(j) section 33 (appeals against detention of goods);

(k) section 34 (compensation for seizure and detention);

(l) section 35 (recovery of expenses of enforcement);

(m) section 37 (power of Commissioners for Revenue and Customs);

(n) section 45 (interpretation);

(o) section 46(1) (meaning of "supply");

(p) Schedule 2 (prohibition notices and notices to warn).

Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 are to apply as if—

(a) in section 13—

(i) in subsection (1), for "unsafe" on each occasion that it appears, there were substituted " non-compliant ";

(ii) in subsection (1), "relevant" were omitted on each occasion that it appears;

(iii) in subsection (2), the words from "; and the Secretary of State may" to the end were omitted;

(iv) subsections (4) to (7) were omitted;

(b) in section 14—

(i) in subsection (1), after "any safety provision has been contravened in relation to any goods", there were inserted " or that any goods present a risk ";

(ii) in subsection (2)(b), after "a safety provision has been contravened in relation to the goods", there were inserted " or that the goods present a risk ";

(iii) in subsection (2)(c), "under section 15 below" were omitted; and

(iv) subsections (6) to (8) were omitted;

(c) in section 16—

(i) in subsection (1), after "a contravention in relation to the goods of a safety provision" there were inserted " or that the goods present a risk ";

(ii) for subsection 2(b) there were substituted—

"(b) where an application with respect to some or all of the goods has been made to a magistrates' court under regulation 68 (appeals against notices) of the Electromagnetic Compatibility Regulations 2016 or section 33, to that court; and";

(iii) in subsection (3), after "a contravention in relation to the goods of a safety provision" there were inserted " or that the goods present a risk ";

(iv) after subsection (4), there were inserted—

"(4A) A court may infer for the purposes of this section that any goods present a risk if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).";

(v) in subsection (6), for "Subject to subsection (7) below," there were substituted " Where "; and

(vi) subsection (7) were omitted;

(d) in section 17—

(i) in subsection (1), after "a contravention of a safety provision", there were inserted " or where the goods present a risk ";

(ii) in subsection (6), after "a contravention in relation to those goods of a safety provision" there were inserted " or that those goods present a risk "; and

(iii) after subsection (7), there were inserted—

"(7A) The sheriff may infer for the purposes of this section that any goods present a risk if satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).";

(e) in section 18, subsections (3) and (4) were omitted;

(f) in section 29—

(i) in subsection (4)(a), after "any contravention of any safety provision in relation to the goods" there were inserted " or whether the goods present a risk ";

(ii) in subsection (4)(b), after "any such contravention" there were inserted " or whether the goods present a risk ";

(iii) in subsection (7), after "a contravention of any safety provision", there were inserted " or prevent goods from presenting a risk ";

(g) in section 30—

(i) at the end of subsection (2)(a)(ii), for "and", there were substituted " or ";

(ii) after subsection (2)(a)(ii), there were inserted—

"(iii) that any goods which any officer has power to inspect under section 29 are on any premises and their inspection is likely to demonstrate that they present a risk; and;" and

(iii) subsections (5), (7) and (8) were omitted;

(h) in section 31(1), for "Part II of this Act", there were substituted " the Electromagnetic Compatibility Regulations 2016 ";

(i) in section 34(1), after paragraph (a), there were inserted—

"(aa) the goods do not present a risk;";

(j) in section 37(1), for "Part II of this Act", there were substituted " the Electromagnetic Compatibility Regulations 2016 ";

(k) in section 45(1)—

(i) the definitions of "conditional sale agreement", "credit-sale agreement", "gas", "motor vehicle", "personal injury", "subordinate legislation" and "substance" were omitted;

(ii) for the definition of "enforcement authority" there were substituted—

""enforcement authority" means an enforcing authority as defined in regulation 2(1) of the Electromagnetic Compatibility Regulations 2016;";

(iii) for the definition of "goods" there were substituted—

""goods" means apparatus within the scope of the Electromagnetic Compatibility Regulations 2016;";

(iv) after the definition of "modifications" there were inserted—

""non-compliant" in relation to any goods means that—

(a) a safety provision has been contravened in relation to the goods; or

(b) the goods present a risk;";

(v) after the definition of "premises", there were inserted—

""present a risk" means present a risk within the meaning set out in regulation 2(3) of the Electromagnetic Compatibility Regulations 2016;";

(vi) for the definition of "safety provision" there were substituted—

""safety provision" means any provision of the Electromagnetic Compatibility Regulations 2016;"; and

(vii) for the definition of "safety regulations" there were inserted—

""safety regulations" means the Electromagnetic Compatibility Regulations 2016;";

(l) in section 46(1), omit "and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use"; and

(m) in Schedule 2—

(i) for "unsafe", on each occasion that it appears, there were substituted " non-compliant "; and

(ii) for "safe" , on each occasion that it appears, there were substituted " not non-compliant ".

