

**2016 No. 0000**

**CONSUMER PROTECTION**

**HEALTH AND SAFETY**

**The Electrical Equipment (Safety) Regulations 2016**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - - - 20th April 2016

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to electrical equipment.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes these regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972:

**PART 1**

**Preliminary**

**Citation and commencement**

1. These Regulations may be cited as the Electrical Equipment (Safety) Regulations 2016 and come into force on 20th April 2016.

**Interpretation [Art 2]**

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974<sup>(c)</sup>;

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978<sup>(d)</sup>

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<sup>(a)</sup> S.I. 2009/2743.

<sup>(b)</sup> 1972 c.68.

<sup>(c)</sup> 1974 c.37.

<sup>(d)</sup> S.I. 1978/1039 (N.I. 9).

“the 1987 Act” means the Consumer Protection Act 1987<sup>(a)</sup>;

“the 1994 Regulations” means the Electrical Equipment (Safety) Regulations 1994<sup>(b)</sup>;

“authorised representative” means a person appointed in accordance with regulation [14(1)];

“CE marking” means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);

“the Directive” means Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits<sup>(c)</sup>;

“distributor” means any person in the supply chain, other than the manufacturer or the importer, who makes electrical equipment available on the market;

“district council” means a district council within the meaning of the Local Government Act (Northern Ireland) 1972<sup>(d)</sup>;

“economic operator” means a manufacturer, importer, distributor or an authorised representative;

“electrical equipment” means any electrical equipment to which these Regulations apply by virtue of regulation 3 below;

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation [6] (EU declaration of conformity and CE marking);

“enforcing authority” means any person enforcing these Regulations under regulation [40] (enforcement);

“harmonised standard” has the meaning set out in Article 2(1)(c) of Regulation (EU) 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation<sup>(d)</sup> (as amended from time to time);

“importer” means any person who—

- (a) is established within the EU; and
- (b) places electrical equipment from a third country on the EU market;

“international safety provision” means a safety provision of a standard which has been published by the International Commission on the Rules for the Approval of Electrical Equipment or the International Electrotechnical Commission and which has been published in the Official Journal of the European Union pursuant to Article 13 of the Directive;

“making available on the market” means any supply of electrical equipment for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions must be construed accordingly;

“manufacturer” means any person who—

- (a) manufactures electrical equipment, or has electrical equipment designed or manufactured; and
- (b) markets that electrical equipment under that person’s name or trade mark;

“market surveillance authority” has the meaning set out in regulation 39 (designation of market surveillance authority);

“placing on the market” means the first making available of electrical equipment on the EU market, and related expressions must be construed accordingly;

“principal elements of the safety objectives” means the safety objectives set out in Schedule 1;

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(a) 1987 c.43.  
(b) S.I. 1994/3260.  
(c) OJ L 96, 29.03.2014, p. 357.  
(d) OJ L 316, 14.11.2012, p. 12.

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93<sup>(a)</sup>;

“recall” means taking any measure aimed at achieving the return of electrical equipment that has already been made available to the end-user;

“relevant economic operator” means, in relation to electrical equipment, an economic operator with obligations in respect of that electrical equipment under these Regulations;

“technical documentation” means the documentation referred to in regulation 5(a) (technical documentation and conformity assessment);

“technical specification” means a document that prescribes technical requirements to be fulfilled by electrical equipment;

“weights and measures authority” means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985<sup>(b)</sup>;

“withdraw” means taking any measure aimed at preventing electrical equipment in the supply chain from being made available on the market;

(2) In these Regulations, a reference to electrical equipment being “in conformity with Part 2” means that—

- (a) the electrical equipment is in conformity with the principal elements of the safety objectives; and
- (b) each relevant economic operator has complied, or is complying, with the obligations imposed on them under Part 2 of these Regulations which must be satisfied at or before the time at which they make the electrical equipment available on the market.

(3) In regulations [11] and [21] (monitoring), “risk” means a risk which could arise from lawful and readily predictable human behaviour.

(4) In the other provisions of these Regulations, “risk” means a risk—

- (a) which could arise from lawful and readily predictable human behaviour; and
- (b) which may result in harm to any of the following interests—
  - (i) the health and safety of persons;
  - (ii) domestic animals; or
  - (iii) property.

(5) [In these Regulations, a reference to a member State is to be read as a reference to an EEA State and references to the EU are to be read as references to the EEA.]

### **Electrical equipment to which these Regulations apply**

**3.—**(1) Subject to paragraph (2), these Regulations apply to electrical equipment designed for use with a voltage rating of between 50 and 1000V for alternating current and between 75 and 1500V for direct current.

(2) These Regulations do not apply to—

- (a) electrical equipment for use in an explosive atmosphere;
- (b) electrical equipment for radiology and medical purposes;
- (c) electrical parts for goods and passenger lifts;
- (d) electricity meters;
- (e) plugs and socket outlets for domestic use;

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<sup>(a)</sup> OJ L 218, 13.8.2008, p. 30.

<sup>(b)</sup> 1985 c.72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c.43), Schedule 1, the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 144 and the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 75.

- (f) electric fence controllers;
- (g) radio-electrical interference;
- (h) specialised electrical equipment for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the member States participate;
- (i) custom built evaluation kits destined for professionals to be used at research and development facilities solely for research and development.

## Part 2

### Obligations of economic operators

#### Manufacturers

#### **Design and manufacture in accordance with safety objectives [Art 6(1)]**

**4.** When placing electrical equipment on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the principal elements of the safety objectives.

#### **Technical documentation and conformity assessment [Art 6(2) para 1]**

**5.** Before placing electrical equipment on the market, a manufacturer must—

- (a) draw up the technical documentation referred to in Schedule 2; and
- (b) carry out the conformity assessment procedure set out in Schedule 2 or have it carried out.

#### **EU declaration of conformity and CE marking [Art 6(2) para 2 and 15(2) and (3)]**

**6.—(1)** Where the conformity of electrical equipment with the principal elements of the safety objectives has been demonstrated by the conformity assessment procedure set out in Schedule 2 the manufacturer must before placing the electrical equipment on the market—

- (a) draw up a declaration of conformity in accordance with regulation [37] (EU declaration of conformity); and
- (b) affix the CE marking in accordance with regulation [38] (CE marking).

(2) The manufacturer must keep the EU declaration of conformity up-to-date.

(3) Where electrical equipment is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal of the European Union.

#### **Retention of technical documentation and EU declaration of conformity [Art 6(3)]**

**7.** A manufacturer must keep the technical documentation referred to in regulation 5 and the EU declaration of conformity referred to in regulation 6 available for inspection by the market surveillance authority for a period of 10 years beginning on the day on which the electrical equipment is placed on the market.

#### **Labelling of electrical equipment [Art 6(5)-(7)]**

**8.—(1)** Before placing electrical equipment on the market, a manufacturer must—

- (a) ensure that it bears a type, batch or serial number or other element allowing its identification;

- (b) indicate on the electrical equipment—
  - (i) their name, registered trade name or registered trade mark; and
  - (ii) the postal address at which they can be contacted.

(2) Where it is not possible for information specified in 1(a) and (b) to be indicated on the electrical equipment, the manufacturer must ensure that that information is indicated on its packaging or in a document accompanying the electrical equipment.

(3) The contact details referred to in paragraph (1)(b) must be in a language easily understood by end-users and market-surveillance authorities.

(4) The information referred to in paragraph (1) must be indicated in a form that is clear and understandable.

#### **Instructions and safety information [Art 6(7)]**

**9.**—(1) When placing electrical equipment on the market, a manufacturer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users.

(2) Such instructions and safety information must be clear, understandable and intelligible.

#### **Compliance procedures for series production [Art 6(4) para 1]**

**10.**—(1) A manufacturer of electrical equipment which is manufactured by series production must ensure that procedures are in place to ensure that any electrical equipment so manufactured will be in conformity with Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any changes in electrical equipment design or characteristics; and
- (b) any change in a harmonised standard or in another technical specification by reference to which the EU declaration of conformity was drawn up.

#### **Monitoring [Art 6(4), para 2]**

**11.** When appropriate, with regard to the risks to the health and safety of consumers presented by electrical equipment, the manufacturer must,

- (a) carry out sample testing of electrical equipment made available on the market;
- (b) investigate complaints that electrical equipment is not in conformity with Part 2;
- (c) keep a register of—
  - (i) complaints;
  - (ii) electrical equipment which is not in conformity with Part 2; and
  - (iii) electrical equipment recalls; and
- (d) keep distributors informed of any monitoring carried out under sub-paragraphs (a), (b) and (c).

