



Department for
Business, Energy
& Industrial Strategy

Regulatory Delivery

RADIO EQUIPMENT REGULATIONS 2017

Guidance

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1. Introduction

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29 March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation.

Directive 2014/53/EU of 16 April 2014 on the harmonisation of the laws of Member States (the [“RED Directive”](#)) relating to Radio Equipment entered into force on 12 June 2016 and has been implemented into UK law with effect from 26 December 2017 by way of the Radio Equipment Regulations 2017 (“the Regulations”). From this date manufacturers of electronic and electrical products within scope have to comply with the Regulations.

The Regulations regulate the safety and electromagnetic compatibility of radio equipment and promote protection of the radio spectrum. They aim to improve the functioning of the internal market by requiring equipment to comply with a high level of safety (in terms of the health and safety of persons and domestic animals and the protection of property); with an adequate level of electromagnetic compatibility; and to operate in a manner that promotes efficient use of the radio spectrum.

This Guide relates, primarily, to the provisions of the UK Regulations. The European Commission has produced detailed guidance on the provisions of the RED Directive and its requirements, which should be referred to for further guidance (see link below).

The RED Directive replaces the Directive on Radio and Telecommunications Terminal Equipment (RTTE) 1999/5/EC and the Regulations will revoke the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000, subject to certain exemptions relating to equipment already placed on the market.

The main changes the 2017 Regulations introduce relate to inclusion of broadcast receivers and removal of the lower frequency limit to cover the radio spectrum below 9 kHz; the Regulations also provide for alignment with the New Legislative Framework (NLF) principles. The NLF consists of a Regulation (EC) No 765/2008 on accreditation and market surveillance and a Decision No 768/2008/EC on a common framework for the marketing of products that aim to create a more coherent and consistent legal framework for the marketing of products in the European Union across all sectors. The new content of the Regulations, amongst other things, relates to definitions such as “placing on the market” and “making available on the market”; more detailed obligations for economic operators (manufacturers, authorised representatives, importers and distributors); market surveillance procedures, including the Union safeguard procedure; and an enforcement regime for offences committed in the UK.

2. Scope

The scope covers most equipment that contains radio equipment when placed on the market and/or taken into service.

There are a number of important exclusions including:

- equipment covered by other specific EU instruments governing the conformity of the equipment with the essential requirements;
- airborne products, parts and appliances referred to in European Regulation (EC) 216/2008;
- Marine equipment falling within the scope of Council Directive 96/98/EC; and
- custom-built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

For a full list of exclusions please refer to the Regulations.

The Regulations do not apply to radio equipment placed on the market before 26 December 2017.

3. Obligations of manufacturers

The obligations of manufacturers of radio equipment include:

1. Before placing radio equipment on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential requirements and that they have had a relevant conformity assessment procedure carried out and technical documentation drawn up. See regulations 6-9.
2. Once this has been done, a manufacturer must draw up a declaration of conformity, and affix the CE marking to the product. See regulation 10.
3. Manufacturers must keep technical documentation and the declaration of conformity for 10 years after the radio equipment has been placed on the market. See Regulation 11.
4. Manufacturers must also label radio equipment with their name, registered trade name or registered trade mark and address; the type batch or serial number (or other identification) and ensure that accompanied by relevant instructions and safety information in a language easily understood by the end user. If the end user is in the UK, the language must be English. When placing radio equipment on the market, the manufacturer must ensure that it is accompanied by information concerning any restrictions on putting into service or requirements for authorisation of its use. See regulations 12-14.

5. They must put procedures in place to ensure that series production remains in conformity with the Regulations and, when appropriate, take action to monitor equipment made available on the market by them which may present a risk, keeping a register of such equipment and any complaints or action taken. See regulations 17 and 18.
6. They must take action where they have reason to believe that the radio equipment they have placed on the market is not in conformity with the Regulations. See regulation 15.
7. They must also cooperate with and provide information to enforcing authorities following any requests. See regulation 16.

4. Obligations of authorised representatives

Manufacturers are able by written mandate to appoint authorised representatives to perform certain tasks on their behalf. See regulation 19. The obligations of authorised representatives include:

1. Performance of the tasks and duties specified in the mandate including manufacturer's obligations under regulation 11 (retention of technical documentation and EU declaration of conformity) and regulation 16 (provision of information and co-operation). A manufacturer remains responsible for the proper performance of any obligations the authorised representative performs on their behalf.
2. However, the authorised representative is also obliged to comply with the obligations imposed on the manufacturer in relation to the tasks for which he is appointed and as far as those obligations are concerned, as well as penalties for failure to comply, any references in the Regulations to the manufacturer are to be taken as a reference to the authorised representative.

5. Obligations of importers

The obligations of importers include:

1. An importer must not place radio equipment on the market unless it conforms with the essential requirements. Before placing radio equipment on the market, an importer must ensure that the relevant conformity assessment has been carried out by the manufacturer. See regulations 20 and 21.
2. The importer must ensure the manufacturer has drawn up the technical documentation and a Declaration of Conformity; the radio equipment is CE marked and is accompanied by the required documents and information regarding the manufacturer. See regulation 21.
3. The importer must keep a copy of the Declaration of Conformity and technical documentation for a period of 10 years after the radio equipment has been placed on the market. See regulation 28.

