



STATUTORY INSTRUMENTS.

**S.I. No. 14 of 2026**

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EUROPEAN UNION (RADIO EQUIPMENT) REGULATIONS 2026

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## EUROPEAN UNION (RADIO EQUIPMENT) REGULATIONS 2026

I, PATRICK O'DONOVAN, Minister for Culture, Communications and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive 2014/53/EU of the European Parliament and Council of the 16 April 2014<sup>1</sup> as amended by Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018<sup>2</sup>, Directive (EU) 2022/2380 of the European Parliament and of the Council of 23 November 2022<sup>3</sup> and Commission Delegated Regulation (EU) 2023/1717 of 27 June 2023<sup>4</sup> and further effect to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019<sup>5</sup>, hereby make the following regulations:

**PART 1****PRELIMINARY***Citation*

1. These Regulations may be cited as the European Union (Radio Equipment) Regulations 2026.

*Interpretation*

2. (1) In these Regulations—

“accreditation” has the meaning assigned to it by Article 2.10 of Regulation (EC) No 765/2008<sup>6</sup>;

“accreditation certificate” means a certificate issued by a national accreditation body attesting that a conformity assessment body fulfils the requirements laid down in Article 26 of the Directive;

“Act of 2002” means the Communications Regulation Act 2002;

“Annex Ia equipment” means:

(1) Radio equipment falling within the categories or classes of radio equipment referred to in Part I, points 1.1 to 1.12 of Annex Ia to the Directive, and

(2) from the final transition date, radio equipment referred to in Part I, point 1.13 of Annex Ia to the Directive;

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<sup>1</sup> OJ No. L153, 22.5.2014, p. 62.

<sup>2</sup> OJ No. L 212, 22.8.2018, p. 1.

<sup>3</sup> OJ No. L. 315, 7.12.2022, p. 30.

<sup>4</sup> OJ No. L. 223, 11.9.2023, p. 1.

<sup>5</sup> OJ No. L 169, 25.6.2019, p.1.

<sup>6</sup> OJ No. L 218, 13.8.2008, P. 30.

subject to such variation of Annex Ia as may be effected by any delegated act of the European Commission, with effect from the date indicated in any such delegated act;

“authorised officer” means a person appointed under Regulation 41;

“authorised representative” means a person established within the Union who has received a written mandate from a manufacturer to act on the manufacturer’s behalf in relation to specified tasks;

“CE marking” means a marking by which a manufacturer indicates that the radio equipment is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

“competent authority” means the body designated as the competent authority under Regulation 9;

“conformity assessment” means the process, in accordance with Regulation 20, demonstrating whether the essential requirements have been fulfilled;

“conformity assessment body” means a person who performs conformity assessment procedures laid down in Annex II, III or IV to the Directive;

‘Directive’ means Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014<sup>1</sup> as amended by Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018<sup>2</sup>, Directive (EU) 2022/2380 of the European Parliament and of the Council of 23 November 2022<sup>3</sup> and Commission Delegated Regulation (EU) 2023/1717 of 27 June 2023<sup>4</sup>;

“direction” means a direction given by the market surveillance authority under Regulation 8(3)(b), 35(5), 38(1), or 39(1)(a);

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

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

“electromagnetic disturbance” has the meaning assigned to it by Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014<sup>7</sup> on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast);

‘essential requirements’, in relation to radio equipment, means essential requirements set out in Regulation 4(1) or (2) and in relation to a category or class of radio equipment, means the essential requirements applicable to the category or class of radio equipment by virtue of paragraph (5) or (6) of Regulation 4, as the case may be;

“EU declaration of conformity” means a declaration of conformity drawn up in accordance with the requirements of Regulation 21;

“final transition date” means 28 April 2026;

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<sup>7</sup> OJ No. L96, 29.3.2014, p. 79.

