

2016 No. 1101

CONSUMER PROTECTION

HEALTH AND SAFETY

The Electrical Equipment (Safety) Regulations 2016

Made - - - - *15th November 2016*

Laid before Parliament *16th November 2016*

Coming into force - - *8th December 2016*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972^(a) in relation to measures for safety as respects electrical equipment^(b) and in relation to measures for consumer protection^(c).

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 the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A^(d) 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 8th December 2016 (“the commencement date”).

Interpretation

2.—(1) In these Regulations—

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- (a) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51).
- (b) S.I. 1972/1811, superseded in relation to measures relating to consumer protection by S.I. 1993/2661.
- (c) S.I. 1993/2661.
- (d) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008.

“the 1974 Act” means the Health and Safety at Work etc. Act 1974(a);

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978(b)

“the 1987 Act” means the Consumer Protection Act 1987(c);

“the 1994 Regulations” means the Electrical Equipment (Safety) Regulations 1994(d);

“authorised representative” means a person appointed in accordance with regulation 14;

“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(e);

“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(f);

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

“electrical equipment” means any electrical equipment to which these Regulations apply;

“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 41 (enforcement);

“harmonised standard” has the meaning given by Article 2(1)(c) of Regulation (EU) 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and the Council, and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and the Council(g) (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 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 are to 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;

(a) 1974 c.37.
(b) S.I. 1978/1039 (N.I. 9).
(c) 1987 c.43.
(d) S.I. 1994/3260, revoked in relation to radio or telecommunications terminal equipment by S.I. 2000/730, amended by S.I. 2011/1043, S.I. 2014/469, S.I. 2015/1630.
(e) OJ No L 96, 29.03.2014, p357.
(f) 1972 Chapter 9.
(g) OJ No L 316, 14.11.2012, p12.

“market surveillance authority”, in the United Kingdom, has the meaning set out in regulation 40 (designation of market surveillance authority);

“Official Journal” means the Official Journal of the European Union;

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

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

“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(a);

“recall” means 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 paragraph 2 of Schedule 2;

“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 of section 69 of the Weights and Measures Act 1985(b);

“withdraw” means take 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, in relation to the electrical equipment, 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 22 (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) (a) Subject to sub-paragraph (b), 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 European Economic Area.

(b) Sub-paragraph (a) will not apply until the entry into force of any amendment made to Annex II (technical regulations, standards, testing and certification) to the EEA Agreement by a Decision of the EEA Joint Committee, inserting a reference to the Directive into that Annex.

(a) OJ L 218, 13.8.2008, p. 30.

(b) 1985 c.72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c.43), Schedule 1, Part I, 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.

Electrical equipment to which these Regulations apply

- 3.—(1) Subject to paragraph (2), these Regulations apply to electrical equipment—
- (a) placed on the market on or after the commencement date; and
 - (b) 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;
 - (f) electric fence controllers;
 - (g) 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;
 - (h) custom-built evaluation kits destined for professionals to be used at research and development facilities solely for research and development.
- (3) Save for regulations 4, 15, 25 (to the extent that it relates to conformity of the electrical equipment with the principal elements of the safety objectives) and 37, these Regulations do not apply to apparatus covered by the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000(a).

Part 2

Obligations of economic operators

Manufacturers

Design and manufacture in accordance with safety objectives

4. Before 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

5. Before placing electrical equipment on the market, a manufacturer must—
- (a) draw up the technical documentation; 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

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, a manufacturer must, before placing that electrical equipment on the market—

- (a) draw up a declaration of conformity in accordance with regulation 38 (EU declaration of conformity); and

(a) S.I. 2000/730, amended by S.I. 2003/1903; there are other amendments not relevant to these Regulations.

- (b) affix the CE marking in accordance with regulation 39 (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.

Retention of technical documentation and EU declaration of conformity

7. A manufacturer must keep the technical documentation and the EU declaration of conformity drawn up in respect of electrical equipment and make them 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

- 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; and
 - (b) ensure that it is marked with—
 - (i) the name, registered trade name or registered trade mark of the manufacturer; and
 - (ii) a single postal address at which the manufacturer can be contacted.
- (2) Where it is not possible for information specified in 1(a) or (b) to be indicated on the electrical equipment, the manufacturer must ensure that the 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, understandable and intelligible.

Instructions and safety information

- 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.
- (3) Where the electrical equipment is placed on the market in the UK, the language referred to in paragraph (1) must be English.

Compliance procedures for series production

- 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

11.—(1) 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 that electrical equipment is not in conformity with Part 2;
 - (ii) electrical equipment which is found not to be in conformity with Part 2; and
 - (iii) electrical equipment recalls; and
- (d) keep distributors informed of any monitoring carried out under this regulation.