4. Where an importer believes equipment is not conformity, he must not place it on the market and, where it presents a risk, inform the manufacturer and the market surveillance authority. See regulation 22.
5. The importer must provide their name, registered trade name or mark and a postal address at which they can be contacted on the radio equipment. See regulation 23.
6. The importer must ensure that when placing radio equipment on the market, it is accompanied by instructions and safety information which can be easily understood by end user in the Member State where it is to be made available. If the end user is in the UK, that language must be English. See regulation 24. When placing radio equipment on the market they must also ensure that it is accompanied by certain information concerning the use of the radio equipment. See regulation 21.
7. The importer must ensure that radio equipment under their responsibility is safely stored and transported, remaining in conformity with the Regulations. See regulation 25.
8. When appropriate, they must take action to monitor equipment made available on the market by them which may present a risk, keeping a register of such equipment and any complaints or action taken. See regulation 26.
9. The importer must take action where they have reason to believe that the radio equipment that they have placed on the market is not in conformity with the Regulations; including informing the relevant market surveillance authority where there is a risk to the health and safety of people. See regulation 27.
10. They must also cooperate with and provide information to enforcing authorities following any requests. See regulation 29.

6. Obligations of distributors

The obligations of distributors include:

1. Before making radio equipment available on the market a distributor must take due care to ensure that it is in conformity with the Regulations See regulation 30.
2. They must verify that the radio equipment bears the CE marking, is accompanied by the required documents as well as by instructions and information concerning the use of radio equipment. The distributor must also make sure that certain obligations on the manufacturer or importer have been complied with. See regulation 31.
3. The distributor must not make radio equipment available on the market if they think it is not in conformity with the essential requirements. They must take action where they have reason to believe that the radio equipment that they have made available on the market is not in conformity with the Regulations. See regulations 32 and 34.
4. The distributor must ensure that radio equipment under their responsibility are safely stored and transported, remaining in conformity with the Regulations. See regulation 33.

5. They must also cooperate with and provide information to enforcing authorities following any requests. See regulation 35.

7. Transitional arrangements

The RED Directive came fully into force on 13 June 2016 replacing Directive 1995/5/EC, with a transition period until 12 June 2017. As such from the 12 June 2017 manufacturers who wish to place products on the market of another member state, will need to comply with the RED Directive where that member state has implemented it into its national law. The UK implemented the Directive on 26 December 2017 and so products compliant with the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (SI 2000/730) implementing Directive 1995/5/EC can be placed on the UK market until 25 December 2017. See regulation 77.

8. Enforcement and penalties

In Great Britain, the enforcing authority for radio equipment, in relation to protection and management of the radio spectrum is the Office of Communications (Ofcom), and for other aspects including safety of radio equipment it is the local weights and measures authority (trading standards). In Northern Ireland, the enforcing authority for radio equipment in relation to protection and management of the radio spectrum is Ofcom and for other aspects including safety of radio equipment the District Councils.

The Regulations also provide powers to the Secretary of State or a person appointed to act on their behalf to enforce the Regulations.

The Regulations provide powers to enforcing authorities to take action against economic operators for products that are not in conformity with the Regulations as set out in regulation 57 to 60, 62 and 63 and Schedule 10. Economic operators are required to co-operate with the enforcement authority and on request, must provide information and take action as appropriate.

Safeguard procedure

Under the RED Directive, member states have a duty to take action in relation to equipment presenting a risk at national level and where the market surveillance authority consider any non-compliance is not restricted to their national territory, they must inform the European Commission and other member states. Where this procedure has been initiated by another member state, the UK enforcing authorities are required under the Regulations to inform the Secretary of State of any action taken in relation to the equipment and the Secretary of State must inform the Commission and other member states thereof. See regulation 61.

Regulation 61(2) allows the Secretary of State to raise an objection against the measures taken under the safeguard procedure initiated by another Member State. The European Commission will determine whether the action taken is justified; if so, the UK market surveillance authority must take the necessary measures to ensure radio equipment is withdrawn or recalled from the market (see regulation 61(4)). Where the European Commission finds the action taken by the Member State is not justified, that Member State must withdraw that action.

Regulators' Code

Local Authority trading standards must have regard to the Regulators' Code when developing the policies and operational procedures that guide their regulatory activities in this area. They should carry out their activities in a way that supports those they regulate to comply and grow, including choosing proportionate approaches that reflect risk.

In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Unless immediate action is needed to prevent a serious breach, regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent. The Secretary of State takes account of the provisions of both the Regulators' Code and the Growth Duty in exercising his regulatory functions.

A link to the Regulator's Code can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

Penalties

A person committing an offence under the Regulations will be liable to a penalty. Penalties can include a fine or a prison sentence of up to three months for the most serious offences. See regulations 65 and 66.

While it is matter for the enforcement authority to decide whether prosecution is appropriate in each case, should a prosecution take place, it is at discretion of the court to decide the penalties imposed on the offender.

9. Notified Bodies

Notified Bodies are independent organisations appointed by Member States (the Secretary of State in the UK) and notified to the European Commission to carry out conformity assessment. A list of Notified Bodies, including UK Notified Bodies appointed under the Regulations, may be found on the [NANDO](#) website. Economic operators are free to select any suitable Notified Body from any Member State.

10. European Commission Guidance

Detailed guidance on the RED Directive can be found on the European Commission's website at:

https://ec.europa.eu/growth/sectors/electrical-engineering/red-directive_en

The European Commission has produced guidance called the Blue Guide intended to contribute to a better understanding of EU product safety rules and to their more uniform and coherent application across different sectors and throughout the single market. A copy can be found at this link:

Blue Guide <http://ec.europa.eu/DocsRoom/documents/18027/>



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