“harmful interference” has the meaning assigned to it by the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011);

“harmonised standard” means harmonised standard as defined in Article 2 (1)(c) of Regulation (EU) No 1025/2012<sup>8</sup>;

“importer” means any person established within the Union who places radio equipment from a third country on the Union market;

“information society service provider” means a provider of a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535<sup>9</sup> of the European Parliament and of the Council;

“making available on the market” means any supply of radio equipment for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

“manufacturer” means a person who manufactures radio equipment or has radio equipment designed or manufactured and markets that equipment under the person’s name or trade mark;

“market surveillance authority” means the body designated as the market surveillance authority under Regulation 34;

‘Member State’ means a Member State of the European Union and, in so far as may be necessary to give effect to the obligations of the State pursuant to the Agreement on the European Economic Area signed in Oporto on 2 May 1992, shall be construed as including a reference to a State (not being a Member State of the European Union) which is a contracting party to that Agreement;

“notified body” means a conformity assessment body whose appointment has been notified to the European Commission—

- (a) by the notifying authority in accordance with Regulation 27, or
- (b) by another Member State,

and whose appointment has been notified to the European Commission and the other Member States pursuant to Article 22 of the Directive;

“notifying authority” means the body designated as the notifying authority under Regulation 24;

“national accreditation body” means the Irish National Accreditation Board;

“placing on the market” means the first making available of radio equipment on the Union market;

“putting into service” means the first use of radio equipment in the Union by its end-user;

“radio communication” means communication by means of radio waves;

“radio determination” means the determination of the position, velocity or other characteristics of an object, or the obtaining of information relating to those parameters, by means of the propagation properties of radio waves;

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<sup>8</sup> OJ No. L316, 14.11.2012, p. 12.

<sup>9</sup> OJ No. L241, 17.9.2015, pp. 1–15.

“radio equipment” means an electrical or electronic product, which intentionally emits or receives radio waves for the purpose of radio communication or radiodetermination, or an electrical or electronic product which must be completed with an accessory, such as antenna, so as to intentionally emit or receive radio waves for the purpose of radio communication or radiodetermination;

“radio interface” means the specification of the regulated use of radio spectrum;

“radio waves” means electromagnetic waves of frequencies lower than 3,000GHz (gigahertz) propagated in space without artificial guide;

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

“Regulations of 2001” means the European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations 2001 (S.I. No. 240 of 2001);

“Regulations of 2017” means the European Union (Radio Equipment) Regulations 2017 (S.I. No. 248 of 2017);

“Regulation (EU) 2019/1020” means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019<sup>5</sup> on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No. 765/2008<sup>6</sup> and (EU) No. 305/2011<sup>10</sup>;

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

“Union” means the European Union within the meaning of the European Communities Act 1972 (No. 27 of 1972);

“Union harmonisation legislation” means any Union legislation harmonising the conditions for the marketing of products;

“withdrawal” in Part 6, means any measure aimed at preventing radio equipment in the supply chain from being made available on the market;

(2) A word or expression that is used in these Regulations and is also used in Regulation (EU) 2019/1020 or the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in Regulation (EU) 2019/1020 and the Directive.

## PART 2

### SCOPE AND APPLICATION

#### *Application*

3. (1) Subject to Regulation 4, these Regulations apply to radio equipment other than radio equipment specified in Annex I to the Directive.

(2) These Regulations shall not apply to radio equipment used exclusively by An Garda Síochána or the Permanent Defence Force, for the purpose of State security (including the economic wellbeing of the State in the case of activities

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<sup>10</sup> OJ L 88, 4.4.2011, pp. 5–43



pertaining to State security matters), and in the activities of the State in the enforcement of criminal law.

(3) Other than as provided by Regulation 4(1)(a), the European Union (Low Voltage Electrical Equipment) Regulations 2016 (S.I. No. 345 of 2016), and 2022 (S.I. No. 14 of 2022) shall not apply to radio equipment to which these Regulations apply.