(2) The manufacturer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity

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 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

13.—(1) Following a request from an enforcing authority, and within such period as the authority may specify, a manufacturer must provide the authority with all the information and documentation necessary to demonstrate that the electrical equipment is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of 10 years beginning on the day the equipment was placed on the market; and
- (b) must be accompanied by the reasons for making the request.

(3) The information and documentation referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in a language which can be easily understood by the enforcing authority.

(4) A manufacturer must, at the request of the enforcing authority, cooperate with that authority on any action taken to—

- (a) evaluate electrical equipment in accordance with regulation 44 (evaluation of electrical equipment presenting a risk); or
- (b) eliminate the risks posed by electrical equipment which the manufacturer has placed on the market.

Authorised representatives

Manufacturer's authorised representatives

14.—(1) A manufacturer may, by written mandate, appoint a person as their authorised representative to perform specified tasks on the manufacturer's behalf.

(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) The obligations laid down in regulation 4 (design and manufacture in accordance with safety objectives) and regulation 5(a) (technical documentation) must not form part of an authorised representative's mandate.

(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 as far as those duties, as well as the penalties for failure to comply with 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.

(5) A manufacturer who has appointed an authorised representative to perform on the manufacturer's behalf a task 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

15. An importer must not place electrical equipment on the market unless it is in conformity with Part 2.

Requirements which must be satisfied before an importer places electrical equipment on the market

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

- (a) the conformity assessment procedure set out in Schedule 2 has been carried out;
- (b) the manufacturer has drawn up the technical documentation;
- (c) the electrical equipment bears the CE marking; and
- (d) the manufacturer has complied with the requirements of regulation 8 (labelling of electrical equipment).

Prohibition on placing on the market electrical equipment considered not to be in conformity with the safety objectives

17.—(1) Where an importer considers, or has reason to believe, that electrical equipment is not in conformity with the principal elements of 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

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

19.—(1) 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.

(2) Where the electrical equipment is placed on the market in the UK, the language referred to in paragraph (1) must be English.

Storage and transport of electrical equipment

20. Where an importer has responsibility for electrical equipment, the importer must ensure that the conditions under which it is stored or transported do not jeopardise its conformity with the principal elements of the safety objectives.

Retention of technical documentation and EU declaration of conformity

21. An importer must, for a period of 10 years beginning on the day on which electrical equipment is placed on the market, keep and, upon request, make available to an enforcing authority the following in relation to the electrical equipment—

- (a) a copy of the EU declaration of conformity; and
- (b) the technical documentation.

Monitoring

22.—(1) Where appropriate, having 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 by the importer;
- (b) investigate complaints that electrical equipment made available on the market by the importer is not in conformity with Part 2;
- (c) keep a register of—
 - (i) complaints that electrical equipment is not in conformity with Part 2;
 - (ii) electrical equipment which is found not to be in conformity with Part 2; and
 - (iii) electrical equipment recalls; and
- (d) keep distributors informed of any monitoring carried out under this regulation.

(2) The importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity

23.—(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

24.—(1) Following a request from an enforcing authority, and within such period as the authority may specify, an importer must provide the authority with all the information and documentation necessary to demonstrate that electrical equipment is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of 10 years beginning on the day the importer places the equipment on the market; and
- (b) must be accompanied by the reasons for making the request.

(3) The information referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in a language which can be easily understood by the enforcing authority.

(4) An importer must, at the request of the enforcing authority, cooperate with that authority on any action taken to—

- (a) evaluate electrical equipment in accordance with regulation 44 (evaluation of electrical equipment presenting a risk); or
- (b) eliminate the risks posed by electrical equipment which the importer has placed on the market.

Distributors

Duty to act with due care

25. When making electrical equipment available on the market, a distributor must act with due care to ensure that it is in conformity with Part 2.

Requirements which must be satisfied before a distributor makes electrical equipment available on the market

26.—(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 of regulation 8 (labelling of electrical equipment);
 - (c) the importer has complied with the requirements of 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); and
 - (c) regulation 18 (information identifying importer).
- (3) Where the electrical equipment is to be made available on the market in the UK, the language referred to in paragraph (1)(a)(iii) must be English.

Prohibition on making available on the market where electrical equipment considered not to be in conformity with safety objectives

27.—(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.

Storage and transport of electrical equipment

28. A distributor must ensure that, while electrical equipment is the distributor’s responsibility, its storage or transport conditions do not jeopardise its conformity with the principal elements of the safety objectives.

Duty to take action in respect of electrical equipment placed on the market which is considered not to be in conformity

29.—(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

30.—(1) Following a request from an enforcing authority, and within such period as the authority may specify, a distributor must provide the authority with all the information and documentation necessary to demonstrate that electrical equipment is in conformity with Part 2.

(2) The information referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in a language which can be easily understood by the enforcing authority.

(3) A distributor must, at the request of the enforcing authority, cooperate with that authority on any action taken to—

- (a) evaluate electrical equipment in accordance with regulation 44 (evaluation of electrical equipment presenting a risk); or
- (b) eliminate the risks posed by electrical equipment which the distributor has made available on the market.

