

The Electrical Equipment (Safety) Regulations 1994

Whereas the Secretary of State has, in accordance with section 11(5) of the Consumer Protection Act 1987^[1], consulted such organisations as appear to him to be representative of interests substantially affected by these Regulations, such other persons as he considers appropriate and the Health and Safety Commission: And whereas the Secretary of State is a Minister designated^[2] for the purposes of section 2 of the European Communities Act 1972^[3] in relation to measures for safety and consumer protection as respects electrical equipment and any provisions concerning the composition, labelling, marketing, classification or description of electrical equipment.

Now, therefore, the Secretary of State in exercise of powers conferred on him by section 11 of the said Act of 1987 and by section 2 of the said Act of 1972 and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electrical Equipment (Safety) Regulations 1994 and shall come into force on 9th January 1995.

Revocation, defence and consequential amendment

2.—(1) The Low Voltage Electrical Equipment (Safety) Regulations 1989^[4] are hereby revoked provided that the said Regulations of 1989 shall continue to apply to electrical equipment to which these Regulations do not apply by virtue of paragraph (4) of regulation 4 below.

(2) In Schedule 1 to the Provision and Use of Work Equipment Regulations 1992^[5] for paragraph 1 there shall be substituted—

1. "Council Directive 73/23/EEC on the harmonization of the laws of Member States relating to electrical equipment designed for use within certain voltage limits (OJ No. L77, 26.3.1973, p.29) as amended by Article 13 of Council Directive 93/68/EEC (OJ No. L220, 30.8.1993, p.1.)."

(3) In any proceedings against a person for an offence under any of the relevant statutory provisions (as defined in section 53(1) of the Health and Safety at Work etc Act 1974^[6] or article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978^[7] which impose requirements with respect to any matter it shall be a defence for that person to show that the requirements of these Regulations were satisfied in relation to that matter.

(4) Where an improvement notice or a prohibition notice has been served on any person pursuant to section 21 or, as the case may be, section 22 of the Health and

Safety at Work etc Act 1974 (or pursuant to article 23 or, as the case may be, article 24 of the Health and Safety at Work (Northern Ireland) Order 1978), if the person upon whom the notice was served appeals to an industrial tribunal pursuant to section 24 of the said Act (or article 26 of the said Order) and shows that the notice relates to any matter in respect of which the requirements of these Regulations are satisfied, the tribunal shall cancel the notice.

Interpretation

3.—(1) In these Regulations—

"the 1987 Act" means the Consumer Protection Act 1987^[8];

"authorised representative" means a representative established within the Community appointed by a manufacturer of electrical equipment to act on his behalf in relation to these Regulations;

"the CE marking Directive" means Council Directive No 93/68/EEC^[9];

"CE marking" means the CE conformity marking referred to in regulation 9 consisting of the initials "CE" taking the form of the specimen given in Schedule 1;

"the Community" means the European Economic Community and other States in the European Economic Area;

"electrical equipment" means, unless the context otherwise requires, any electrical equipment to which these Regulations apply by virtue of regulation 4 below;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993^[10];

"end user" means the consumer which expression shall include an industrial and commercial consumer;

"harmonised standard" means a standard harmonised in accordance with Article 5 of the low voltage Directive;

"international safety provision" means a safety provision of a standard which has been published by the International Commission on the Rules for the Approval of Electrical Equipment or the International Electrotechnical Commission and which has been published in the Official Journal of the Communities pursuant to Article 6 of the low voltage Directive;

"the low voltage Directive" means Council Directive No.73/23/EEC^[11] on the harmonisation of the laws of member States relating to electrical equipment designed for use within certain voltage limits as amended by the CE marking Directive;

"member State" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the state of Liechtenstein;

"national safety provision" means a safety provision which has the force of law in a member State of the Community or which is contained in a standard published and not withdrawn by a national standards body, not being a safety

provision which is to the same effect as a safety provision of a harmonised standard or as an international safety provision;
"national standards body" means a body which has been notified under Article 11 of the low voltage Directive for the purposes of Article 5 of that Directive;
"safe" has the same meaning as in section 19(1) of the 1987 Act, except that, for the purpose of these Regulations, the references in that subsection to "risk" shall be construed as including references to any risk of—

- (a) death or injury to domestic animals; and
- (b) damage to property;

and as excluding any risk arising from the improper installation or maintenance of the electrical equipment in question or from the use of the equipment in applications for which it is not made;

"safety provision" means a provision made for the purpose of ensuring that the equipment in question is safe;

"supply" (except in reference to the electricity supply) includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and cognate expressions shall be construed accordingly.

