



STATUTORY INSTRUMENTS.

S.I. No. 109 of 2007



EUROPEAN COMMUNITIES (ELECTROMAGNETIC
COMPATIBILITY) REGULATIONS 2007

(Prn. A7/0390)

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COMPATIBILITY) REGULATIONS 2007

I, MICHEÁL MARTIN, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004¹, hereby make the following Regulations:

Citation and coming into effect

1. (1) These Regulations may be cited as the European Communities (Electromagnetic Compatibility) Regulations 2007, and, subject to paragraph (2), come into operation on 20 July 2007.

(2) Regulation 14 comes into operation on the date these Regulations are made.

Interpretation

2. (1) In these Regulations—

“apparatus” means any—

(a) finished appliance, or

(b) combination of finished appliances made commercially available as a single functional unit,

that is intended for the end user and is liable—

(i) to generate electromagnetic disturbance, or

(ii) to be affected in its performance by electromagnetic disturbance;

“authorised officer” means an officer appointed under Regulation 18;

“CE marking” means a mark consisting of the symbol “CE” in the form shown in Annex V of the Directive affixed visibly, legibly and indelibly;

“Commission” means the Commission of the European Communities;

“Directive” means Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004;

“electromagnetic compatibility” means the ability of equipment to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to other equipment in that environment;

¹O.J. No. L390, 31.12.04, p. 24

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 16th March, 2007.*

“electromagnetic disturbance” means any electromagnetic phenomenon which may degrade the performance of equipment, and includes but is not limited to electromagnetic noise, an unwanted signal or a change in the propagation medium itself;

“electromagnetic environment” means all electromagnetic phenomena observable in a given location;

“equipment” means any apparatus or fixed installation;

“fixed installation” means a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, installed and intended to be used permanently at a predefined location;

“harmonised standard” means a technical specification adopted by a recognised European standardisation body under a mandate from the Commission in conformity with the procedures set out in Directive 98/34/EC for the purpose of establishing a European requirement;

“immunity” means the ability of equipment to perform as intended without degradation in the presence of an electromagnetic disturbance;

“Member State” means a Member State of the European Community;

“mobile installation” means—

- (a) a combination of apparatus, and,
- (b) where applicable, one or more other devices,

intended to be moved and operated in a range of locations;

“Regulator” means the Commission for Communications Regulation.

(2) For the purposes of these Regulations each of the following is deemed to be an apparatus:

- (a) if intended for incorporation into an apparatus by the end user, any component that is, or sub assembly that is, liable—
 - (i) to generate electromagnetic disturbance, or
 - (ii) to be affected in its performance by electromagnetic disturbance;
- (b) any mobile installation.

(3) A word or expression that is used in these Regulations and is also used in the Directive, unless the contrary intention appears, has the same meaning in these Regulations as it has in the Directive.

Free movement of equipment

3. (1) A person may display or demonstrate equipment which does not comply with these Regulations at trade fairs, exhibitions or similar events if a visible sign clearly indicates that the equipment may not be placed on the market or put into service until it has been brought into conformity with these Regulations.

(2) A person shall not demonstrate equipment which does not comply with these Regulations unless adequate measures are taken to avoid electromagnetic disturbances during the demonstration.

Application

4. (1) These Regulations apply to equipment as defined in Regulation 2.

(2) These Regulations do not apply to—

(a) equipment to which Directive 1999/5/EC applies,

(b) aeronautical products, parts and appliances as referred to in Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, or

(c) radio equipment used by radio amateurs within the meaning of the Radio Regulations adopted in the framework of the Constitution and Convention of the International Telecommunication Union, unless the equipment is commercially available.

(3) For the purposes of paragraph (2)(c), the following are not considered to be equipment that is commercially available:

(a) kits of components to be assembled by radio amateurs;

(b) commercial equipment modified by and for the use of radio amateurs.

(4) These Regulations do not apply to equipment the inherent nature of the physical characteristics of which is such that—

(a) it is incapable of generating or contributing to electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended, and

(b) it will operate without unacceptable degradation in the presence of the electromagnetic disturbance normally consequent upon its intended use.