Cases in which obligations of manufacturers apply to importers and distributors

31.—(1) An 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 under 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

32.—(1) 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.

(2) Where the electrical equipment is to be made available on the market in the United Kingdom, the language required is English.

Identification of economic operators

33.—(1) An economic operator (“E”) who receives a request in relation to electrical equipment 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 other economic operator who has supplied E with the electrical equipment; and
- (b) any other economic operator to whom E has supplied the 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

- 34.**—(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 in Schedule 2.
- (2) An economic operator must not affix to electrical equipment a marking which—
- (a) is not the CE marking; but
 - (b) 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

- 35.**—(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 a plug in device intended to be connected, without the use of a mains lead or plug, directly to the United Kingdom public electricity supply via a socket outlet conforming to BS 1363, the economic operator must ensure that the plug in device is compatible with socket outlets conforming to BS 1363.
- (3) Where the electrical equipment has a flexible lead and plug assembly and is intended to be connected to the United Kingdom public electricity supply by means of a socket outlet conforming to BS 1363, 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, conforming to 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 and which is rated in accordance with the electrical equipment manufacturer’s instructions.
- (4) In this regulation, “socket”, “BS 1363”, “standard plug”, “non-UK plug”, “IEC 884-1”, “conversion plug”, “fuse link” and “BS 1362” have the meanings given in the Plugs and Sockets etc. (Safety) Regulations 1994(a).

PART 3

Conformity assessment

Presumption of conformity on the basis of harmonised standards

- 36.**—(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 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.

(a) S.I. 1994/1768 amended by S.I. 2011/1043.

Conformity with other standards and requirements

37.—(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 were in conformity with 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 European 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

38. 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.

CE marking

39.—(1) The CE marking must be affixed visibly, legibly and indelibly to the electrical equipment or to its data plate.

(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

40.—(1) The market surveillance authority is—

- (a) in the case of electrical equipment for use or operation in the circumstances in paragraph (2)—
 - (i) subject to paragraph (3), in Great Britain, the Health and Safety Executive^(a); and

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

- (ii) in Northern Ireland, the Health and Safety Executive for Northern Ireland^(a) ;
- (b) in the case of electrical equipment for private use or consumption (other than as referred to in paragraph (2)(b))—
 - (i) in Great Britain, within its area, a weights and measures authority; and
 - (ii) in Northern Ireland, within its area, a district council.
- (2) The circumstances referred to in paragraph (1)(a) are where—
 - (a) electrical equipment is designed for use or operation, whether exclusively or not, by persons at work; or
 - (b) electrical equipment is designed for use, otherwise than at work, in non-domestic premises made available to persons at a place where they may use the equipment provided for their own use there.
- (3) 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.
- (4) In paragraph (3), “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^(b));
 - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998^(c)); or
 - (c) a new nuclear build site (within the meaning given in those Regulations).

Enforcement

41.—(1) Subject to paragraph (2), these Regulations and RAMS (in its application to electrical equipment) must be enforced by the market surveillance authority.

(2) 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).

(3) Before taking enforcement action under paragraph (2), an enforcing authority which is not the market surveillance authority must notify the market surveillance authority of the proposed action.

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

Enforcement powers

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

- (a) a weights and measures authority;
- (b) a district council; or
- (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 under the 1978 Order) has effect where the enforcing authority is the Health and Safety Executive for Northern Ireland.

^(a) Established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978.

^(b) 2013 c.32.

^(c) S.I. 1998/494, amended by S.I. 2014/469; there are other amendments not relevant to these Regulations.

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

(5) This regulation does not prevent an enforcing authority from taking action in respect of electrical equipment under the General Product Safety Regulations 2005(b).

Exercise of enforcement powers

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

- (a) regulation 44 (evaluation of electrical equipment presenting a risk);
- (b) regulation 45 (enforcement action in respect of electrical equipment which is not in conformity and which presents a risk);
- (c) regulation 46 (Union safeguard procedure);
- (d) regulation 47 (enforcement action in respect of electrical equipment which are in conformity, but which present a risk);
- (e) regulation 48 (enforcement action in respect of formal non-compliance);
- (f) regulation 49 (restrictive measures).

Evaluation of electrical equipment presenting a risk

44.—(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 to the 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 the 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

45.—(1) Where, in the course of an evaluation referred to in regulation 44, 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 the electrical equipment into conformity with those requirements within a prescribed period;
- (b) withdraw the electrical equipment within a prescribed period; or
- (c) recall the 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) 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).
(b) S.I. 2005/1083.