#### **Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity [Art 6(8)]**

**12.**—(1) A manufacturer who considers, or has reason to believe, that electrical equipment which that manufacturer has placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the electrical equipment into conformity;
- (b) withdraw the electrical equipment; or
- (c) recall the electrical equipment.

(2) Where the electrical equipment presents a risk, the manufacturer must immediately inform the market surveillance authority and the competent national authorities of any member State in which the manufacturer made the electrical equipment available on the market, of the risk, giving details of—

- (a) the respect in which the electrical equipment is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

#### **Provision of information and cooperation [Art 6(9)]**

**13.**—(1) An enforcing authority may, during the period of 10 years from the day on which electrical equipment was placed on the market, request the manufacturer who placed the electrical equipment on the market to—

- (a) provide it within such period as the authority may specify with all the information and documentation necessary to demonstrate that the provisions of these Regulations have been complied with in relation to the electrical equipment;
- (b) cooperate with that authority on any action taken to—
  - (i) evaluate electrical equipment in accordance with regulation [43] (evaluation of electrical equipment presenting a risk);
  - (ii) eliminate the risks posed by electrical equipment which the manufacturer has placed on the market.

(2) A request under paragraph 1(a) must be accompanied by the reasons for making the request.

(3) The manufacturer must comply with a request made under paragraph (1).

(4) The information and documentation supplied pursuant to a request under paragraph (1)(a)

- (a) may be in paper or electronic form; and
- (b) must be in a language which can be easily understood by the enforcing authority.

#### **Authorised representatives**

#### **Manufacturer's authorised representatives [Art 7]**

**14.**—(1) A manufacturer may, by written mandate, appoint a person established within the EU as their authorised representative to act on the manufacturer's behalf in relation to specified tasks.

(2) The mandate must allow the authorised representative to do at least the following in relation to electrical equipment covered by the mandate—

- (a) perform the manufacturer's obligations under regulation [7] (retention of technical documentation and EU declaration of conformity); and
- (b) perform the manufacturer's obligations under regulation [13] (provision of information and cooperation).

(3) An authorised representative may not be appointed to perform the manufacturer's obligations under regulation [4] (design and manufacture in accordance with safety objectives) or regulation [5(a)] (technical documentation).

(4) An authorised representative must comply with all the duties imposed on the manufacturer in relation to each obligation under these Regulations that the representative is appointed by the manufacturer to perform and, accordingly—

- (a) as far as those duties are concerned, references in these Regulations (except in this regulation) to the manufacturer are to be taken as including a reference to the authorised representative; and
- (b) if the authorised representative contravenes or fails to comply with any of those duties, the authorised representative may be proceeded against as though the authorised representative were the manufacturer.

(5) A manufacturer who has appointed an authorised representative to perform on the manufacturer's behalf an obligation under these Regulations remains responsible for the proper performance of that obligation.

## Importers

### **Prohibition on placing on the market electrical equipment which is not in conformity [Art 8(1)]**

**15.** An importer must not place electrical equipment on the market unless it is in conformity with the principal elements of the safety objectives.

### **Requirements which must be satisfied before an importer places electrical equipment on the market [Art 8(2) paragraph 1]**

**16.—**(1) Before placing electrical equipment on the market, an importer must ensure that—

- (a) the conformity assessment procedure referred to in Schedule [2] has been carried out by the manufacturer;
- (b) the manufacturer has drawn up the technical documentation referred to in Schedule 2;
- (c) the electrical equipment—
  - (i) bears the CE marking; and
  - (ii) is accompanied by the required documents; and
- (d) the manufacturer has complied with the requirements set out in regulation [8] (labelling of electrical equipment).

(2) In paragraph (1)(c)(ii), “required documents” means the documents that the manufacturer is required to provide with electrical equipment pursuant to—

- (a) regulation [8] (labelling of electrical equipment); and
- (b) regulation [38] (CE marking).

### **Prohibition on placing on the market electrical equipment considered not to be in conformity with the safety objectives [Art 8(2) paragraph 2]**

**17.—**(1) Where an importer considers, or has reason to believe, that electrical equipment is not in conformity with the safety objectives, the importer must not place the electrical equipment on the market.

(2) Where the electrical equipment presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

### **Information identifying importer [Art 8(3)]**

**18.—**(1) Before placing electrical equipment on the market, an importer must indicate on the electrical equipment—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a postal address at which the importer can be contacted.

(2) The information specified in paragraph (1) must be in a language easily understood by end-users and the market surveillance authority in the member State in which it is to be made available to such end-users.

(3) Where it is not possible to indicate the information specified in paragraph (1) on the electrical equipment, the importer must indicate that information—

- (a) on the packaging; or
- (b) in a document accompanying the electrical equipment.

#### **Instructions and safety information [Art 8(4)]**

**19.** When placing electrical equipment on the market, an importer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users.

#### **Retention of technical documentation and EU declaration of conformity [Art 8(8)]**

**20.** An importer must, for a period of 10 years beginning on the day on which the electrical equipment is placed on the market—

- (a) keep a copy of the EU declaration of conformity at the disposal of enforcing authorities; and
- (b) ensure that the technical documentation can be made available to enforcing authorities, upon request.

#### **Monitoring [Art 8(6)]**

**21.** When appropriate, with regard to the risks to the health and safety of consumers presented by electrical equipment, the importer must—

- (a) carry out sample testing of electrical equipment made available on the market;
- (b) investigate complaints of electrical equipment not being in conformity with Part 2;
- (c) keep a register of—
  - (i) complaints;
  - (ii) electrical equipment which is not in conformity with Part 2; and
  - (iii) electrical equipment recalls; and
- (d) keep distributors informed of any monitoring carried out under sub-paragraphs (a), (b) and (c).

#### **Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity [Art 8(7)]**

**22.—(1)** An importer who considers, or has reason to believe, that electrical equipment which that importer has placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring that electrical equipment into conformity;
- (b) withdraw the electrical equipment; or
- (c) recall the electrical equipment.

(2) Where the electrical equipment presents a risk, the importer must immediately inform the market surveillance authority and the competent national authorities of any other member State in which the manufacturer made the electrical equipment available on the market of the risk, giving details of—

- (a) the respect in which the electrical equipment is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

#### **Provision of information and cooperation [Art 8(9), 19(1)]**

**23.—(1)** An enforcing authority may, during the period of 10 years from the day on which electrical equipment was placed on the market, request the importer who placed the electrical equipment on the market to—

- (a) provide it within such period as the authority may specify with all the information and documentation necessary to demonstrate that the provisions of these Regulations have been



complied with in relation to the electrical equipment in a language which can be easily understood by that authority;

(b) cooperate with that authority on any action taken to—

(i) evaluate electrical equipment in accordance with regulation [43] (evaluation of electrical equipment presenting a risk);

(ii) eliminate the risks posed by electrical equipment which the importer has placed on the market.

(2) A request under paragraph 1(a) must be accompanied by the reasons for making the request.

(3) The importer must comply with a request made under paragraph (1).

(4) The information and documentation supplied pursuant to a request under paragraph (1)(a)

(a) may be in paper or electronic form; and

(b) must be in a language which can be easily understood by the enforcing authority.

## Distributors

### **Duty to act with due care [Art 9(1)]**

**24.** When making electrical equipment available on the market, a distributor must act with due care in relation to the requirements of these Regulations.

### **Requirements which must be satisfied before a distributor makes electrical equipment available on the market [Art 9(2)]**

**25.**—(1) Before making electrical equipment available on the market, the distributor must verify that—

(a) the electrical equipment—

(i) bears the CE marking;

(ii) is accompanied by the required documents;

(iii) is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the member State in which the electrical equipment is to be made available on the market;

(b) the manufacturer has complied with the requirements set out in regulation [8] (labelling of electrical equipment);

(c) the importer has complied with the requirements set out in regulation [18] (information identifying importer).

(2) In paragraph (1)(a)(ii), “required documents” means the documents that the manufacturer or importer is required to provide with the electrical equipment pursuant to—

(a) regulation [8] (labelling of electrical equipment);

(b) regulation [9] or [19] (instructions and safety information);

(c) regulation [18] (information identifying importer); and

(d) regulation [38] (CE marking).

### **Prohibition on making available on the market where electrical equipment considered not to be in conformity with safety objectives [Art 9(2) paragraph 2]**

**26.**—(1) Where a distributor considers or has reason to believe that electrical equipment is not in conformity with the principal elements of the safety objectives, the distributor must not make the electrical equipment available on the market until it has been brought into conformity.

(2) Where the electrical equipment presents a risk, the distributor must inform the following persons of the risk—

- (a) the manufacturer or the importer; and
- (b) the market surveillance authority.

**Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity [Art 9(4)]**

**27.**—(1) A distributor who considers, or has reason to believe, that electrical equipment which that distributor has placed on the market is not in conformity with Part 2 must ensure that the necessary corrective measures are taken to—

- (a) bring that electrical equipment into conformity;
- (b) withdraw the electrical equipment; or
- (c) recall the electrical equipment.

(2) Where the electrical equipment presents a risk, the distributor must immediately inform the market surveillance authority and the competent national authorities of the other member States in which the distributor has made the electrical equipment available on the market, of that risk, giving details of—

- (a) the respect in which the electrical equipment is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

**Provision of information and cooperation [Art 9(5)]**

**28.**—(1) An enforcing authority may, during the period of 10 years from the day on which electrical equipment was placed on the market, request a distributor who has made the electrical equipment available on the market to—

- (a) provide it within such period as the authority may specify with all the information and documentation necessary to demonstrate that the provisions of these Regulations have been complied with in relation to the electrical equipment;
- (b) cooperate with that authority on any action taken to eliminate the risks posed by electrical equipment which the manufacturer has placed on the market.

(2) A request under paragraph 1(a) must be accompanied by the reasons for making the request.

(3) The distributor must comply with a request made under paragraph (1).

(4) The information and documentation supplied pursuant to a request under paragraph (1)(a) may be in paper or electronic form.

**Importers and distributors**

**Storage and transport of electrical equipment [Arts 8(5) and 9(3)]**

**29.** Each importer and distributor must ensure that, while electrical equipment is under their responsibility, its storage or transport conditions do not jeopardise its conformity with the principal elements of the safety objectives.

**Cases in which obligations of manufacturers apply to importers and distributors [Art 10]**

**30.**—(1) Each importer or distributor (“A”) is to be considered a manufacturer for the purposes of these Regulations and is subject to the relevant obligations of the manufacturer under this Part, where A—

- (a) places electrical equipment on the market under A’s own name or trademark; or
- (b) modifies electrical equipment already placed on the market in such a way that it may affect whether the electrical equipment is in conformity with Part 2.

(2) In paragraph (1), “relevant obligations” means the obligations set out in regulations [4] (design and manufacture in accordance with safety objectives) to [13] (provision of information and cooperation).

#### All economic operators

##### **Translation of declaration of conformity [Art 15(2)]**

**31.** Before making electrical equipment available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the member State in which it is to be made available on the market.

##### **Identification of economic operators [Art 11]**

**32.—**(1) An economic operator (“E”) who receives a request from the market surveillance authority before the end of the relevant period must, within such period as that authority may specify, identify to the authority—

- (a) any economic operator who has supplied E with electrical equipment; and
- (b) any economic operator to whom E has supplied electrical equipment.

(2) The relevant period is—

- (a) for information under paragraph (1)(a), 10 years beginning on the day on which E was supplied with the electrical equipment;
- (b) for information under paragraph (1)(b), 10 years beginning on the day on which E supplied the electrical equipment.

##### **Prohibition on improper use of CE marking [Art 17 and 22(1)(a) / Art 30 RAMS]**

**33.—**(1) An economic operator must not affix the CE marking to electrical equipment unless—

- (a) that economic operator is the manufacturer; and
- (b) the conformity of the electrical equipment with the principal elements of the safety objectives has been demonstrated by the conformity assessment procedure set out at Schedule 2.

(2) An economic operator must not affix a marking to electrical equipment—

- (a) which is not the CE marking; but
- (b) which purports to attest that the electrical equipment is in conformity with the principal elements of the safety objectives.

(3) An economic operator must not affix to electrical equipment a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.

(4) An economic operator must not affix to electrical equipment any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

##### **Safe connection of electrical equipment intended for use in the United Kingdom**

**34.—**(1) This regulation applies to electrical equipment intended for domestic use in the United Kingdom and made available by an economic operator for that purpose.

(2) Where the electrical equipment is intended to be connected directly to the United Kingdom public electricity supply via a socket compliant with BS 1363, the economic operator must ensure that the plug in device is compatible with socket outlets meeting BS 1363.

(3) Where the electrical equipment is intended to be connected to a BS 1363 socket for the United Kingdom public electricity supply by means of a flexible lead and plug assembly, the economic operator must ensure that that plug assembly—

- (a) is a correctly fitted standard plug; or

(b) is—

- (i) a correctly fitted non-UK plug, compliant with the safety provisions of IEC 884-1 and correctly fitted with a compatible conversion plug; and
- (ii) fitted with a fuse link which conforms to BS 1362 specification and which is rated in accordance with the electrical equipment manufacturer's instructions.

(4) In this regulation “socket”, “BS 1363”, “BS 1362”, “conversion plug”, “fuse link”, “non-UK plug” and “standard plug” have the meaning set out in the Plugs and Sockets etc. (Safety) Regulations 1994<sup>(a)</sup>.

## PART 3

### Conformity assessment

#### **Presumption of conformity on the basis of harmonised standards [Art 12]**

**35.**—(1) Electrical 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 of the European Union is to be presumed to be in conformity with the principal elements of the safety objectives covered by that standard (or that part of that standard).

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

#### **Conformity with other standards and requirements [Art 13 and 14]**

**36.**—(1) Where there are no relevant harmonised standards, electrical equipment which satisfies safety provisions of international standards notified by the Commission, is to be presumed to be in conformity with the principal elements of the safety objectives unless there are reasonable grounds for suspecting that the electrical equipment does not so comply.

(2) When there are no relevant harmonised standards and no relevant international safety provisions, electrical equipment is to be taken to comply with the principal elements of the safety objectives where—

- (a) the equipment has been manufactured in accordance with the national safety provisions applicable to that equipment in the Member State of manufacture; and
- (b) as a result of its compliance with those national safety provisions, at the time when it is made available on the market it is at least as safe as it would be if it satisfied the principal elements of the safety objectives.

(3) In this regulation, “international standards notified by the Commission” means international standards set out by the International Electrotechnical Commission—

- (a) which have been notified by the Commission to the Member States; and
- (b) in respect of which no objection to their recognition has been made by a Member State within three months of that notification.

#### **EU declaration of conformity [Art 15]**

**37.** The EU declaration of conformity for electrical equipment must—

- (a) state that the fulfilment of the principal elements of the safety objectives has been demonstrated in respect of the electrical equipment;
- (b) have the model structure set out in Schedule [8]; and
- (c) contain the elements specified in Schedule 2 for Module A Internal production control.

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(a) SI 1994/1768.

## **CE marking [Art 17]**

**38.**—(1) The CE marking must be affixed visibly, legibly and indelibly to the electrical equipment.

(2) Where it is not possible or warranted, on account of the nature of the electrical equipment, 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.

## **PART 4**

### **Market surveillance and enforcement**

#### **Designation of market surveillance authority**

**39.**—(1) The market surveillance authority is—

- (a) in the case of electrical equipment for use in the workplace—
  - (i) subject to paragraph (2), in Great Britain, the Health and Safety Executive<sup>(a)</sup>; and
  - (ii) in Northern Ireland, the Health and Safety Executive for Northern Ireland<sup>(b)</sup> ;
- (b) in the case of electrical equipment for private use or consumption—
  - (i) in Great Britain, within its area, a weights and measures authority; and
  - (ii) in Northern Ireland, within its area, a district council<sup>(c)</sup>.

(2) In so far as these Regulations apply to electrical equipment intended exclusively or primarily for use on relevant nuclear sites, the market surveillance authority is the Office for Nuclear Regulation.

(3) In paragraph (2), “relevant nuclear site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013<sup>(d)</sup>);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998<sup>(e)</sup>); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of the Health and Safety (Enforcing Authority) Regulations 1998).

#### **Enforcement**

**40.**—(1) Subject to paragraphs (2), (3) and (4) of this regulation, these Regulations and RAMS (in its application to electrical equipment) must be enforced by the market surveillance authority.

(2) In Great Britain—

- (a) except where the market surveillance authority is the Office for Nuclear Regulation, the weights and measures authority, within its area, may enforce these Regulations and RAMS (in its application to electrical equipment) in relation to electrical equipment for use in the workplace; and
- (b) the Health and Safety Executive may enforce these Regulations and RAMS (in its application to electrical equipment) in relation to electrical equipment for private use or consumption;

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<sup>(a)</sup> Established under section 10 of the Health and Safety at Work etc Act 1974.

<sup>(b)</sup> Established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978.

<sup>(c)</sup> fn on s.27 CPA?

<sup>(d)</sup> 2013 c.32.

<sup>(e)</sup> S.I. 1998/494.