(5) If, for the equipment referred to in paragraph (1), the essential requirements referred to in Annex I of the Directive are wholly or partly provided for more specifically by other Community directives, these Regulations—

- (a) cease to apply on the date of implementation of those directives, and
- (b) do not apply on and after that date,

to that equipment in respect of those essential requirements.

(6) These Regulations do not affect the application of Community or national legislation regulating the safety of equipment.

Conditions for placing equipment on the market

5. (1) A person shall not place equipment on the market or put it into service unless it is in compliance with these Regulations when properly installed, maintained and used for its intended purpose.

(2) A person who places equipment on the market or puts it into service shall ensure that the equipment when placed on the market or put into service meets the essential requirements set out in Annex I of the Directive.

(3) The owner and the operator of a fixed installation which is put into service shall ensure that it meets the essential requirements set out in Annex I of the Directive.

Conformity assessment procedure for apparatus and control of CE marking

6. (1) The manufacturer of an apparatus shall ensure that compliance of the apparatus with the essential requirements referred to in Annex I of the Directive is demonstrated by means of the procedure described in Annex II (internal production control) of the Directive.

(2) However, at the discretion of the manufacturer of the apparatus or the manufacturer's authorised representative in the Community, compliance of the apparatus with the essential requirements referred to in Annex I of the Directive may be demonstrated by means of the procedure described in Annex III of the Directive.

(3) The manufacturer of an apparatus referred to in paragraph (1) or (2) who places it on the market shall ensure that, at the time of that placement, the CE marking is affixed to the apparatus in accordance with Annex V of the Directive.

(4) If the manufacturer's authorised representative in the Community places an apparatus referred to in paragraph (1) or (2) on the market, the manufacturer's authorised representative shall ensure that, at the time of that placement, the CE marking is affixed to the apparatus in accordance with Annex V of the Directive.

(5) Without prejudice to Regulation 15, if the Regulator establishes that the CE marking has been unduly affixed, the manufacturer or the manufacturer's authorised representative in the Community, whichever of them placed the apparatus on the market, shall bring the apparatus into conformity with the provisions of these Regulations concerning the CE marking under conditions that the Regulator may impose for the purposes of this paragraph.

(6) A manufacturer of an apparatus or the manufacturer's authorised representative in the Community, whichever of them placed the apparatus on the market, shall comply with the conditions imposed by the Regulator under paragraph (5).

(7) If neither a manufacturer nor its authorised representative is established within Ireland, the person who places the apparatus on the market shall ensure that the apparatus complies with paragraphs (1), (3), (4), (5) and (6) and with Regulations 9 and 10(3).

(8) If a manufacturer is not established within Ireland, the manufacturer's representative or other person who places the apparatus on the market shall ensure that the apparatus complies with paragraph (1) and with Regulation 10(3).

Harmonised standards

7. (1) The compliance of equipment with relevant harmonized standards whose references have been published in the Official Journal of the European Union shall raise a presumption of conformity with the essential requirements referred to in Annex I of the Directive to which such standards relate.

(2) That presumption is limited to the scope of—

(a) the harmonised standards applied, and

(b) the relevant essential requirements covered by such harmonised standards.

Marks additional to CE marking on apparatus, etc.

8. (1) A person shall not affix a mark to an apparatus, its data plate, its packaging, its instructions for use or its accompanying documents, if the mark is likely to mislead third parties in relation to the meaning or graphic form of the CE marking.

(2) Any mark additional to the CE marking may be affixed to an apparatus, its data plate, its packaging, its instructions for use or its accompanying documents, if neither the visibility nor the legibility of the CE marking is thereby impaired.

Manufacture of products

9. A manufacturer of apparatus shall take all necessary measures to ensure that all apparatus that—

(a) is manufactured by the manufacturer, and

(b) is placed on the market,

is manufactured in accordance with relevant technical documentation prepared in accordance with Annex IV of the Directive and with the applicable provisions of these Regulations.

Information

10. (1) A person shall not place apparatus on the market unless the apparatus is identified in terms of one or more of type, batch, serial number and other information allowing for the identification of the apparatus.