- (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 the electrical equipment being made available on the market in the United Kingdom;
 - (b) withdraw the electrical equipment from the United Kingdom market; or
 - (c) recall the 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 the electrical equipment which is not in conformity with Part 2;
 - (b) the origin of the electrical equipment;
 - (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; and
 - (f) a statement as to whether the lack of conformity is due to—
 - (i) failure of the electrical equipment to meet relevant requirements relating to a risk; or
 - (ii) shortcomings in a harmonised standard referred to in regulation 36 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

46.—(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 20(1) 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 45 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

47.—(1) Where, having carried out an evaluation under regulation 44, 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 States immediately.

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

- (a) the data necessary for the identification of the electrical equipment concerned;
- (b) the origin and the supply chain of the 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 the electrical equipment.

Enforcement action in cases of formal non-compliance

48.—(1) Where an enforcing authority makes one of the following findings in relation to electrical equipment, it must require a relevant economic operator to remedy the non-compliance concerned within such reasonable period as the enforcing authority specifies—

- (a) the CE marking—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 34 (Prohibition on improper use of CE marking) and 39 (CE marking);
- (b) the EU declaration of conformity—
 - (i) has not been drawn up; or

- (ii) has been drawn up otherwise than in accordance with regulations 6 (EU declaration of conformity and CE marking) and 38 (EU declaration of conformity);
 - (c) the technical documentation is either not available or not complete;
 - (d) the following information 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 regulation 6 or 8 has not been fulfilled.
- (2) The enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned until the period referred to in paragraph (1) has elapsed.
- (3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take all appropriate measures to—
- (a) restrict or prohibit the electrical equipment being made available on the market;
 - (b) ensure that the electrical equipment is withdrawn; or
 - (c) ensure that the electrical equipment is recalled.
- (4) This regulation does not apply where electrical equipment presents a risk.

Restrictive measures

49. 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

50.—(1) It is an offence for a person to contravene or fail to comply with any requirement of regulations 4 to 12, 13(4), 15 to 23, 34(4), 25 to 29, 30(3) or 33 to 35.

(2) It is an offence for any person to contravene or fail to comply with any requirement of a withdrawal or recall notice served on that person by an enforcing authority under these Regulations.

Penalties

51.—(1) A person guilty of an offence under regulation 50 (other than an offence arising from a contravention of or failure to comply with a requirement of regulation 7 or regulation 21) 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 arising from a contravention of or failure to comply with a requirement of regulation 7 or regulation 21 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

52.—(1) In proceedings for an offence under regulation 50, 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.

Liability of persons other than principal offender

53.—(1) Where the commission of an offence under regulation 50 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 offence was committed by the body corporate—

- (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

54.—(1) In England and Wales an information relating to an offence under regulation 50 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^(a) (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 under regulation 50 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 paragraph (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) and to paragraph (1)(n) of Schedule 5 (enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order).

Service of documents

55.—(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.

(a) 1995 c.46.

(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

56.—(1) This regulation applies where a person commits an offence under regulation 50.

(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

57.—(1) An enforcing authority may itself take action which an economic operator could have been required to take by a notice served under regulation 42 (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; or
- (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^(a);
- (b) in Northern Ireland in proceedings under Article 62 of the Magistrates' Court (Northern Ireland) Order 1981^(b).

Appeals against notices

58.—(1) An application for an order to vary or set aside the terms of a notice served under regulation 42 (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 42 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 36 (presumption of conformity) when serving the notice.

(4) On an application to vary the terms of a notice served under regulation 42, the appropriate court may vary the terms of the notice as it considers appropriate.

(5) In this regulation—

^(a) 1980 c.43; section 58 was amended by the Crime and Courts Act 2013 (c.22), Schedule 10 paragraph 40.

^(b) S.I. 1981/1675 (N.I. 26).

- (a) the “appropriate court” is to be determined in accordance with regulation 59 (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;
 - (iv) a compliance notice served in accordance with Schedule 6;
 - (v) a withdrawal notice served in accordance with Schedule 6; or
 - (vi) a recall notice served in accordance with Schedule 6.

Appropriate court for appeals against notices

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

- (a) the court in which proceedings have been brought in relation to electrical equipment for an offence under regulation 50 (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 electrical 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 58 is—

- (a) the sheriff of a sheriffdom in which the person making the appeal resides or, as the case may be, has a registered or principal office; or
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the electrical equipment and which has been served under or by virtue of paragraph 1 of Schedule 4.

(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 58, 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.

Compensation

60.—(1) When an enforcing authority other than the Health and Safety Executive, 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 as referred to in regulation 58(5)(b).

PART 5

Miscellaneous

Review

61.—(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.

(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 the commencement date.

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

Transitional provisions and savings

62.—(1) The 1994 Regulations continue to apply, as if they had not been revoked, to electrical equipment placed on the market before the commencement date.

(2) In relation to electrical equipment placed on the market before the commencement date, the amendments in paragraph 3 of Schedule 7 do not apply.