(3) In Northern Ireland—

- (a) the district council may, within its area, enforce these Regulations and RAMS (in its application to electrical equipment) in relation to electrical equipment for use in the workplace;
- (b) the Health and Safety Executive for Northern Ireland may enforce these Regulations and RAMS (in its application to electrical equipment) in relation to electrical equipment for private use or consumption.

(4) The Secretary of State, or a person appointed by the Secretary of State to act on behalf of the Secretary of State, may enforce these Regulations and RAMS (in its application to electrical equipment).

(5) Before taking action under paragraphs (2), (3) or (4), an enforcing authority which is not the market surveillance authority must notify the market surveillance authority of the proposed action.

(6) In Scotland, only the Lord Advocate may commence proceedings for an offence under these Regulations.

### **Enforcement powers**

**41.**—(1) Schedule 3 (enforcement powers of weights and measures authorities, district councils and the Secretary of State under the 1987 Act) is to have effect where the enforcing authority is—

- (a) a weights and measures authority;
- (b) a district council;
- (c) the Secretary of State;

(2) Schedule 4 (enforcement powers of the Health and Safety Executive and the Office for Nuclear Regulation under the 1974 Act) has effect where the enforcing authority is the Health and Safety Executive or the Office for Nuclear Regulation.

(3) Schedule [5] (enforcement powers of the Health and Safety Executive for Northern Ireland) has effect where the enforcing authority is the Health and Safety Executive for Northern Ireland.

(4) In addition to the powers available to an enforcing authority under, as appropriate, paragraph (1), (2) or (3), the authority may use the powers set out in Schedule [6] (compliance, withdrawal and recall notices)(a).

### **Exercise of enforcement powers**

**42.** When enforcing these Regulations the enforcing authority must exercise its powers in a manner which is consistent with—

- (a) regulation [43] (evaluation of electrical equipment presenting a risk);
- (b) regulation [44] (enforcement action in respect of electrical equipment which is not in conformity and which presents a risk);
- (c) regulation [45] (Union safeguard procedure);
- (d) regulation [46] (enforcement action in respect of electrical equipment which are in conformity, but which present a risk);
- (e) regulation [47] (enforcement action in respect of formal non-compliance);
- (f) regulation [48] (restrictive measures).

### **Evaluation of electrical equipment presenting a risk [Art 19(1) para 1]**

**43.**—(1) Where the market surveillance authority has sufficient reason to believe that electrical equipment presents a risk, the market surveillance authority must carry out an evaluation in relation

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(a) For the investigatory powers available to an enforcing authority for the purposes of the duty imposed by this regulation, see Schedule 5 to the Consumer Rights Act 2015 (c.15)

to electrical equipment covering the relevant requirements of Part 2 applying in respect of that electrical equipment.

(2) Where an enforcing authority other than the market surveillance authority has sufficient reason to believe that electrical equipment presents a risk, that enforcing authority may carry out an evaluation in relation to electrical equipment covering the requirements of Part 2 applying in respect of that electrical equipment.

**Enforcement action in respect of electrical equipment which is not in conformity and which presents a risk [Art 19]**

**44.**—(1) Where, in the course of the evaluation referred to in regulation [43], an enforcing authority finds that electrical equipment is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take all appropriate corrective actions to bring electrical equipment into conformity with those requirements within a prescribed period;
- (b) withdraw electrical equipment within a prescribed period; or
- (c) recall electrical equipment within a prescribed period.

(2) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(3) Where the Secretary of State receives a notice under paragraph (2) or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other member States of—

- (a) the results of the evaluation; and
- (b) the actions which the enforcing authority has required the economic operator to take.

(4) Where the relevant economic operator does not take adequate corrective action within the prescribed period referred to in paragraph (1), the enforcing authority must take all appropriate measures to—

- (a) prohibit or restrict electrical equipment being made available on the market in the United Kingdom;
- (b) withdraw electrical equipment from the United Kingdom market; or
- (c) recall electrical equipment.

(5) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (4), it must notify the Secretary of State of those measures without delay.

(6) Where the Secretary of State receives a notice under paragraph (5), or takes measures under paragraph (4), the Secretary of State must notify the European Commission and the other member States of those measures without delay.

(7) The notices in paragraphs (5) and (6) must include, where available—

- (a) the data necessary for the identification of electrical equipment which is not in conformity with Part 2;
- (b) the origin of electrical equipment; and
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator;
- (f) a statement as to whether the lack of conformity is due to—
  - (i) failure of electrical equipment to meet requirements relating to a risk; or

- (ii) shortcomings in the harmonised standards referred to in regulation [35] conferring a presumption of conformity.
- (8) In this regulation, “prescribed period” means a period which is—
- (a) prescribed by the enforcing authority; and
  - (b) reasonable and commensurate with the nature of the risk presented by the electrical equipment.

#### **Union safeguard procedure [Art 20]**

**45.**—(1) Where another member State has initiated the procedure under Article 19(4) of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

- (a) any measures taken by that enforcing authority in respect of the electrical equipment which is the subject of that procedure;
- (b) any additional information which the enforcing authority has at its disposal relating to the lack of conformity of that electrical equipment.

(2) Where another member State has initiated the procedure under Article 19(4) of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other member States of—

- (a) any measures taken by an enforcing authority in respect of the electrical equipment which is the subject of that procedure;
- (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of that electrical equipment; and
- (c) any objections that the Secretary of State may have to the measure taken by the member State initiating the procedure.

(3) Where a measure taken by another member State in respect of electrical equipment is considered justified by the European Commission under Article 19(5) of the Directive, the market surveillance authority must take the necessary measures to ensure that electrical equipment is withdrawn from the United Kingdom market.

(4) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraph (3), it must inform the Secretary of State.

(5) Where the Secretary of State receives a notice under paragraph (4) or has taken action under paragraph (3), the Secretary of State must inform the European Commission of the action taken.

(6) If a measure taken by an enforcing authority pursuant to regulation [44] is considered unjustified by the European Commission under Article 20(1) of the Directive (as amended from time to time), the enforcing authority must withdraw that measure.

#### **Enforcement action in respect of electrical equipment which is in conformity, but presents a risk [Article 21]**

**46.**—(1) Where, having carried out an evaluation under regulation [43], an enforcing authority finds that although electrical equipment is in conformity with Part 2, it presents a risk, the enforcing authority must require a relevant economic operator to take all appropriate measures to—

- (a) ensure that the electrical equipment concerned, when placed on the market, no longer presents a risk;
- (b) withdraw the electrical equipment within a prescribed period; or
- (c) recall the electrical equipment within a prescribed period.

(2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.



(3) Where the Secretary of State receives a notice under paragraph (2) or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other member State immediately.

(4) The notices referred to in paragraphs (2) and (3) must include, where available—

- (a) the data necessary for the identification of electrical equipment concerned;
- (b) the origin and the supply chain of electrical equipment;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the measures taken by the enforcing authority.

(5) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and
- (b) reasonable and commensurate with the nature of the risk presented by electrical equipment.

#### **Enforcement action in cases of formal non-compliance [Art 22]**

**47.**—(1) Where an enforcing authority makes one of the following findings relating to electrical equipment, it may issue a compliance notice requiring a relevant economic operator to put an end to the non-compliance concerned—

- (a) the CE marking—
  - (i) has not been affixed; or
  - (ii) has been affixed otherwise than in accordance with regulations [33] (Prohibition on improper use of CE marking) and [38] (CE marking);
- (b) the EU declaration of conformity—
  - (i) has not been drawn up;
  - (ii) has been drawn up otherwise than in accordance with regulations [6] (EU declaration of conformity and CE marking) and [37] (EU declaration of conformity);
- (c) the technical documentation is either not available or not complete;
- (d) the following information that is required to be included in the labelling of electrical equipment is absent, false or incomplete—
  - (i) the information specified in regulation [8] (labelling of electrical equipment) or
  - (ii) the information specified in regulation [9] (instructions and safety information);
- (e) any other administrative requirement provided for in [6 or 8]

(2) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take all appropriate measures to—

- (a) restrict or prohibit electrical equipment being made available on the market;
- (b) ensure that electrical equipment is withdrawn;
- (c) ensure that electrical equipment is recalled.

(3) Nothing in this regulation is to prevent an enforcing authority from taking action under regulation [44].

#### **Restrictive measures [Art 21 RAMS]**

**48.** When enforcing these Regulations, an enforcing authority must comply with the requirements of Article 21 of RAMS (as amended from time to time) in relation to any measure to—

- (a) prohibit or restrict electrical equipment being made available on the market;
- (b) withdraw electrical equipment;
- (c) recall electrical equipment.