(2) For the purposes of regulation 7(2) below a national safety provision is applicable to equipment in a particular member State if—

- (a) the provision has the force of law in that member State or the national standards body publishing it has its principal office there, and
- (b) the equipment was not manufactured in any other member State.

(3) Any reference in these Regulations to an electric shock is a reference to an electric shock of such severity as to be liable to cause death or personal injury.

Application

4.—(1) Subject to paragraphs (2) and (3) below, these Regulations apply to any electrical equipment (including any electrical apparatus or device) designed or adapted for use with voltage (in the case of alternating current) of not less than 50 volts nor more than 1,000 volts or (in the case of direct current) of not less than 75 volts nor more than 1,500 volts.

(2) These Regulations do not apply to the electrical equipment set out in Schedule 2 to these Regulations.

(3) These Regulations do not apply to any electrical equipment supplied for export to a place which is not within any member State.

(4) These Regulations do not apply to any electrical equipment which is placed on the

market before 1st January 1997 and which complies with the provisions of the Low Voltage Electrical Equipment (Safety) Regulations 1989.

Requirement for electrical equipment to be safe etc.

5.—(1) Electrical equipment shall be—

- (a) safe;
- (b) constructed in accordance with principles generally accepted within the member States as constituting good engineering practice in relation to safety matters and in particular shall be designed and constructed to ensure that it is safe when connected to the electricity supply system by providing a level of protection against electric shock which relies on a combination of insulation and the protective earthing conductor contained within the electricity supply system or which achieves that level of protection by other means; and
- (c) in conformity with the principal elements of the safety objectives for electrical equipment set out in Schedule 3 to these Regulations.

(2) In determining whether electrical equipment satisfies the requirements of paragraph (1) above, no regard shall be had to any liability of the equipment to cause radio-electrical interference.

(3) In determining whether electrical equipment which—

- (a) has previously been supplied to any end user; or
- (b) is supplied solely by virtue of its being hired out whether in connection with the supply of other goods and services or otherwise provided that it satisfies the requirements of sub-paragraph (a) above

satisfies the requirements of paragraph 1 above, no regard shall be had to General Condition 1(b) of Schedule 3.

Harmonised standards

6. Electrical equipment which satisfies the safety provisions of harmonised standards shall be taken to comply with the requirements of regulation 5(1) above unless there are reasonable grounds for suspecting that the electrical equipment does not so comply.

Conformity with other standards and requirements

7.—(1) Where there are no relevant harmonised standards, electrical equipment which satisfies international safety provisions shall be taken to comply with the requirements of regulation 5(1) above unless there are reasonable grounds for suspecting that the electrical equipment does not so comply.

(2) Where there are no relevant harmonised standards and no relevant international safety provisions, electrical equipment which has been manufactured in accordance with the national safety provisions applicable to that equipment in a member State and

the compliance of the equipment with such provisions results in the equipment being at the time when the equipment is supplied in the United Kingdom at least as safe as it would be if it satisfied the requirements of regulation 5(1) above shall be taken to comply with the requirements of regulation 5(1) above unless there are reasonable grounds for suspecting that the electrical equipment does not so comply.

Reports on safety etc of electrical equipment

8. Where the conformity of any electrical equipment with the requirements of regulation 5(1) is called into question (whether in any proceedings or otherwise) any report prepared by a body notified in accordance with the procedure set out in Article 11 of the low voltage Directive for the purpose of Article 8.2 of that Directive may be relied upon for the purpose of establishing that the equipment does in fact satisfy those requirements and due regard shall be had to any such report by any person or court by whom the question of conformity falls to be determined.