Revocations and amendments

63. The 1994 Regulations are revoked, save to the extent required to give effect to regulation 62.

64. Schedule 7 (consequential amendments) has effect.

Margot James

Parliamentary Under Secretary of State

Minister for Small Business, Consumers and Corporate Responsibility

Department for Business, Energy and Industrial Strategy

15th November 2016

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.
- (c) The electrical equipment must be so designed and manufactured as to ensure that protection against the hazards set out in paragraphs 2 and 3 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 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

Regulation 5

Conformity Assessment Procedure

Module A Internal production control

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

Technical documentation

2.—(1) The manufacturer must establish the technical documentation.

(2) 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).

(3) 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.

(4) 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 to which have been published in the Official Journal or international or national standards referred to in regulation 37 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 regulation 37, 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.

Manufacturing

3. 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 paragraph 2 and with the principal elements of the safety objectives.

CE marking and EU declaration of conformity

4.—(1) The manufacturer must affix the CE marking to each individual item of electrical equipment that satisfies the principal elements of the safety objectives.

(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.

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

Authorised representative

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

SCHEDULE 3

Regulation 42

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

- (a) section 13 (prohibition notices and notices to warn);
- (b) section 14 (suspension notices);
- (c) section 16 (forfeiture: England and Wales and Northern Ireland);
- (d) section 17 (forfeiture: Scotland);
- (e) section 18 (power to obtain information);
- (f) section 19 (interpretation of Part 2);
- (g) section 29 (powers of search etc);
- (h) section 30 (provisions supplemental to s 29);
- (i) section 31 (powers of customs officer to detain goods);
- (j) section 33 (appeals against detention of goods);
- (k) section 34 (compensation for seizure and detention);
- (l) section 35 (recovery of expenses of enforcement)
- (m) section 37 (power of Commissioners for Revenue and Customs);
- (n) section 45 (interpretation);
- (o) section 46(1) (meaning of “supply”);
- (p) Schedule 2 (prohibition notices and notices to warn).

Modifications to the 1987 Act

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

- (a) in section 13—
 - (i) in subsection (1), for “unsafe” on each occasion that it appears, there were substituted “non-compliant”;
 - (ii) in subsection (1), “relevant” were omitted on each occasion that it appears;
 - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted;
 - (iv) subsections (4) to (7) were omitted;
- (b) in section 14—
 - (i) in subsection (1), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
 - (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—
 - “(b) where an application with respect to some or all of the goods has been made to a magistrates’ court under regulation 58 (appeals against notices) of the 2016 Regulations, or section 33, to that court; and”;
- (iii) in subsection (3), after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
- (iv) after subsection (4), there were inserted—
 - “(4A) A court may infer for the purposes of this section that any goods present a risk, if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
- (d) in section 17—
 - (i) in subsection (1), after “a contravention of a safety provision”, there were inserted “or where the goods present a risk”;
 - (ii) in subsection (6), after “a contravention in relation to those goods of a safety provision” there were inserted “or that those goods present a risk”;
 - (iii) after subsection (7), there were inserted—
 - “(7A) The sheriff may infer for the purposes of this section that any goods present a risk, if satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
- (e) in section 18, subsections (3) and (4) were omitted;
- (f) in section 29—
 - (i) in subsection (4)(a), after “any contravention of any safety provision in relation to the goods” there were inserted “or whether the goods present a risk”;
 - (ii) in subsection (4)(b), after “any such contravention” there were inserted “or whether the goods present a risk”;
- (g) in section 30—
 - (i) at the end of subsection (2)(a)(ii), for “and” there were substituted “or”;
 - (ii) after subsection (2)(a)(ii), there were inserted—
 - “(iii) that any goods which any officer has power to inspect under section 29(4) are on any premises and their inspection is likely to demonstrate that they present a risk; and”; and
 - (iii) subsections (5), (7) and (8) were omitted;
- (h) in section 31(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (i) in section 34—
 - (i) the word “and” at the end of subsection (1)(a) were omitted; and
 - (ii) after that subsection, there were inserted—
 - “(aa) the goods do not present a risk; and”;
- (j) in section 37(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (k) 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—
 - ““the 2016 Regulations” means the Electrical Equipment (Safety) Regulations 2016”;

- (iii) for the definition of “enforcement authority” there were substituted—
““enforcement authority” means an enforcing authority as defined in regulation 2(1) of the 2016 Regulations;”;
- (iv) for the definition of “goods” there were substituted—
““goods” means electrical equipment within the scope of the 2016 Regulations;”;
- (v) after the definition of “modifications” there were inserted—
““non-compliant” in relation to any goods means that—
(a) a safety provision has been contravened in relation to the goods; or
(b) the goods present a risk;”;
- (vi) after the definition of “premises”, there were inserted—
““present a risk” means present a risk within the meaning set out in regulation 2(4) of the 2016 Regulations;”;
- (vii) for the definition of “safety provision” there were substituted—
““safety provision” means any provision of the 2016 Regulations”; and
- (viii) for the definition of “safety regulations” there were inserted—
““safety regulations” means the 2016 Regulations;”;
- (l) in section 46(1), the words “and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use” were omitted; and
- (m) in Schedule 2—
 - (i) for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”; and
 - (ii) for “safe”, on each occasion that it appears, there were substituted “not non-compliant”.