## Offences

**49.**—(1) It is an offence for a manufacturer to contravene or fail to comply with any requirement of—

- (a) regulation [4] (design and manufacture in accordance with essential safety requirements);
- (b) regulation [5] (technical documentation and conformity assessment);
- (c) regulation [6] (EU declaration of conformity and CE marking);
- (d) regulation [7] (retention of technical documentation and EU declaration of conformity);
- (e) regulation [8] (labelling of electrical equipment);
- (f) regulation [9] (instructions and safety information);
- (g) regulation [10] (compliance procedures for series production);
- (h) regulation [11] (monitoring);
- (i) regulation [12] (duty to take action in respect of electrical equipment placed on the market which is not considered to be in conformity);
- (j) regulation [13] (provision of information and cooperation);
- (k) regulation [31] (translation of EU declaration of conformity);
- (l) regulation [32] (identification of economic operators);
- (m) regulation [33] (prohibition on improper use of CE marking).

(2) It is an offence for an importer to contravene or fail to comply with any requirement of—

- (a) regulation [15] (prohibition on placing on the market electrical equipment which is not in conformity);
- (b) regulation [16] (requirements which must be satisfied before an importer places electrical equipment on the market)
- (c) regulation [17] (prohibition on placing on the market electrical equipment considered not to be in conformity with the essential safety requirements);
- (d) regulation [18] (information identifying the importer);
- (e) regulation [19] (instructions and safety information);
- (f) regulation [20] (retention of technical documentation and EU declaration of conformity);
- (g) regulation [21] (monitoring);
- (h) regulation [22] (duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity);
- (i) regulation [23] (provision of information and cooperation);
- (j) regulation [29] (storage and transport);
- (k) regulation [31] (translation of declaration of conformity);
- (l) regulation [32] (identification of economic operators);
- (m) regulation [33] (prohibition on improper use of CE marking).

(3) It is an offence for a distributor to contravene or fail to comply with any requirement of—

- (a) regulation [24] (duty to act with due care);
- (b) regulation [25] (requirements which must be satisfied before a distributor makes electrical equipment available on the market);
- (c) regulation [26] (prohibition on making available on the market where electrical equipment not considered to be in conformity with the principal elements of the safety objectives);
- (d) regulation [27] (duty to take action in respect of electrical equipment made available on the market which is not in conformity);
- (e) regulation [28] (provision of information and cooperation);
- (f) regulation [29] (storage and transport);

- (g) regulation [31] (translation of declaration of conformity);
- (h) regulation [32] (identification of economic operators);
- (i) regulation [33] (prohibition on improper use of CE marking).
- (j) Regulation [34] (safe connection of electrical equipment intended for use in the United Kingdom)

(4) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice served in accordance with Schedule [6], served on that person by an enforcing authority under these Regulations.

(5) It is an offence for any person—

- (a) intentionally to obstruct—
  - (i) an officer of enforcing authority (or officer of such authority) acting in pursuance of its powers and duties under these Regulations or Article 19 of RAMS;
  - (ii) a customs officer facilitating the action of an enforcing authority under these Regulations; or
- (b) knowingly or recklessly to provide any statement, information, document or record which is false or misleading in a material respect in purported compliance with any requirement of these Regulations or Article 19 of RAMS.

### **Penalties**

**50.**—(1) A person guilty of an offence under regulation [49] (other than regulation 49(1)(d) or (2)(f)) is liable—

- (a) on summary conviction—
  - (i) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
  - (ii) in Scotland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding [3] months, or to both;
  - (iii) in Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 3 months, or to both;
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or to both.

(2) A person guilty of an offence under regulation 49(1)(d) or (2)(f) is liable on summary conviction—

- (a) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
- (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or to both.

### **Defence of due diligence**

**51.**—(1) In proceedings for an offence under regulation [49], it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
- (b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P’s possession which identifies or assists in identifying the person who—

- (i) committed the act or default; or
- (ii) supplied the information on which P relied, and
- (b) be served on the person bringing the proceedings not less than seven clear days before—
  - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;
  - (ii) in Scotland, the trial diet.
- (4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied upon the information, having regard in particular—
  - (a) to the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
  - (b) to whether P had any reason to disbelieve the information.
- (5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due—
  - (a) to the act or default of another person; or
  - (b) to reliance on information supplied by another person.
- (6) This regulation does not apply in respect of proceedings for offences under regulation 64(6).

#### **Liability of persons other than principal offender**

**52.**—(1) Where the commission of an offence under regulation [49] is due to anything which another person did or failed to do in the course of business, that other person is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against the first person.

(2) Where a body corporate commits an offence, a relevant person is also guilty of the offence where the body corporate’s offence was committed—

- (a) with the consent or connivance of the relevant person; or
- (b) as a result of the negligence of the relevant person.
- (3) In paragraph (2), “relevant person” means—
  - (a) a director, manager, secretary or other similar officer of the body corporate;
  - (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
  - (c) in relation to a Scottish partnership, a partner;
  - (d) a person purporting to act as a person described in subparagraphs (a), (b) or (c).

#### **Time limit for prosecution of offences**

**53.**—(1) In England and Wales an information relating to an offence under regulation [48] that is triable by a magistrates’ court may be so tried if it is laid within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) In Scotland—

- (a) summary proceedings for an offence may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to the Lord Advocate’s knowledge; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(3) In Northern Ireland summary proceedings for an offence may be instituted within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the knowledge of the prosecutor.

(4) No proceedings may be brought more than three years after the commission of the offence.

(5) For the purposes of this regulation a certificate of the prosecutor (or in Scotland, the Lord Advocate) as to the date on which the evidence referred to paragraphs (1), (2) or (3) came to light, is conclusive evidence.

(6) This regulation has effect subject to paragraph [(1)(n)] of Schedule [4] (enforcement powers of the Health and Safety Executive and the Office for Nuclear Regulation under the 1974 Act).

### **Service of documents**

**54.**—(1) Any document required or authorised by these Regulations to be served on a person may be served by—

- (a) delivering it to that person in person;
- (b) leaving it at that person's proper address;
- (c) sending it by post or electronic means to that person's proper address;

(2) In the case of a body corporate, a document may be served on a director of that body.

(3) In the case of a partnership, a document may be served on a partner or a person having control or management of the partnership business.

(4) For the purposes of this regulation, "proper address" means—

- (a) in the case of a body corporate or its director—
  - (i) the registered or principal office of that body; or
  - (ii) the email address of the secretary or clerk of that body;
- (b) in the case of a partnership, a partner or person having control or management of the partnership business—
  - (i) the principal office of the partnership; or
  - (ii) the email address of a partner or person having that control or management;
- (c) in any other case, a person's last known address, which address may be an email address.

(5) If a person to be served with a document has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept service, that address must also be treated as that person's proper address.

(6) In this regulation, "partnership" includes a Scottish partnership.

### **Recovery of expenses of enforcement**

**55.**—(1) This regulation applies where a person commits an offence under regulation [48].

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the enforcing authority for any expenditure which the enforcing authority has incurred in investigating the offence.

### **Action by enforcing authority**

**56.**—(1) An enforcing authority may itself take action which an economic operator could have been required to take by a notice served under regulation [41] (enforcement powers) where the conditions for serving such a notice are met and either—

- (a) the enforcing authority has been unable to identify any economic operator on whom to serve such a notice; and
- (b) the economic operator on whom such a notice has been served has failed to comply with it.

(2) If the enforcing authority has taken action under paragraph (1) following the failure of an economic operator to comply with a notice, the authority may recover from that person as a civil debt any costs or expenses reasonably incurred by the enforcing authority in taking the action.

(3) A civil debt recoverable under paragraph (2) may be recovered summarily—

- (a) in England and Wales by way of a complaint pursuant to section 58 of the Magistrates' Courts Act 1980;
- (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Court (Northern Ireland) Order 1981.

### **Appeals against notices**

**57.**—(1) Any application for an order to vary or set aside the terms of a notice served under regulation [41] (enforcement powers) may be made—

- (a) by the economic operator on whom the notice has been served; and
- (b) in the case of a notice other than a recall notice, by a person having an interest in electrical equipment in respect of which the notice has been served.

(2) An application must be made before the end of the period of 21 days beginning with the day on which the notice was served.

(3) The appropriate court may only make an order setting aside a notice served under regulation [41] if satisfied—

- (a) that the requirements of these Regulations have been complied with in respect of electrical equipment to which the notice relates; or
- (b) that the enforcing authority failed to comply with regulation [35] (presumption of conformity) when serving the notice.

(4) On an application to vary the terms of a notice served under regulation [41], the appropriate court may vary the terms of the notice as it considers appropriate.