(2) A person shall not place apparatus on the market unless the apparatus is accompanied by the name and address—

(a) of the manufacturer or, if the manufacturer is not established within the Community, of the manufacturer's authorised representative in the Community, or

(b) of the person in the Community responsible for placing the apparatus on the Community market.

(3) The manufacturer of apparatus shall not place apparatus on the market unless the apparatus is accompanied by information on any specific precautions that must be taken when the apparatus is assembled, installed, maintained or used, in order to ensure that, when put into service, the apparatus is in conformity with the protection requirements set out in Annex I, point 1 of the Directive.

(4) A person shall not place on the market an apparatus for which compliance with the limits of the protection requirements in relation to residential areas is not ensured unless a clear notice that use of the apparatus in residential areas is restricted—

(a) accompanies the apparatus or is marked on it, and

(b) is marked on its packaging, if any.

(5) A person shall not place an apparatus on the market unless the apparatus is accompanied by instructions enabling the apparatus to be used in accordance with the intended purpose of the apparatus.

Fixed installations

11. (1) Apparatus which has been placed on the market and which may be incorporated into a fixed installation is subject to all relevant provisions for apparatus set out in these Regulations.

(2) Notwithstanding paragraph (1), compliance with Regulations 5(2), 6, 8, 9 and 10 is not compulsory in the case of apparatus which is intended for incorporation into a given fixed installation and is otherwise not commercially available.

(3) A person shall not provide an apparatus referred to in paragraph (2) unless the apparatus is accompanied by documentation that—

(a) identifies the fixed installation and its electromagnetic compatibility characteristics,

- (b) indicates the precautions to be taken for the incorporation of the apparatus into the fixed installation in order not to compromise the conformity of that installation, and
 - (c) includes the information referred to in Regulation 10(1) and (2).
- (4) A person who installs a fixed installation—
- (a) shall install it—
 - (i) in accordance with good engineering practices, and
 - (ii) using the information provided as to the intended use of the components of the fixed installation, and
 - (b) shall do so with a view to meeting the protection requirements of Annex I of the Directive.
- (5) Where there are indications that a fixed installation is not in compliance with these Regulations, including but not limited to complaints about disturbances being generated by the installation, the Regulator may—
- (a) request the apparent owner or operator of the fixed installation to supply information, evidence, or both, as to the particulars of whether the fixed installation is in compliance with these Regulations, and
 - (b) when appropriate, initiate an assessment to examine the extent of that compliance.
- (6) A person from whom the Regulator, under paragraph (5)(a), requests information, evidence or both shall provide the Regulator, as soon as practicable, with the requested information, evidence or both.

Directions

12. (1) Where, as a result of an assessment referred to in Regulation 11(5)(b), the Regulator establishes that a fixed installation is not in compliance with these Regulations, the Regulator—
- (a) may direct the owner or operator of the fixed installation to bring the fixed installation into compliance with the protection requirements set out in Annex I, point 1 of the Directive, and
 - (b) in making the direction, may impose conditions to be met by the owner or operator of the fixed installation.
- (2) Except in circumstances warranting immediate action, before issuing a direction under paragraph (1), the Regulator shall consult with the recipient of the proposed direction.
- (3) In circumstances warranting immediate action, as soon as may be after issuing a direction under paragraph (1), the Regulator shall consult with the recipient of the direction.

- (4) A direction under paragraph (1) shall—
- (a) be in writing;
 - (b) state the reasons for the direction;
 - (c) be served without delay; and
 - (d) inform the recipient of the direction of the remedies available to the recipient and the time limits to which the remedies are subject.
- (5) Where the Regulator is of the opinion that it is appropriate to so do, the Regulator may suspend or withdraw a direction issued under paragraph (1).
- (6) A person to whom a direction is issued under paragraph (1) shall comply with that direction.

Obligation to create and make documentation available to Regulator

13. (1) A person that installs a fixed installation shall record the good engineering practices applied in the installation of the fixed installation and provide a copy of that record to the owner of the fixed installation.

(2) While the fixed installation is in operation, its owner, if requested to do so by the Regulator, shall provide the record of good engineering practices to the Regulator for inspection.