*Making Available on the Market, Putting into Service and Essential Requirements*

4. (1) Radio equipment shall be constructed so as to ensure:

- (a) the protection of health and safety of persons and of domestic animals and the protection of property, including the objectives with respect to safety requirements set out in Directive 2014/35/EU<sup>11</sup>, but with no voltage limit applying;
- (b) an adequate level of electromagnetic compatibility as set out in Directive 2014/30/EU<sup>12</sup>;

(2) Radio equipment shall be so constructed that it both effectively uses and supports the efficient use of radio spectrum in order to avoid harmful interference.

(3) Subject to Regulation 62(3) a person shall make available on the market radio equipment only if it complies with these Regulations.

(4) Subject to Regulation 62(3) a person shall put into service radio equipment only if it complies with these Regulations when properly installed, maintained and used in accordance with its intended purpose.

(5) Radio equipment falling within a class or category specified by a delegated act of the European Commission adopted in accordance with Article 44 of the Directive for the purposes of Article 3(3) of the Directive, shall, while the delegated act is in force, comply with such of the essential requirements referred to in Article 3(3)(a) to (i) of the Directive as the delegated act shall require.

(6) Annex Ia equipment shall be so constructed that it complies with the applicable specifications relating to charging set out in Annex Ia of the Directive for the relevant category or class of radio equipment.

*Possibility for consumers and other end-users to acquire certain categories or classes of radio equipment without a charging device*

5. (1) Where an economic operator offers to consumers and other end-users the possibility of acquiring Annex Ia equipment with a charging device, it shall also offer the consumer or other end-user the possibility of acquiring that equipment without a charging device.

(2) Where Annex Ia equipment is offered in accordance with paragraph (1), economic operators shall ensure that information on whether or not a charging

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<sup>11</sup> OJ L 96, 29.3.2014, pp. 357–374.

<sup>12</sup> OJ L 96, 29.3.2014, pp. 79–106.

device is included with the radio equipment is provided using a pictogram as set out in Part III of Annex Ia to the Directive.

- (3) The pictogram referred to in paragraph (2) shall —
  - (a) be printed on the packaging of the radio equipment, or affixed to the packaging of the radio equipment as a sticker,
  - (b) be displayed in a visible and legible manner, and
  - (c) in the case of distance selling, be displayed close to the indication of the price payable for the radio equipment.

*Provision of information on the compliance of combinations of radio equipment and software*

6. (1) Manufacturers of categories or classes of radio equipment, and of software allowing radio equipment to be used as intended, specified by a delegated act adopted under Article 4(2) of the Directive shall, while the delegated act is in force and following a conformity assessment carried out in accordance with Regulation 20, provide the competent authority and the European Commission with a statement regarding the compliance of intended combinations of radio equipment and software with the essential requirements.

- (2) The statement referred to in paragraph (1) shall —
  - (a) precisely identify the radio equipment and the software which have been assessed, and
  - (b) include the information referred to in Annex VI to the Directive.

(3) Where a change is made by a manufacturer to radio equipment or software allowing radio equipment to be used as intended such that the statement referred to in paragraph (2) is incorrect, the manufacturer shall provide the competent authority and the European Commission with a further statement regarding the compliance of intended combinations of radio equipment and software with the essential requirements in accordance with paragraph (1).

*Registration of radio equipment types within some categories*

7. (1) Where a category of radio equipment is specified by a delegated act adopted under Article 5(2) of the Directive as being affected by a low level of compliance with the essential requirements, manufacturers shall, while the delegated act is in force, register the category of radio equipment in the central system referred to in Article 5(4) of the Directive prior to radio equipment within that category being placed on the market.

(2) When registering a category of radio equipment in the central system under paragraph (1), manufacturers shall provide the applicable elements of the technical documentation specified in paragraphs (a), (d), (e), (f), (g), (h), and (i) of Annex V to the Directive.

(3) Where the European Commission allocates a registration number to a category of radio equipment registered under paragraph (1), manufacturers shall affix the registration number on radio equipment of that category placed on the market.

*Free Movement*

8. (1) Nothing in these Regulations shall impede the making available on the market of radio equipment which complies with these Regulations.