(5) In this regulation—

- (a) the “appropriate court” is to be determined in accordance with regulation [58] (appropriate court for appeals against notices); and
- (b) “notice” means—
  - (i) a prohibition notice served in accordance with Schedule 3;
  - (ii) a notice to warn served in accordance with Schedule 3;
  - (iii) a suspension notice served in accordance with Schedule 3 or 4;
  - (iv) a compliance notice served in accordance with Schedule 5;
  - (v) a withdrawal notice served in accordance with Schedule 5;
  - (vi) a recall notice served in accordance with Schedule 5.

### **Appropriate court for appeals against notices**

**58.**—(1) In England and Wales or Northern Ireland, the appropriate court for the purposes of regulation [57] is—

- (a) the court in which proceedings have been brought in relation to electrical equipment for an offence under regulation [49] (offences);
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to electrical equipment and which has been served under or by virtue of paragraph 1 of Schedule [4];
- (c) an industrial tribunal seized of appeal proceedings against a notice which relates to pressure equipment and which has been served under or by virtue of paragraph 1 of Schedule [5] (enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order); or
- (d) in any other case, a magistrates' court.

(2) In Scotland, the appropriate court for the purposes of regulation [57] is the sheriff of a sheriff court district in which a notice has been served on an economic operator under regulation [41].

(3) A person aggrieved by an order made by a magistrates' court in England and Wales or Northern Ireland pursuant to an application under regulation [57], or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court.

(4) A person aggrieved by an order made by an employment tribunal pursuant to an application under regulation [57], or by a decision of an employment tribunal not to make such an order, may—

- (a) appeal against that order or decision in England and Wales to the High Court on a point of law in accordance with section 11(1) of the Tribunals and Inquiries Act 1992;
- (b) seek review of the order or decision by the employment tribunal in accordance with rules 70 to 73 of the Employment Tribunal Rules.

(5) A person aggrieved by an order made by an industrial tribunal pursuant to an application under regulation [57], or by a decision of an industrial tribunal not to make such an order, may seek review of the order or decision by the industrial tribunal in accordance with paragraphs 33 to 36 of the Industrial Tribunal Rules.

(6) For the purposes of this regulation—

- (a) “Employment Tribunal Rules” means the rules set out in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013;
- (b) “Industrial Tribunal Rules” means the rules set out in Schedule 1 to the Industrial Tribunals (Constitution and Rules of Procedure) Regulations 2005(a).

## **Compensation**

**59.**—(1) When an enforcing authority other than the Health and Safety Executive [or the Health and Safety Executive for Northern Ireland][or the Office for Nuclear Regulation] serves a relevant notice in respect of electrical equipment, that authority is liable to pay compensation to a person having an interest in the electrical equipment for any loss or damage suffered by reason of the notice if both of the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) the electrical equipment in respect of which the relevant notice was served neither—
  - (i) presents a risk; nor
  - (ii) contravenes any requirement of these Regulations; and
- (b) the relevant notice was not served because of neglect or default by a relevant economic operator.

(3) In this regulation, “relevant notice” means a suspension, withdrawal or recall notice.

## **PART 5**

### **Miscellaneous**

## **Review**

**60.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

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(a) SI 2005/150

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning on 20th April 2016.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

### **Transitional provisions**

**61.** Nothing in these Regulations prevents the making available on the market of electrical equipment which is in conformity with the 1994 Regulations and which was placed on the market before 20th April 2016.

**62.** These regulations do not affect liability under the 1994 Regulations for any offences committed before [20th April 2016].

### **Revocations, amendments and savings**

**63.** The Electrical Equipment (Safety) Regulations 1994<sup>(a)</sup> are revoked, save to the extent required to give effect to regulations [61] and [62].

**64.** Where electrical equipment was placed on the market before [20th April 2016], obligations under these Regulations which arise after the placing on the market of the electrical equipment apply.

**65.** Schedule 7 (consequential amendments) has effect.

[Name]  
[Minister for...]  
Department for Business, Innovation and Skills

[Date]

## **SCHEDULE 1**

Regulation [2]

### **Principal elements of the safety objectives for electrical equipment designed for use within certain voltage limits**

#### **1. General conditions**

- (a) the essential characteristics, the recognition and observance of which will ensure that electrical equipment will be used safely and in applications for which it was made, must be marked on the electrical equipment or, if this is not possible, on an accompanying document;
- (b) the electrical equipment, together with its component parts, must be made in such a way as to ensure that it can be safely and properly assembled and connected;

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(a) S.I. 1994/3260.



- (c) the electrical equipment must be so designed and manufactured as to ensure that protection against the hazards set out in points 2 and 3 of this Schedule is assured, providing that the equipment is used in applications for which it was made and is adequately maintained.

## **2. Protection against hazards arising from the electrical equipment**

- (a) persons and domestic animals must be adequately protected against the danger of physical injury or other harm which might be caused by electrical contact direct or indirect contact;
- (b) temperatures, arcs or radiation which would cause a danger, must not be produced;
- (c) persons, domestic animals and property must be adequately protected against non-electrical dangers caused by the electrical equipment which are revealed by experience;
- (d) the insulation must be suitable for foreseeable conditions.

## **3. Protection against hazards which may be caused by external influences on the electrical equipment**

- (a) the electrical equipment must meet the expected mechanical requirements in such a way that persons, domestic animals and property are not endangered;
- (b) the electrical equipment must be resistant to non-mechanical influences in expected environmental conditions, in such a way that persons, domestic animals and property are not endangered;
- (c) in foreseeable conditions of overload the electrical equipment must not endanger persons, domestic animals and property.

# **SCHEDULE 2 [Annex III]**

Regulation [x]

## **Module A Internal production control**

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4 of this Schedule, and ensures and declares on his sole responsibility that the electrical equipment concerned satisfies the principal elements of the safety objectives.

## **2. Technical documentation**

The manufacturer must establish the technical documentation. The documentation must make it possible to assess the electrical equipment's conformity to the relevant requirements, and must include an adequate analysis and assessment of the risk(s). The technical documentation must specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the electrical equipment. The technical documentation must, where applicable, contain at least the following elements:

- (a) a general description of the electrical equipment;
- (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 electrical equipment;
- (d) a list of the harmonised standards applied in full or in part the references of which have been published in the Official Journal of the European Union or international or national standards referred to in [Articles 13 and 14][regulation 35] and, where those harmonised standards or international or national standards have not been applied, descriptions of the solutions adopted to meet the principal elements of the safety objectives, including a list of other relevant technical specifications applied. In the event of partly applied harmonised standards or international or national standards referred to in [Articles 13 and 14], the technical documentation must specify the parts which have been applied;

- (e) results of design calculations made, examinations carried out, etc.; and
- (f) test reports.

### **3. Manufacturing**

The manufacturer must take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the manufactured electrical equipment with the technical documentation referred to in point 2 and with the principal elements of the safety objectives.

### **4. CE marking and EU declaration of conformity**

4.1 The manufacturer must affix the CE marking to each individual electrical equipment that satisfies the principal elements of the safety objectives.

4.2 The manufacturer must draw up a written EU declaration of conformity for a product model and keep it together with the technical documentation at the disposal of the enforcing authorities for 10 years after the electrical equipment has been placed on the market. The EU declaration of conformity must identify the electrical equipment for which it has been drawn up.

A copy of the EU declaration of conformity must be made available to the relevant market surveillance authorities upon request.

### **5. Authorised representative**

The manufacturer's obligations set out in point 4 of this Schedule may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

## SCHEDULE 3

[Reg 41]

### Enforcement powers of weights and measures authorities, district councils and the Secretary of State under the 1987 Act

#### Enforcement powers under the 1987 Act

**1.**—(1) For the purposes of enforcing these Regulations, the following provisions 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 29 (powers of search etc)]
- (g) [section 30 (provisions supplemental to s 29)]
- (h) [section 31 (powers of customs officer to detain goods)]
- (i) [section 33 (appeals against detention of goods)]
- (j) [section 34 (compensation for seizure and detention)]
- (k) section 37 (power of Commissioners for Revenue and Customs to disclose information).
- (l) section 45 (interpretation);
- (m) section 46 (meaning of “supply”);
- (n) Schedule 2 (prohibition notices and notices to warn).

(2) These Regulations constitute safety provisions under section 27(1) of the 1987 Act for the purposes of Schedule 5 to the Consumer Rights Act 2015(a).

(3) For the purposes of Schedule 5 to the Consumer Rights Act 2015, an enforcement authority specified in regulation 57(2) [or an enforcement officer acting on behalf of that authority] is a domestic enforcer and is entitled to exercise the powers set out in that Schedule which apply to a domestic enforcer, in order to enforce these Regulations.