SCHEDULE 4

Regulation 42

Enforcement powers of the Health and Safety Executive and the Office for Nuclear Regulation 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 sections 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 41 (evidence); and
- (r) 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 of the 1974 Act 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) references to “risk” were references to “risk” within the meaning of regulation 2(4) of these Regulations;
 - (c) in section 19—
 - (i) in subsection (1)—
 - (aa) for “Every enforcing authority” there were substituted “The Health and Safety Executive and the Office for Nuclear Regulation”;
 - (bb) for references to “it” there were substituted “they”;
 - (cc) for “thinks” there were substituted “think”
 - (dd) “within its field of responsibility” were omitted;
 - (ii) in subsection (2), paragraph (b) were omitted;
 - (iii) 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”;
 - (d) 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) in subsection (2)(h), for “him to have caused or to be likely to cause danger to health and safety”, there were substituted “contravene the relevant statutory provisions or present a risk”; and
 - (iv) subsection (3) were omitted;
 - (e) in section 21—
 - (i) before paragraph (a), there were inserted—

“(za) is making available on the market electrical equipment which presents a risk;”;
 - (ii) after “specifying the”, there were inserted “risk, or”; and
 - (iii) after “requiring that person to”, there were inserted “address the risk or”;
 - (f) 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.”;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) for section 25A(1) there were substituted—
 - “(1) A customs officer may, for the purposes of facilitating the exercise or performance by the Health and Safety Executive, the Office for Nuclear Regulation or an inspector (as the case may be), of any of their powers and duties under any of the relevant statutory provisions, seize any imported article or imported substance and retain it for not more than two working days.”.
- (i) for the heading to section 26, there were substituted “Power to indemnify inspectors”;
- (j) 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”;
- (k) 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;
- (l) for section 27A(2) there were substituted—
 - “(2) This subsection applies to the Health and Safety Executive, the Office for Nuclear Regulation and to an inspector.”;
- (m) in section 28—
 - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive”;
 - (ii) in subsection (1)(a), “, other than the Office for Nuclear Regulation (or an inspector appointed by it,” and “, by virtue of section 43A(6) below” were omitted;
 - (iii) in subsection (3)(a), “or any enforcing authority” were omitted;
 - (iv) in subsection (4), “or an enforcing authority” and “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
 - (v) in subsection (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions” were omitted;
 - (vi) in subsection (7), “14(4)(a) or” were omitted;
 - (vii) for subsection (7)(b), there were substituted—
 - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”; and
 - (viii) subsection (9B) were omitted;
- (n) in section 33—
 - (i) in subsection (1), 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 this section 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 three months, or to both;

- (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or to both.”; and
- (o) section 33(3) were omitted.
- (p) in section 34—
 - (i) in subsection (1), paragraphs (a) and (b) were omitted; and
 - (ii) in subsection (1), for the words from “and it appears” to the end, there were substituted—

“and it appears from the investigation or, in a case falling within paragraph (d), from the proceedings at the inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the investigation or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the investigation or inquiry.”; and
 - (iii) subsections (3) to (6) were omitted;
- (q) 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”;
- (r) 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
- (s) in section 42, subsections (3A), (4) and (5) were omitted.

SCHEDULE 5

Regulation 42

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

Enforcement powers under the 1978 Order

1. For the purposes of enforcing these Regulations and RAMS (in its application to electrical 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 38 (evidence);

- (r) Article 39 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

Modifications to the 1978 Order

2. The Articles of the 1978 Order 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) references to “risk” were references to “risk” within the meaning of regulation 2(4) of these Regulations;
- (c) in Article 21—
 - (i) in paragraph (1), for “Every enforcing authority” there were substituted “The Health and Safety Executive for Northern Ireland”;
 - (ii) in paragraph (1), “within its field of responsibility” were omitted;
 - (iii) in paragraph (2), sub-paragraph (b) were omitted;
 - (iv) in paragraph (3), for “enforcing authority which appointed him” there were substituted “Health and Safety Executive for Northern Ireland”;
- (d) in Article 22—
 - (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in paragraph 2(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland”;
 - (iii) in paragraph 2(2)(h), for “him to have caused or to be likely to cause danger to health and safety”, there were substituted “contravene the relevant statutory provisions or present a risk”;
 - (iv) paragraph (3) were omitted.
- (e) in Article 23—
 - (i) before paragraph (a), there were inserted—

“(za) is making available on the market electrical equipment which presents a risk;”;
 - (ii) after “specifying the”, there were inserted “risk, or”; and
 - (iii) after “requiring that person to”, there were inserted “address the risk or”;
- (f) for Article 24(2) and (3) 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) the contravention of a relevant statutory provision.