(2) Nothing in these Regulations shall impede the demonstration of radio equipment that does not comply with these Regulations at trade fairs, exhibitions, and similar events provided that a clearly visible sign is displayed at any such trade fair, exhibition or similar event that indicates that the radio equipment concerned—

- (a) does not comply with these Regulations, and
  - (b) shall not be made available on the market or put into service until they so comply.
- (3) (a) Not less than 6 weeks before a demonstration, a person intending to demonstrate radio equipment under paragraph (2) shall, by notice in writing, provide to the competent authority information regarding the operational and technical characteristics of the radio equipment together with the measures the person intends to take, in carrying out the demonstration, to avoid harmful interference, electromagnetic disturbances and risk to the health or safety of persons or domestic animals or to property.
- (b) Having considered the notice under subparagraph (a) the competent authority may give a direction to the person concerned not to carry out the demonstration or to carry out the demonstration subject to conditions.
- (c) The person shall take the measures notified to the competent authority under subparagraph (a) when carrying out the demonstration where the competent authority does not give a direction to the person in relation to the notice.
- (d) The person shall not carry out the demonstration, or, as the case may be, shall carry out the demonstration in accordance with the direction, where the competent authority gives a direction to the person under subparagraph (b).
- (e) A person who has given a notice in writing under subparagraph (a) may presume that the competent authority does not intend to give a direction under subparagraph (b) if the authority has not given the direction on or by the day that is 14 days before the first of day of the demonstration.
- (f) In this paragraph “demonstration” relates to one trade fair, exhibition or similar event which may be of more than one day’s duration.

*Competent Authority*

9. The Commission for Communications Regulation is designated as the competent authority for the purpose of these Regulations.

*Additional Requirements for Putting into Service and Use*

10. Without prejudice to implementing obligations under Decision No 676/2002/EC<sup>13</sup> and to the conditions attached to authorisations for the use of frequencies in conformity with Union law, under Article 45 of Directive (EU) 2018/1972, the competent authority may introduce additional requirements for the putting into service and use of radio equipment but only for reasons related to—

- (a) the effective and efficient use of radio spectrum,
- (b) the avoidance of harmful interference,
- (c) the avoidance of electromagnetic disturbances, or
- (d) public health.

*Notification of Radio Interface Specifications*

11. (1) The competent authority shall notify to the European Commission, in accordance with the provisions of Directive (EU) 2015/1535<sup>14</sup>, details of radio interfaces which it intends to regulate.

(2) The requirement to notify the European Commission under paragraph (1) shall not apply to:

- (a) radio interfaces which fully and without any deviation comply with the European Commission decisions on the harmonised use of radio spectrum adopted pursuant to Decision No 676/2002/EC<sup>9</sup>;
- (b) radio interfaces which, in accordance with implementing acts adopted pursuant to Article 8(2) of the Directive, correspond to radio equipment which can be put into service and used without restrictions within the Union.

**PART 3****OBLIGATIONS OF ECONOMIC OPERATORS***Obligations of Economic Operators*

12. (1) Notwithstanding any other provisions of these Regulations or the Directive, a person shall not place radio equipment on the market unless there is an economic operator (as defined in Article 4 of Regulation (EU) 2019/1020) established in the Union who is responsible for the tasks set out in paragraph 3 of Article 4 of Regulation (EU) 2019/1020 in respect of that product and the details in respect of such economic operator set out in paragraph 4 of Article 4 of Regulation (EU) 2019/1020 are indicated on the product or on its packaging, the parcel or an accompanying document..

(2) An economic operator shall comply with its obligation to cooperate with the market surveillance authority in the State as set out in Article 7(1) of Regulation (EU) 2019/1020.

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<sup>13</sup> OJ L 108, 24.04.2002, p. 1.

<sup>14</sup> OJ L 241, 17.9.2015, p. 1.

(3) An information society service provider shall comply with its obligation to cooperate with the market surveillance authority in the State as set out in Article 7(2) of Regulation (EU) 2019/1020.