#### 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), (5) and (6) and (7) were omitted;
- (b) in section 14—
  - (i) in subsection (1), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;

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(a) 2015 c.15.

- (ii) in subsection (2)(b), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
  - (iii) in subsection (2)(c), “under section 15 below” were omitted;
  - (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 such goods present a risk”;
  - (ii) for subsection (2)(b) there were substituted—
- (d) “(b) where an application with respect to some or all of the goods has been made to a magistrate’s court under regulation [ ] (appeals against notices) of the 2016 Regulations, or section 33, to that court; and”;
  - (i) in subsection (3), after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
  - (ii) in subsection (4), after “consignment or batch or otherwise”, there were inserted “or that the goods present a risk if it is satisfied that the goods which are representative of those goods present a risk”;
- (e) 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”;
  - (iii) in subsection (7), after “consignment or batch or otherwise” there were inserted “or that goods present a risk if it is satisfied that goods which are representative of those goods present a risk”;
- (f) in section 18, subsections (3) and (4) were omitted;
- (g) 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 preventing goods coming to present a risk”;
- (h) in section 30—
  - (i) at the end of subsection (2)(a)(ii), the word “and” were deleted and after subsection (2)(a)(ii), there were inserted—
  - (ii) “or
  - (iii) (iii) that any goods which any officer has power to inspect under section 29 are on any premises and that they present a risk; and”;
  - (iv) subsections (5), (7) and (8) were omitted;
- (i) in section 31(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (j) in section 34(1), after paragraph (a), there were inserted—
- (k) “(aa) the goods do not present a risk;”;
- (l) in section 37(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (m) in section 45(1)—
  - (i) the definitions of “conditional sale agreement”, “gas”, “motor vehicle”, “personal injury”, “subordinate legislation” and “substance” were omitted;
  - (ii) before the definition of “aircraft”, there were inserted—

- (n) ““2016 Regulations” means the Electrical Equipment (Safety) Regulations 2016”;
- (i) for the definition of “enforcement authority” there were substituted—  
““enforcement authority” means an enforcing authority within the meaning of regulation 2(1) of the 2016 Regulations;”;
  - (ii) for the definition of “goods” there were substituted—  
““goods” means electrical equipment within the scope of the 2016 Regulations;”;
  - (iii) after the definition of “modifications” there were inserted—
  - (iv) ““non-compliant” means that—
  - (v) (a) a safety provision has been contravened in relation to the goods; or
  - (vi) (b) the goods present a risk;”
  - (vii) After the definition of “premises”, there were inserted—
  - (viii) ““present a risk” means present a risk within the meaning set out in regulation 2(4) of the 2016 Regulations;”;
  - (ix) for the definition of “safety provision” there were substituted—  
““safety provision” means any provision of the 2016 Regulations”; and
  - (x) for the definition of “safety regulations” there were inserted—  
““safety regulations” means the 2016 Regulations;”;
- (o) 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”.

## SCHEDULE 4

[Reg 41]

### Enforcement powers of the Health and Safety Executive under the 1974 Act

#### Enforcement powers under the 1974 Act

1. For the purposes of enforcing these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) section 19 (appointment of inspectors);
- (b) section 20 (powers of inspectors);
- (c) section 21 (improvement notices);
- (d) section 22 (prohibition notices);
- (e) section 23 (provisions supplementary to ss 21 and 22);
- (f) section 24 (appeal against improvement or prohibition notice);
- (g) section 25 (power to deal with cause of imminent danger);
- (h) section 25A (power of customs officer to detain articles and substances);
- (i) section 26 (power of enforcing authorities to indemnify inspectors);
- (j) section 27 (obtaining of information by the Executive, enforcing authorities etc);
- (k) section 27A (information communicated by Commissioners for Revenue and Customs);
- (l) section 28 (restrictions on disclosure of information);
- (m) section 33 (offences);
- (n) section 34 (extension of time for bringing summary proceedings);
- (o) section 35 (venue);
- (p) section 39 (prosecution by inspectors);
- (q) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

#### Modifications to the 1974 Act

2. The sections referred to in paragraph 1 apply as if—

- (a) references to “relevant statutory provisions” were references to—
  - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and
  - (ii) these Regulations;
- (b) in regulation 19—
  - (i) in subsection (1), for “Every enforcing authority” there were substituted “The Health and Safety Executive and the Office for Nuclear Regulation”;
  - (ii) in subsection (1), “within its field of responsibility” were omitted;
  - (iii) in subsection (2), paragraph (b) were omitted;
  - (iv) in subsection (3), for “enforcing authority which appointed him” there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (c) in section 20—
  - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;

- (ii) in subsection (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
  - (iii) subsection (3) were omitted;
- (d) for section 22(2) there were substituted—
  - “(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
    - (a) a risk; or
    - (b) a contravention of a relevant statutory provision.”;
- (e) in section 23, subsections (3), (4) and (6) were omitted;
- (f) in section 25A(1), for “an enforcing authority”, there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (g) in section 26, for each of the following references there were substituted “the body”—
  - (i) “the enforcing authority”;
  - (ii) “that authority”; and
  - (iii) “the authority”;
- (h) in section 27—
  - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
  - (ii) in subsection (1), paragraph (b) were omitted; and
  - (iii) in subsection (1), “or, as the case may be, to the enforcing authority in question”; were omitted;
- (i) in section 27A(2)—
  - (i) for “an enforcing authority” there were substituted “the Health and Safety Executive”; and
  - (ii) the words from “, other than the Office for Nuclear Regulation” to the end were omitted;
- (j) in section 28—
  - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive”;
  - (ii) in subsection (1)(a), “, by virtue of section 43A(6) below” were omitted;
  - (iii) in subsection (3), “or any enforcing authority” were omitted;
  - (iv) in subsection (4), “or an enforcing authority” were omitted;
  - (v) in subsection (5)(a), “or the purposes of the enforcing authority in question” were omitted;
- (k) in section 33—
  - (i) in subsection (1), the paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for subsection (2), there were substituted—
    - “(2) A person guilty of an offence under section 33 is liable on summary conviction to imprisonment for a term not exceeding three months, a fine, or both.”;
  - (iii) subsection (3) were omitted;
- (l) in section 34—
  - (i) in subsection (1), paragraphs (a) and (b) were omitted;
  - (ii) subsections (3) to (6) were omitted;

- (m) in section 35, for “any enforcing authority” there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (n) in section 39(1), for “enforcing authority” there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”; and
- (o) in section 42, subsections (3A), (4) and (5) were omitted.

## SCHEDULE 5

### Enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order

#### **Enforcement powers under the 1978 Order**

**3.** For the purposes of enforcing these Regulations and RAMS (in its application to pressure equipment), the following Articles of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) Article 21 (appointment of inspectors);
- (b) Article 22 (powers of inspectors);
- (c) Article 23 (improvement notices);
- (d) Article 24 (prohibition notices);
- (e) Article 25 (provisions supplementary to Articles 23 and 24);
- (f) Article 26 (appeal against improvement or prohibition notice);
- (g) Article 27 (power to deal with cause of imminent danger);
- (h) Article 27A (power of customs officer to detain articles and substances);
- (i) Article 28 (power of enforcing authorities to indemnify inspectors);
- (j) Article 29 (obtaining of information by the Executive, enforcing authorities etc);
- (k) Article 29A (information communicated by Commissioners for Revenue and Customs);
- (l) Article 30 (restrictions on disclosure of information);
- (m) Article 31 (offences);
- (n) Article 32 (extension of time for bringing summary proceedings);
- (o) Article 33 (venue);
- (p) Article 36 (prosecution by inspectors);
- (q) Article 39 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

#### **Modifications to the 1978 Order**

**4.** The Articles referred to in paragraph 1 apply as if—

- (a) references to “relevant statutory provisions” were references to—
  - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and
  - (ii) these Regulations;
- (b) for the following references, there were substituted “the Health and Safety Executive for Northern Ireland”—
  - (i) in Article 21(1), “Every enforcing authority”;
  - (ii) in Articles 22(1), 28 and 36, “the enforcing authority”;
  - (iii) in Article 22(2)(c)(i), “his (the inspector’s) enforcing authority”;



- (iv) in Articles 27A(1), “any enforcing authority” and 29A(2), “an enforcing authority”
- (v) in Article 28, “that authority” and “the authority”;
- (vi) in Articles 29 and 30, “the Executive”;
- (c) in Article 21—
  - (i) in paragraph (1), “within its field” were omitted;
  - (ii) in paragraph (2), subparagraph (b) were omitted;
  - (iii) in paragraph (3), for “enforcing authority which appointed him” there were substituted “Health and Safety Executive for Northern Ireland”;
- (d) in Article 22(1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
- (e) Article 22(3) were omitted;
- (f) for Article 24(2) there were substituted—
 