- (3) A manufacturer of an apparatus who—
- (a) by means of the procedure described in Annex II or III of the Directive, and
 - (b) in accordance with Annex IV of the Directive,

intends to demonstrate compliance of an apparatus with the essential requirements referred to in Annex I of the Directive shall prepare technical documentation providing evidence of the conformity of the apparatus with the essential requirements of the Directive.

(4) During the 10 years immediately after the date on which the apparatus referred to in paragraph (3) was last manufactured, if requested to do so by the Regulator, its manufacturer, or the manufacturer's authorised representative in the Community, shall provide the Regulator with the technical documentation referred to in that paragraph.

(5) If compliance of an apparatus with the essential requirements referred to in Annex I of the Directive is demonstrated by means of the procedure described in Annex II or III of the Directive, the manufacturer of the apparatus or the manufacturer's authorised representative in the Community, whichever of them placed the apparatus on the market, shall attest to the compliance of the apparatus with all relevant essential requirements by issuing an EC declaration of conformity prepared in accordance with Annex IV of the Directive.

(6) During the 10 years immediately after the date on which the apparatus referred to in paragraph (5) was last manufactured, if requested to do so by the Regulator, its manufacturer, or the manufacturer's authorised representative in the Community, shall provide the Regulator with an EC declaration of conformity prepared in accordance with Annex IV of the Directive.

(7) If neither the manufacturer nor its authorised representative is established within the State, the person who places the apparatus on the market in the State shall comply with the obligations under this Regulation to provide documentation to the Regulator.

Regulator may designate persons to carry out Annex III functions under the Directive

14. (1) The Regulator—

(a) may designate one or more persons to each perform the function of carrying out the tasks referred to in Annex III of the Directive, and

(b) shall notify the Commission of the persons designated under subparagraph (a), stating in the notification—

(i) whether the persons are appointed to carry out—

(I) the tasks referred to in Annex III of the Directive for all apparatus covered by the Directive,

(II) the essential requirements referred to in Annex I of the Directive, or

(III) both of subclause (I) and (II), or

(ii) whether the scope of designation is limited to certain specific aspects of apparatus, categories of apparatus or both.

(2) When determining the persons to be designated under paragraph (1), the Regulator shall apply the criteria set out in Annex VI of the Directive.

(3) The Regulator shall not designate a person under paragraph (1) unless that person complies with the criteria specified in Annex VI of the Directive.

(4) Any person that complies with the assessment criteria fixed by the relevant harmonised standards shall be presumed to comply with the specified criteria in Annex VI of the Directive to which the standards relate.

(5) The Regulator may withdraw the designation of any person designated under paragraph (1).

(6) If the Regulator finds that a person designated under paragraph (1) no longer meets the criteria listed in Annex VI of the Directive, the Regulator shall inform the Commission and the other Member States accordingly.

(7) The Regulator—

- (a) shall verify at intervals the fulfilment of the conditions set out in point 1 of Annex VI of the Directive, and
- (b) may request a person designated under paragraph (1) to provide information, evidence or both for the purpose of a verification under subparagraph (a).

(8) A designated person shall comply with any request for information, evidence or both made by the Regulator for the purposes of paragraph (7).

(9) Where any non-compliant apparatus has been subject to the conformity assessment procedure referred to in Annex III of the Directive, the Regulator shall—

- (a) take appropriate action in respect of the author of the statement referred to in Annex III, of the Directive, and
- (b) inform the Commission and the other Member States accordingly.

Directions

15. (1) Where the Regulator is of the opinion that equipment has been placed on the market, put into service or both otherwise than in accordance with these Regulations, the Regulator may direct a person to comply with its obligations under these Regulations.

(2) Without prejudice to the generality of paragraph (1), where the Regulator ascertains that equipment has been placed on the market or put into service otherwise than in accordance with these Regulations, the Regulator may direct the relevant person to do all or any of the following:

- (a) withdraw the equipment from the market;
- (b) refrain from placing the equipment on the market;
- (c) refrain from putting the equipment into service;
- (d) restrict the free movement of the equipment.