Application of Schedule 5 to the Consumer Rights Act 2015

3. Schedule 5 to the Consumer Rights Act 2015 (investigatory powers etc) applies to OFCOM as if—

(a) OFCOM were a domestic enforcer within the meaning of that Schedule;

(b) the enforcer's legislation within the meaning of that Schedule, in relation to OFCOM, were the legislation and notices which, by virtue of regulation 52(1)(a)(i) or (b)(i), OFCOM has a duty or power to enforce; and

(c) the references in paragraphs 25(7) and 30(1) of that Schedule to regulation 52(1)(a)(ii) or (b)(ii) were references to regulations 52(1)(a)(i) or (b)(i).

PART 2

COMPLIANCE NOTICES, WITHDRAWAL NOTICES AND RECALL NOTICES

Compliance notice

4. An enforcing authority may serve a compliance notice on a relevant economic operator in respect of apparatus if the authority has reasonable grounds for believing that there is non-compliance.

5. A compliance notice must—

(a) require the relevant economic operator on which it is served to—

(i) end the non-compliance within such period as may be specified in the notice; or

(ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the enforcing authority that the non-compliance has not in fact occurred; and

(b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under sub-paragraph (a) within the period specified in the notice, further action may be taken in respect of the apparatus or any apparatus of the same type made available on the market by that relevant economic operator.

6. A compliance notice may include directions as to the measures to be taken by the economic operator to secure compliance, including different ways of securing compliance.

7. Subject to paragraph 8, an enforcing authority may revoke or vary a compliance notice by serving a notification on the economic operator.

8. An enforcing authority may not vary a compliance notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

Withdrawal notice

9. An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of apparatus if the authority has reasonable grounds for believing that—

(a) the apparatus has been made available on the market; and

(b) there is non-compliance.

10. A withdrawal notice must prohibit the relevant economic operator from making the apparatus available on the market without the consent of the enforcing authority.

11. A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the apparatus.

12. A withdrawal notice may require the relevant economic operator to keep the enforcing authority informed of the whereabouts of any apparatus referred to in the notice.

13. A consent given by the enforcing authority pursuant to a withdrawal notice, may impose such conditions on the making available on the market as the enforcing authority considers appropriate.

14. Subject to paragraph 15, an enforcing authority may revoke or vary a withdrawal notice by serving a notification on the economic operator.

15. An enforcing authority may not vary a withdrawal notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

16. A withdrawal notice has effect throughout the United Kingdom.

Recall notice

17. The enforcing authority may serve a recall notice on a relevant economic operator in respect of apparatus if the authority has reasonable grounds for believing that—

(a) the apparatus has been made available to end-users; and

(b) there is non-compliance.

18. A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the apparatus from end-users to the relevant economic operator or another person specified in the notice.

19. A recall notice may—

(a) require the recall to be effected in accordance with a code of practice;

(b) require the relevant economic operator to—

(i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;

(ii) publish a notice in such form and such manner as is likely to bring to the attention of end-users any risk the apparatus poses and the fact of the recall; or

(iii) make arrangements for the collection or return of the apparatus from end-users or its disposal; or

(c) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the apparatus.

20. In determining what requirements to include in a recall notice, the enforcing authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.

21. A recall notice may only be issued by the enforcing authority where—

(a) other action which it may require under these Regulations would not suffice to address the non-compliance;

(b) the action being undertaken by the relevant economic operator is unsatisfactory or insufficient to address the non-compliance;

(c) the enforcing authority has given not less than 10 days' notice to the relevant economic operator of its intention to serve such a notice; and

(d) the enforcing authority has taken account of any advice obtained under paragraph 22.

22. A relevant economic operator which has received notice from the enforcing authority of an intention to serve a recall notice may at any time prior to the service of the recall notice require the authority to seek the advice of such person as the Institute determines on the questions of—

(a) whether there is non-compliance; and

(b) whether the issue of a recall notice would be proportionate.

23. Paragraphs 21(b), (c) and (d) do not apply in the case of apparatus presenting a serious risk requiring, in the view of the enforcing authority, urgent action.

24. Where a relevant economic operator requires the enforcing authority to seek advice under paragraph 22, that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the enforcing authority.

25. In this Schedule, "Institute" means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

26. A recall notice served by the enforcing authority may require the relevant economic operator to keep the authority informed of the whereabouts of apparatus to which the recall notice relates, so far as the relevant economic operator is able to do so.

27. Subject to paragraph 28, an enforcing authority may revoke or vary a recall notice by serving a notification on the economic operator.

28. An enforcing authority may not vary a recall notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

29. A recall notice has effect throughout the United Kingdom.

Interpretation

30. In this Schedule, "non-compliance" means that the apparatus—

(a) presents a risk; or

(b) is not in conformity with Part 2 or RAMS (in its application to apparatus).

Status:
Point in time view as at 07/04/2024.

Changes to legislation:
The Electromagnetic Compatibility Regulations 2016 is up to date with all changes known to be in force on or before 15 June 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.