CE marking

9.—(1) Subject to regulation 12, the manufacturer of electrical equipment or his authorised representative shall affix to all electrical equipment to which these Regulations apply (or to their packaging, instruction sheet or guarantee certificate) in a visible, easily legible and indelible form the CE marking as shown in Schedule 1 by way of confirmation that the electrical equipment conforms with all the requirements of these Regulations which relate to it.

(2) No person shall affix to electrical equipment any markings liable to deceive third parties as to the meaning and form of the CE marking affixed in accordance with these Regulations or which reduces the visibility or legibility of the CE marking so affixed.

(3)

(a) Where electrical equipment is subject to other legally binding Community provisions which also provide for the affixing of the CE marking, the latter shall, subject to (b) below be taken to indicate conformity with the requirements of such provisions.

(b) Where a Community provision referred to in (a) above allows the manufacturer, during a transitional period, a choice of arrangements the CE marking shall indicate conformity only in respect of those requirements of the provision which are applied by the manufacturer and particulars of the provisions as published in the Official Journal of the European Communities must be given in the documents, notices or instructions which are required by the provisions and accompany the electrical equipment.

EC declaration of conformity

10. Subject to regulation 12, the manufacturer of electrical equipment or his authorised representative shall draw up in respect of all electrical equipment to which these Regulations apply a written declaration of conformity which shall comprise:—

- (a) the name and address of the manufacturer or his authorised representative;
- (b) a description of the electrical equipment;
- (c) a reference to the harmonised standards;
- (d) where appropriate, references to the specifications with which conformity is declared;
- (e) identification of the signatory who has been empowered to enter into commitments on behalf of the manufacturer or his authorised representative; and
- (f) the last two digits of the year in which the CE marking was affixed.

Internal Production Control

11.—(1) Subject to regulation 12 and to paragraphs (2) and (3) below, the manufacturer of electrical equipment shall compile the technical documentation listed in Schedule 4 and keep it for a period of at least ten years after manufacture of electrical equipment of that model has ceased, together with the EC declaration of conformity referred to in regulation 10 above, available for inspection by an enforcement authority (which for the purposes of this regulation shall include, where appropriate, the Health and Safety Executive and the Northern Ireland Department for Economic Development) or any of its officers.

(2) Where the manufacturer of electrical equipment is not established in the Community, the technical documentation shall be kept in the manner provided for in paragraph (1) above by the manufacturer's authorised representative.

(3) Where the manufacturer of electrical equipment is established outside the Community and has no authorised representative established in the Community, the technical documentation shall be kept in the manner provided for in paragraph (1) above by the person who supplies the electrical equipment on the first occasion that it is supplied in the Community.

(4) Every manufacturer of electrical equipment shall ensure that his manufacturing process produces electrical equipment which conforms to the technical documentation referred to in paragraph (1).

Secondhand and hired equipment

12. Regulations 9(1), 10 and 11 shall not apply in relation to electrical equipment which—

- (a) has previously been supplied to any end user; or
- (b) is supplied solely by virtue of its being hired out whether in connection with the supply of other goods and services or otherwise provided that it satisfies the provisions of sub-paragraph (a) above.

Compliance Notices

13.—(1) Except in the case of electrical equipment which in the opinion of the enforcement authority is likely to jeopardise the safety or health of any person, where an enforcement authority has reasonable grounds for suspecting that the affixing of the CE marking to electrical equipment to which these Regulations apply involves a contravention of these Regulations or any part of them, it may serve a notice (a "compliance notice") on the manufacturer of that electrical equipment or his authorised representative established in the Community and in such a case sections 13, 14, 16 or 17 of the 1987 Act or sections 21 or 22 of the 1974 Act shall not be applied until such a notice has been so served and the person upon whom it has been served has failed to comply with its requirements.

(2) Schedule 5 shall have effect in respect of a compliance notice.

Prohibition on supply

14.—(1) Subject to paragraph (2) below, no person shall supply any electrical equipment in respect of which the requirements of regulations 5(1) and 9(1) above are not satisfied.

(2) For the purposes of this regulation a supply shall include the provision of electrical equipment by a manufacturer for use in his own premises and where a supply consists solely of such provision paragraph (1) above shall apply to the supply as if the words "and 9(1)" were omitted.