(3) Except in circumstances warranting immediate action, before issuing a direction under paragraph (1) or (2), the Regulator shall give the recipient of the proposed direction an opportunity to be heard.

(4) In circumstances warranting immediate action, as soon as may be after issuing a direction under paragraph (1) or (2), the Regulator shall give the recipient of the direction an opportunity to be heard.

(5) A direction under paragraph (1) or (2) shall—

- (a) be in writing;
- (b) state the reasons for the direction;

- (c) be served without delay; and
 - (d) inform the recipient of the direction of the remedies available to the recipient and the time limits to which the remedies are subject.
- (6) Where the Regulator is of the opinion that it is appropriate to so do, the Regulator may suspend or withdraw a direction issued under paragraph (1) or (2).
- (7) A person to whom a direction is issued under paragraph (1) or (2) shall comply with that direction.
- (8) Where a person does not comply with a direction issued under paragraph (1) or (2), the Regulator may apply to a court of competent jurisdiction for an order requiring that person to comply with the terms of the direction.
- (9) If the Regulator issues a direction under paragraph (2) in respect of apparatus bearing the 'CE' marking, the Regulator shall immediately notify the Commission and the other Member States of the direction, indicating the reasons for the issuing of the direction and whether non-compliance with the Regulations is due to one or more of the following:
- (a) failure to satisfy the essential requirements referred to in Annex I of the Directive, where the apparatus does not comply with the harmonised standards referred to in Regulation 7;
 - (b) incorrect application of the harmonised standards referred to in Regulation 7;
 - (c) shortcomings in the harmonised standards referred to in Regulation 7.
- (10) If the Regulator is of the opinion that it is appropriate to so do, the Regulator may publish a notice in a national daily newspaper notifying the public of the issue, suspension or withdrawal of a direction under this Regulation.

Service of directions

16. (1) Subject to paragraphs (2) and (3), a direction under these Regulations shall be addressed to the person concerned by name and may be given to the person in one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it by post in a prepaid registered letter to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address;

- (d) by sending it, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for service has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the direction;
- (e) by sending it, by means of an electronic message, to a device or facility for the reception of electronic messages located at the address at which the person ordinarily resides or carries on business or, if an address for service has been furnished by the person, that address, provided that the sender's electronic device generates a message confirming successful transmission of the direction.

(2) Where a direction under these Regulations is to be given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, the direction may be addressed to the person by using the words "the owner" or, as the case may require, "the occupier".

(3) Where a notice is to be given to the Regulator, the notice shall be sent by post in a prepaid registered letter bearing the words "Commission for Communications Regulation", and addressed to—

- (a) Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1, or
- (b) another address as may be specified for the purpose by the Regulator in a notice placed by the Regulator in a newspaper circulating in the State.

(4) For the purposes of this Regulation—

- (a) a company within the meaning of the Companies Acts, 1963 to 2003, is deemed to be carrying on business at its registered office, and
- (b) every other body corporate and every unincorporated body is deemed to be carrying on business at its principal office or place of business.

Applications to High Court

17. (1) If the Regulator is of the opinion that—

- (a) equipment—
 - (i) has been placed on the market, or
 - (ii) put into service

otherwise than in accordance with these Regulations, and

- (b) the equipment represents an immediate and serious threat to public safety, public security or public health,

the Regulator may apply to the High Court for such order as may be just and equitable in the circumstance to ensure compliance with these Regulations.

(2) An application for an order under this Regulation shall be by motion and the High Court when considering the matter may make such interim or interlocutory order as it considers just and equitable in the circumstances.

Powers of Regulator and authorised officers

18. (1) The Regulator may appoint such and so many of the Regulator's officers or other persons whom the Regulator considers to be suitably qualified to be authorised officers for the purpose of these Regulations.

(2) An authorised officer shall be furnished with a certificate of his or her appointment as an authorised officer and, when exercising a power under these Regulations, shall produce the certificate for inspection, at the request of any person affected.