(3) A prohibition notice must—

 - (a) state that the inspector is of the said opinion;
 - (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
 - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of the opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and

- (d) direct that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) have been remedied.”;
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (h) in Articles 27A(1), for “any enforcing authority” and “the authority” there were substituted “the Health and Safety Executive for Northern Ireland”;
- (i) for the heading to Article 28, there were substituted “Power to indemnify inspectors”;
- (j) 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”;
- (k) in Article 29—
 - (i) in paragraph (1)(b), for “an enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland” and for “the Authority’s functions” there were substituted “its functions”;
 - (ii) “the department concerned, or” were omitted;
 - (iii) for “the Executive”, in each case it appears, there were substituted “the Health and Safety Executive for Northern Ireland”;
 - (iv) “or, as the case may be, to the enforcing authority in question” were omitted.
- (l) in Article 29A(2) for “an enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland”;
- (m) in Article 30—
 - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive for Northern Ireland”;
 - (ii) in paragraph (3), “or any enforcing authority” were omitted;
 - (iii) in paragraph (4), “or an enforcing authority” were omitted;
 - (iv) in paragraph (4), “or authority (including in the case of an enforcing authority, any inspector appointed by it)” were omitted;
 - (v) in paragraph (5), “or the purposes of the enforcing authority in question” were omitted;
 - (vi) in paragraph (6), “16(4)(a) or” were omitted;
 - (vii) for paragraph (6)(b), there were substituted—
 - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
 - and
- (n) in Article 31—
 - (i) in paragraph (1), sub-paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for paragraph (2), there were substituted—
 - “(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;”;
 - and
 - (iii) Article 31(3) were omitted;
- (o) in Article 32—
 - (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted;
 - (ii) in paragraph (1), for the words from “and it appears” to the end, there were substituted “and it appears from the proceedings at the inquest that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the inquest, summary proceedings against any person liable

to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the inquest.”; and

- (iii) paragraphs (3) and (4) were omitted;
- (p) in Article 33, for “any enforcing authority” there were substituted “Health and Safety Executive for Northern Ireland”;
- (q) in Article 36, for “enforcing authority” there were substituted “Health and Safety Executive for Northern Ireland”; and
- (r) in Article 39, paragraphs (3A), (4) and (5) were omitted.

SCHEDULE 6

Regulation 42

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; or
 - (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the enforcing authority that the non-compliance has not in fact occurred;
- (b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under 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) Subject to sub-paragraph (5), an enforcing authority may revoke or vary a compliance notice by serving a notification on the economic operator.

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

Withdrawal notice

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—

- (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 is 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 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 sub-paragraph (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) Sub-paragraph (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 sub-paragraph (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 paragraph, “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

Regulation 64

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) For the heading of regulation 12 substitute “Prohibitions on supply etc. of conversion plugs”.

(4) Omit regulation 12(1) and (2).

(5) For regulation 12(3) substitute—

“(3) 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.

(3A) In determining applications made to it for such approval the notified body shall not grant such approval unless it is satisfied—

- (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
- (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(4), omit the words “Subject to paragraphs (5), (6) and (7) below,”.

(7) In regulation 12(7)(b), omit the words “, (5) or”.

(8) In regulation 12(9)—

- (a) for “paragraph (1)”, substitute “paragraph (3)”;
- (b) for “appliance”, substitute “conversion plug”.

(a) S.I. 1994/1768.

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(a) omit the entry relating to the Electrical Equipment (Safety) Regulations 1994 and in the appropriate place—

- (a) in the first column insert “The Electrical Equipment (Safety) Regulations 2016”; and
- (b) in the second column, insert the S.I. number of these Regulations.

Amendment of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999

3. In Schedule 2 to the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(b) omit the entry relating to the Electrical Equipment (Safety) Regulations 1994 and in the appropriate place—

- (a) in the first column insert “The Electrical Equipment (Safety) Regulations 2016”;
- (b) in the second column insert the S.I. number of these Regulations.

Amendment of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000

4. In regulation 1(3) of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000, omit the words “and the Electrical Equipment (Safety) Regulations 1994, except for regulations 5 and 7,”.

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

5. In the Schedule to the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006(c), omit the entry relating to the “Electrical Equipment (Safety) Regulations 1994” and in the appropriate place—

- (a) in the first column insert “The Electrical Equipment (Safety) Regulations 2016”;
- (b) in the second column insert the S.I. number of these Regulations.

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

6.—(1) The Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(d) is amended as follows.

(2) In Part 3, under the heading “Public health and safety”, omit “Electrical Equipment (Safety) Regulations 1994” and in the appropriate place insert “Electrical Equipment (Safety) Regulations 2016”;

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

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

(a) S.I. 1998/2306, to which there are amendments not relevant to these Regulations.