“(2) An inspector may serve a notice (in this Part referred to as a prohibition notice”) on a person if, as regards any activities to which this paragraph applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
- (a) a risk; or
- (b) a contravention of a relevant statutory provision.”;
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (h) in Article 28, for “the enforcing authority which appointed him”, “that authority” and “the authority”, there were, in each case, substituted “the Health and Safety Executive for Northern Ireland”;
- (i) in Article 29—
  - (i) in paragraph (1), subparagraph (b) were omitted;
  - (ii) in paragraph (1), “or, as the case may be, to the enforcing authority in question” were omitted;
- (j) in Article 30—
  - (i) in paragraph (3), “or any enforcing authority” were omitted;
  - (ii) in paragraph (4), “or an enforcing authority” were omitted;
  - (iii) in paragraph (5), “or the purposes of the enforcing authority in question” were omitted;
- (k) in Article 31(1), the following subparagraphs were omitted—
  - (i) subparagraphs (a) to (i); and
  - (ii) subparagraphs (k) to (m);
- (l) for Article 31(2), there were substituted—
- (m) “(2) A person guilty of an offence under Article 31 is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 3 months, or to both;”;
- (n) Article 31(3) were omitted;
- (o) In Article 32—
  - (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
  - (ii) paragraphs (3) and (4) were omitted;
- (p) in Article 33, “bringing the offence within the field of responsibility of any enforcing authority” were omitted;
- (q) in Article 39, paragraphs (3A), (4) and (5) were omitted.

## SCHEDULE 6

[Reg 41]

### Compliance, withdrawal and recall notices

#### Compliance notice

1.—(1) An enforcing authority may serve a compliance notice on a relevant economic operator in respect of electrical equipment if the authority has reasonable grounds for believing that there is non-compliance with the requirements of these Regulations.

(2) 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;
- (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.

(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 electrical equipment or any electrical equipment of the same type made available on the market by that relevant economic operator.

(3) 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.

(4) A compliance notice has effect throughout the United Kingdom.

(5) If a compliance notice has been issued to a relevant economic operator in respect of electrical equipment by an enforcing authority, that enforcing authority must not commence proceedings against, or take any other enforcement action against, the relevant economic operator in respect of the non-compliance to which the notice relates until the period specified in the notice has expired.

(6) Paragraph (5) does not apply where electrical equipment presents a risk.

#### Withdrawal notice

2.—(1) An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of electrical equipment if the authority has reasonable grounds for believing that the electrical equipment—

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

(b) either of the following conditions are met—

- (i) the electrical equipment presents a risk; or
- (ii) the electrical equipment is not in conformity with the requirements of these Regulations [or RAMS (in its application to electrical equipment)].

(2) A withdrawal notice must prohibit the relevant economic operator from making the electrical equipment available on the market without the consent of the [enforcing authority].

(3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the electrical equipment.

(4) A withdrawal notice may require the relevant economic operator to keep the [enforcing authority] informed of the whereabouts of any electrical equipment referred to in the notice.

(5) 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.

## **Recall notice**

**3.—**(1) The enforcing authority may serve a recall notice on a relevant economic operator in respect of electrical equipment if the authority has reasonable grounds for believing that—

- (a) the electrical equipment has been made available to end-users; and
- (b) either of the following conditions are met—
  - (i) the electrical equipment presents a risk;
  - (ii) the electrical equipment is not in conformity with the requirements of these Regulations [or RAMS (in its application to electrical equipment)].

(2) A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the electrical equipment from end-users to the relevant economic operator or another person specified in the notice.

(3) 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 electrical equipment poses and the fact of the recall;
  - (iii) make arrangements for the collection or return of the electrical equipment from end-users or its disposal;
- (c) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the electrical equipment.

(4) 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.

(5) 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 in fulfilment of the requirements of these Regulations is unsatisfactory or insufficient to address the non-compliance;
- (c) the enforcing authority has given not less than ten 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 subparagraph (6).

(6) 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.

(7) Subparagraphs (5)(b), (c) and (d) do not apply in the case of electrical equipment presenting a serious risk requiring, in the view of the enforcing authority, urgent action.

(8) Where a relevant economic operator requires the enforcing authority to seek advice under subparagraph (6), 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.

(9) In this regulation, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

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

### **Interpretation**

**4.** In this Schedule, “non-compliance” means that the electrical equipment—

- (a) presents a risk; or
- (b) is not in conformity with the requirements of these Regulations [or RAMS (in its application to electrical equipment)].

## **SCHEDULE 7**

### **Consequential amendments**

#### **Amendment of the Plugs and Sockets etc (Safety) Regulations 1994**

**1.**—(1) The Plugs and Sockets etc (Safety) Regulations 1994(a) are amended as follows.

- (2) Omit regulation 11;
- (3) In regulation 12, for the heading substitute “Prohibitions on supply etc. of conversion plugs”;
- (4) Omit regulation 12(1) and (2);
- (5) For regulation 12(3) substitute—
  - (a) “12(3) Subject to paragraphs (4) to (8), no person shall supply, offer for supply, agree to supply, expose for supply or possess for supply any conversion plug unless that conversion plug is of a type approved by a notified body for use in conjunction with a non-UK plug which complies with the safety provisions of IEC 884-1, and in respect of which such approval has not been cancelled.
  - (b) (3A) In determining applications made to it for such approval the notified body shall not grant such approval unless it is satisfied—
  - (c) (a) that when used in conjunction with such a non-UK plug and when connected to a mains socket in the United Kingdom, conversion plugs of that type provide a level of safety equivalent to a standard plug which satisfies the requirements of regulation 8; and
  - (d) (b) by means of inspection or testing of samples, that the manufacturer of the conversion plug may reasonably be expected to ensure that normal production and design of the conversion plug will result in conversion plugs of that type corresponding with the samples.”
- (6) In regulation 12(9)—
  - (a) for “paragraph (1)”, substitute “paragraph (3)”;
  - (b) for “appliance”, substitute “conversion plug”.

#### **Amendment of the Provision and Use of Work Equipment Regulations 1998**

**2.** In Schedule 1 to the Provision and Use of Work Equipment Regulations 1998(b) omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”.

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(a) S.I. 1994/1768.

(b) SI 1998/2306.

### **Amendment of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000**

3. [Amendment of Radio Equipment and Telecommunications Terminal Equipment Regulations 2000.]

### **Amendment of the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006**

4. In the Schedule to the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006(a), omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”.

### **Amendment of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007**

5.—(1) The Legislative and Regulatory Reform (Regulatory Functions) Order 2007(b) is amended as follows.

(2) In Part 3 of the Schedule, under the heading “Public Health and Safety”, omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”;

(3) In Part 8 of the Schedule, omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”;

(4) In Part 13 of the Schedule, omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”.

### **Amendment of the Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009**

6.—(1) The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009(c) is amended as follows.

(2) In Part 4 of Schedule 1, omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”;

(3) In Part 2 of Schedule 2, omit the entry “The Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “The Electrical Equipment (Safety) Regulations 2016”.

### **Amendment of the Building Regulations 2010**

7. In paragraph 4 of Schedule 4 to the Building Regulations 2010(d) for “regulation 9 of the Electrical Equipment (Safety) Regulations 1994” substitute “regulation 38 of the Electrical Equipment (Safety) Regulations 2016”.

### **Amendment of the Homelessness (Suitability of Accommodation)(England) Order 2012**

8. In section 3(b) of the Homelessness (Suitability of Accommodation)(England) Order 2012(e) for “regulations 5 and 7 of the Electrical Equipment (Safety) Regulations 1994” substitute “Schedule 1 to the Electrical Equipment (Safety) Regulations 2016”.

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(a) SI 2006/2183.  
(b) SI 2007/3544.  
(c) SI 2009/669.  
(d) SI 2010/2214.  
(e) SI 2012/2601.

## SCHEDULE 8

### EU Declaration of Conformity

#### EU declaration of conformity (No xxxx)(a)

1. Product model (product, type, batch or serial number):
2. Name and address of manufacturer or his authorised representative:
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.
4. Object of the declaration (identification of electrical equipment allowing traceability; it may include a colour image of sufficient clarity where necessary for the identification of the electrical equipment):
5. The object of the declaration described above is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:
7. Additional information:  
Signed for and on behalf of:  
(place and date of issue):  
(name, function) (signature):

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

**EXPLANATORY NOTE**

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