(3) An authorised officer may do one or more of the following:

- (a) enter at all reasonable times any premises, place, vehicle, vessel, or aircraft at or in which the officer has reasonable grounds for suspecting that there is equipment present or that records relating to equipment are kept;
- (b) search and inspect the premises, place, vehicle, vessel or aircraft and any equipment, books, documents or records found there;
- (c) carry out or have carried out such tests and measurements of equipment as the officer considers appropriate;
- (d) require any person in or at the premises, place, vehicle, vessel or aircraft, the owner, occupier or person in charge of the premises, place, vehicle, vessel or aircraft or any person employed in connection with any activity carried on in or at the premises, place, vehicle, vessel or aircraft—
 - (i) to produce to the officer books, records or other documents relating to equipment which are within the person's power of procurement and, in the case of information that is illegible, to reproduce it in a legible form, and
 - (ii) to provide the officer with such information as the authorised officer may reasonably require for the purposes of the Regulator's functions under these Regulations;
- (e) in or at the premises, place, vehicle, vessel or aircraft, seize any equipment or part thereof or any books, records or other documents relating to equipment that the officer may reasonably require for the purposes of the Regulator's functions under these Regulations;

- (f) secure for later inspection all or any part of the premises, place, vehicle, vessel or aircraft or any books, documents or records relating to equipment found there;
- (g) remove and retain books, documents or records relating to equipment for further inspection for such period as may be reasonable;
- (h) take extracts from or make copies of books, documents or records relating to equipment;
- (i) require any person referred to in paragraph (d) to maintain books, documents or records relating to equipment for such period of time as may be reasonable;
- (j) require any person in or at the premises, place, vehicle, vessel or aircraft who has charge of, or is otherwise concerned with the operation of equipment or any associated article, substance or material to afford the officer all reasonable assistance in relation to the equipment;
- (k) take photographs or make any record or visual recording of any activity on, in or at the premises, place, vehicle, vessel or aircraft;
- (l) as regards any equipment, article, substance or material used in the manufacture thereof the authorised officer finds at or in the premises, place, vehicle, vessel or aircraft, require any person in charge or any person who appears to the officer to be in possession of the equipment, article, substance or material, to supply without payment, for test, examination or analysis samples thereof.

(4) Where an authorised officer in exercise of his or her powers under this Regulation is prevented from entering any premises, place, vehicle, vessel or aircraft, the Regulator may apply to a judge of the District Court under Regulation 19 for a warrant authorising such entry.

(5) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless the Regulator has obtained a warrant under Regulation 19 authorising such entry.

(6) A person shall not—

- (a) obstruct, impede or assault an authorised officer in the exercise of a power under this Regulation,
- (b) alter any equipment which is the subject matter of an inspection under this Regulation by an authorised officer,
- (c) alter, suppress or destroy any books, documents or records relating to equipment which, under this Regulation, the person concerned—
 - (i) has been required to produce, or

- (ii) may reasonably expect to be required to produce,
- (d) produce or cause to be produced to an authorised officer any book, record or other document, relating to equipment, which is false or misleading in any material respect,
- (e) give to an authorised officer any information which is false or misleading in any material respect, or
- (f) falsely represent himself or herself to be an authorised officer.

(7) An authorised officer appointed under the European Communities (Electromagnetic Compatibility) Regulations, 1998 and holding office immediately before this Regulation comes into operation continues in office as if appointed under this Regulation.

(8) The Regulator shall have all such powers as are necessary for or incidental to the performance of its functions under these Regulations.

Search warrant

19. (1) The Regulator may apply to a judge of the District Court for a warrant authorising the matters set out in paragraph (3).

(2) If the judge of the District Court is satisfied, by information on oath of an authorised officer, that there are reasonable grounds for believing that there is present at or in any specified premises, place, vehicle, vessel or aircraft—

- (a) any equipment or record relating to equipment which—
 - (i) the officer requires to inspect for the purposes of these Regulations, or
 - (ii) does not comply with these Regulations, or
- (b) evidence of or related to a suspected offence under these Regulations,

that judge may issue a warrant to an authorised officer.

(3) A warrant issued under this Regulation shall authorize and be expressed to authorise the authorised officer to whom it is issued—

- (a) at any time or times within one month after the date of issue of the warrant, to enter the premises, place, vehicle, vessel or aircraft specified in the warrant, if need be by reasonable force, and
- (b) there to exercise all or any of the powers conferred on an authorised officer under Regulation 18.