(b) S.R. 1999/305, to which there are amendments not relevant to these Regulations.

(c) S.I. 2006/2183, to which there are amendments not relevant to these Regulations.

(d) S.I. 2007/3544, to which there are amendments not relevant to these Regulations.

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

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

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

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

Amendment of the Building Regulations 2010

8. In paragraph 4 of Schedule 4 to the Building Regulations 2010(b) for “regulation 9 of the Electrical Equipment (Safety) Regulations 1994” substitute “regulation 39 of the Electrical Equipment (Safety) Regulations 2016”.

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

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

Amendment of the Energy Act 2013 (Office for Nuclear Regulation) Consequential Amendments, Transitional Provisions and Savings) Order 2014

10. In the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014(d), omit paragraphs 56 to 58 of Schedule 3.

Amendment of the Consumer Rights Act 2015

11. In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015(e), at the appropriate place insert—

“regulation 41(1) or (2) of the Electrical Equipment (Safety) Regulations 2016 (SI 2016/xxxx);”.

SCHEDULE 8

Regulation 38

EU Declaration of Conformity

EU declaration of conformity (No xxxx)(f)

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.

(a) S.I. 2009/669.

(b) S.I. 2010/2214.

(c) S.I. 2012/2601.

(d) S.I. 2014/469.

(e) 2015 c.15.

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

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):

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (recast) (OJ No L 96, 29.3.2014, p.357) (“the Directive”).

The Directive repeals and replaces Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 relating to electrical equipment designed for use within certain voltage limits (OJ No L 374, 27.12.2006, p.10) which was implemented in the United Kingdom by the Electrical Equipment (Safety) Regulations 1994 (S.I. 1994/3260). These Regulations revoke and replace those Regulations.

Regulation 3 sets out the application of the Regulations to certain electrical equipment designed for use within certain voltage limits and also sets out exceptions to the application of the Regulations for electrical equipment for use in an explosive atmosphere, for radiology and medical purposes, for lifts, electricity meters, plugs and socket outlets for domestic use and certain other equipment.

Part 2 sets out the obligations of economic operators. The general requirement in the Directive that electrical equipment made available on the market must be safe is fully covered by the requirements on economic operators to ensure that the equipment is in conformity with the principal elements of the safety objectives.

Regulations 4 to 13 set out the obligations that are specific to manufacturers. Electrical equipment must undergo a conformity assessment to demonstrate compliance with the essential requirements of the Regulations. Manufacturers must ensure that electrical equipment has been designed and manufactured in accordance with the principal elements of the safety objectives set out in Schedule 1, having a conformity assessment procedure carried out before the equipment is placed on the market, affixing the CE marking and labelling the equipment. Regulation 14 refers to authorised representatives who may be appointed by manufacturers to perform certain tasks on their behalf.

Regulations 15 to 24 set out the obligations that are specific to importers. These obligations include ensuring that they are not placing on the market electrical equipment which is not in conformity with the principal elements of the safety objectives, checking that the manufacturer has carried out a conformity assessment procedure and labelled the electrical equipment correctly and indicating on the electrical equipment the name and address of the importer.

Regulations 25 to 31 set out the obligations that are specific to distributors. These obligations include acting with due care to ensure that electrical equipment is in conformity with Part 2 and checking that the equipment bears the CE marking and is labelled correctly. They also include an obligation to ensure that, while it is the distributor’s responsibility, the storage and transport of the equipment does not jeopardise its conformity with the essential safety requirements.

Regulations 32 to 35 set out obligations that all economic operators have. These obligations include making sure, before making electrical equipment available on the United Kingdom market, that the EU declaration of conformity is in English. They also include an obligation to identify other economic operators in the supply chain, and a prohibition on the improper use of the CE marking. Regulation 35 sets out a requirement for a safe connection where electrical equipment is intended for use in the United Kingdom.

Part 3 sets out provisions concerning conformity with harmonised and other standards, declarations of conformity and CE marking for low voltage electrical equipment.

Part 4 sets out provisions for market surveillance and enforcement. Regulation 40 identifies the market surveillance authorities which have an obligation to enforce the Regulations. Regulation 42 and Schedules 3 to 5 provide for the enforcement powers which the enforcing authorities are to

have. Regulation 50 provides for the contravention of provisions of these Regulations to be an offence. Regulation 51 sets out the penalties that are to apply for offences under these Regulations.

Part 5 covers transitional provisions and consequential amendments. The 1994 Regulations will continue to apply to electrical equipment placed on the market before the commencement date. Regulation 64 introduces Schedule 7 which makes consequential amendments.

A transposition note and full impact assessment of the impact that these Regulations will have on the costs of business, the voluntary sector and the public sector are available from the Single Market Product Safety Team, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and are also published with the Explanatory Memorandum alongside these Regulations on www.legislation.gov.uk.

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