Duties of enforcement authorities

15. Every authority and council on whom a duty is imposed by virtue of section 27 of the 1987 Act—

- (a) shall have regard, in performing that duty, in so far as it relates to any provision of these Regulations, to matters specified in any direction issued by the Secretary of State with respect to that provision; and
- (b) shall give immediate notice to the Secretary of State of any suspension notice served by it or any application made by it for an order for forfeiture of any goods to which these Regulations apply or any other thing done in respect of any such goods for the purposes of or in connection with sections 14 to 17 of that Act.

Commencement of Proceedings

16. Subject to regulation 17(3), in England, Wales and Northern Ireland a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence committed under section 12 of the 1987 Act in relation to a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence is committed, and in

Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

Regulations to be treated as safety regulations within the meaning of the 1987 Act

17.—(1) Subject to paragraph (2) below, these Regulations shall be treated for all purposes as if they were safety regulations within the meaning of section 45(1) of the 1987 Act.

(2) Where a contravention of regulation 14 above arises from the supply of electrical equipment which fails to satisfy the requirements of regulation 5(1) above or of goods which would cause the relevant equipment to contravene those requirements because there is in each case a risk of death or injury to domestic animals or damage to property, or both, but no risk of the death of a person or of personal injury, the person who contravenes regulation 14 shall be guilty of an offence punishable on summary conviction with imprisonment for not more than three months or with a fine not exceeding level five on the standard scale.

(3) Without prejudice to the provisions of paragraphs (1) and (2) above and the provisions of Part IV of the 1987 Act, in so far as these Regulations apply in relation to such electrical equipment as is mentioned in paragraph (4) below—

(a) the Health and Safety Executive ("the Executive") (or, for Northern Ireland, the Department for Economic Development ("the Department")) may make arrangements for the enforcement of these Regulations, and

(b) the provisions of the Health and Safety at Work etc Act 1974 ("the 1974 Act") (or the Health and Safety at Work (Northern Ireland) Order 1978 ("the 1978 Order")) mentioned in paragraph (5) below shall apply as if—

(i) these Regulations were health and safety regulations and, accordingly, relevant statutory provisions within the meaning of the 1974 Act (or the 1978 Order),

(ii) any reference therein to an enforcing authority were a reference to the Executive (or the Department),

(iii) any reference therein to any provision of the 1974 Act (or the 1978 Order) were a reference to that provision as, and so far as, it is applied by this paragraph,

and section 34(3) of the 1974 Act and article 32(3) of the 1978 Order shall have effect with the substitution for the words "six months" of the words "twelve months".

(4) The electrical equipment referred to in paragraph (3) above is—

- (a) electrical equipment designed for use or operation, whether exclusively or not, by persons at work; and
- (b) electrical equipment 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 use there.

(5) The provisions referred to in paragraph (3) above are sections 18(6) and (7)(b), sections 19 to 26 (save for subsections (3), (4) and (6) of section 23), subsections (1)(e) to (h) and (o), (2), (2A), (3) (save for the words "Subject to any provision made by virtue of section 15(6)(d) or (e) or by virtue of paragraph 2(2) of Schedule 3") and (4)(e) of section 33, section 34(3), (4) and (5), sections 35 to 39 (save for subsection (3) of section 36) and section 42 of the 1974 Act and articles 2(3), 21 to 28, paragraphs (1)(e) to (1), (2), (4), (5)(d) and (e) and (6) of article 31, paragraphs (3) and (4) of article 32 and articles 33 to 36 of the Order.

(6) The Executive or the Department shall, where action has been taken by it to prohibit or restrict the supply of any electrical equipment which bears the CE marking, forthwith inform the Secretary of State of the action taken, and the reason for it.

Requirement to give information about electrical equipment which does not bear the CE marking

18. A person who supplies electrical equipment which does not bear the CE marking laid down in regulation 9(1) shall, on his being required at a reasonable time to give such information, to an enforcement authority, the Executive or the Department, or to any of its officers, all the information which he has about—

- (a) the date when the electrical equipment was first supplied in the Community; and
- (b) the basis on which the electrical equipment does not bear the CE marking and information