(4) A warrant issued under this Regulation shall authorise any Garda Síochána or authorised officer specified in the warrant—

- (a) at any time or times within one month after the date of issue of the warrant, to enter the premises, place, vehicle, vessel or aircraft specified in the warrant in accordance with paragraph (3)(a), and
- (b) there to exercise all or any of the powers conferred on an authorised officer under Regulation 18, on behalf of the authorised officer to whom the warrant is issued.

Provisions in relation to Regulations 18 and 19

20. (1) The Regulator may test any equipment that under Regulation 18 or 19 is obtained as a sample or is seized or retained.

(2) The Regulator may retain any equipment which under Regulation 18 or 19 is obtained as a sample, seized or retained or which the Regulator believes is evidence of or related to an offence under these Regulations—

- (a) for a reasonable period after the date on which the equipment is obtained as a sample, seized or retained, or
- (b) if proceedings are commenced under these Regulations, until the conclusion of those proceedings.

(3) As soon as practicable after—

- (a) the expiration of the period referred to in paragraph (2)(a), or
- (b) the conclusion of the proceedings referred to in paragraph (2)(b),

any equipment obtained as a sample, seized or retained shall be delivered to the owner of the equipment.

(4) The Regulator shall deliver to the owner any equipment which, under Regulation 18 or 19, is obtained as a sample, seized or retained if the Regulator does not believe that the equipment is evidence of, or related to, an offence under these Regulations, as soon as practicable after the Regulator forms that belief.

(5) Where the Regulator—

- (a) is unable to ascertain the identity of the owner of the equipment referred to in paragraph (3) or (4), and
- (b) records that opinion in writing,

then, on and after that opinion being so recorded, the Police (Property) Act, 1897, applies to the equipment in the same manner as that Act applies to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act.

Offences and penalties

21. (1) A person is guilty of an offence who—

- (a) contravenes Regulation 3(2), 5(1) or (2), 8(1), 10(1), (2), (3), (4) or (5), 11 (3) or 18(6),
- (b) fails to discharge a duty to which the person is subject under Regulation 5(3), 6(1), (3), (4), (6), (7) or (8), 9, 11(4) or (6), 12(6), 13(1), (2), (3), (4), (5), (6) or (7), 14(8) or 15(7).
- (c) issues a false or misleading EC declaration of conformity or presents false or misleading technical documentation to a person designated by the Regulator under Regulation 14(1), or
- (d) provides the Regulator with any information which is false or misleading in any material respect.

(2) Proceedings for an offence under these Regulations may be brought and prosecuted by the Regulator.

(3) Where an offence under these Regulations has been committed by a body corporate, and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person who at the time of the offence—

- (a) was a director, manager, secretary or other officer of the body corporate, or
- (b) purported to act in any such capacity,

that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if that person were guilty of the first-mentioned offence.

(4) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted at any time within one year after the date on which the offence was committed.

(6) An offence under these Regulations is an offence to which section 44 of the Communications Regulation Act, 2002 applies.

Transitional provision

22. Nothing in these Regulations impedes placing equipment on the market, putting equipment into service, or both, if the equipment—

- (a) is in compliance with Directive 89/336/EEC, and
- (b) is or was placed on the market before 20 July 2009.

Revocation

23. The European Communities (Electromagnetic Compatibility) Regulations, 1998 are hereby revoked on 20 July 2007.



GIVEN under my Official Seal,
8 March 2007

MICHEÁL MARTIN
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to give legal effect to Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC.

The Regulations seek to ensure that electromagnetic disturbances produced by electrical equipment do not effect the functioning of other such equipment and that such equipment has an appropriate level of immunity to electromagnetic disturbances thereby creating an acceptable electromagnetic environment.

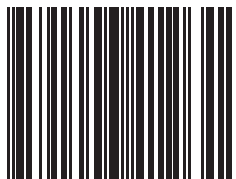
The Regulations, with the exception of Regulation 14 which takes effect on the making of the Regulations, come into operation on 20 July 2007.

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