(4) Radio equipment offered for sale online or through means of distance sales shall be deemed to be made available on the market if the offer is targeted at end users in a Member State. An offer for sale shall be considered to be targeted at end users in a Member State if the relevant economic operator directs, by any means, its activities to that Member State.

(5) Nothing in these Regulations limits or affects any obligations imposed on economic operators or information society service providers to cooperate with any relevant authority designated by a Member State under Article 10 of Regulation (EU) 2019/1020 as responsible for carrying out market surveillance in the territory of that Member State other than the market surveillance authority.

#### *Obligations of Manufacturers*

13. (1) A manufacturer shall ensure that radio equipment placed on the market by that manufacturer—

- (a) has been designed and manufactured in accordance with the essential requirements, and
- (b) is so constructed that it can be operated in at least one Member State without infringing requirements applying in that State relating to the use of radio spectrum.

(2) Before placing radio equipment on the market, the manufacturer of the equipment shall—

- (a) draw up the technical documentation,
- (b) either—
  - (i) carry out the conformity assessment applicable to the radio equipment, or
  - (ii) have that conformity assessment carried out,
- (c) where compliance of radio equipment with the essential requirements has been demonstrated by the conformity assessment—
  - (i) draw up the EU declaration of conformity, and
  - (ii) affix the CE marking,
- (d) ensure that the radio equipment bears a type, batch or serial number or other element allowing its identification, or where because of its size or nature that is not possible, on its packaging or in the document accompanying the component,
- (e) ensure that procedures are in place for series production to remain in conformity with these Regulations, having regard to any changes in radio equipment design or characteristics or changes in the harmonised standards or in other technical specifications, by reference to which conformity of radio equipment is declared,

- (f) indicate on the radio equipment or, where that is not possible, on its packaging or a document accompanying the radio equipment—
  - (i) the manufacturer's name, registered trade name or registered trade mark, and
  - (ii) the postal address which shall indicate a single point at which the manufacturer can be contacted,
- (g) identify, on the packaging of the radio equipment, the Member State or geographical area within a Member State where restrictions on putting it into service are in place or requirements for authorisation of its use apply,
- (h) ensure that the radio equipment is accompanied by instructions and safety information, as well as any labelling, which shall—
  - (i) be clear, understandable, and intelligible,
  - (ii) include information required to use the radio equipment in accordance with its intended use,
  - (iii) include where applicable, a description of accessories and components, including software, which allow the radio equipment to operate as intended,
  - (iv) include, in the case of radio equipment intentionally emitting radio waves, information in relation to:
    - (I) the frequency band or bands in which the radio equipment operates;
    - (II) the maximum radio-frequency power transmitted in the frequency band or bands in which the radio equipment operates,
  - (v) include, in the case of radio equipment referred to in subparagraph (g), supplemental information relating to the restriction or authorisation concerned to that on the packaging referred to in subparagraph (g), and
  - (vi) in the case of radio equipment referred to in Part I of Annex Ia to the Directive, include (in accordance with paragraphs (3), (4), (5), and (6)) information on the specifications relating to the radio equipment's charging capabilities and the compatible charging devices, as specified in Part II of Annex Ia to the Directive,
- (i) ensure that the radio equipment is accompanied by a copy of the EU declaration of conformity or, in accordance with Regulation 21(2), a simplified EU declaration of conformity, and
- (j) ensure that the information required under subparagraphs (f) and (h) is provided in both the Irish and English languages or in the English language only.

(3) In the case of Annex Ia equipment made available to consumers or other end-users, the information referred to in clause (vi) of paragraph (2)(h) shall be displayed on a label as set out in Part IV of Annex Ia to the Directive —

- (a) in a visible and legible manner, and
- (b) without prejudice to paragraph (4), where the radio equipment is made available by means of distance selling, close to the indication of the price of the radio equipment.

(4) The label referred to in paragraph (3) shall be —

- (a) printed in the instructions referred to in paragraph (2)(h), and
- (b) subject to paragraphs (5) and (6), printed on the packaging of the radio equipment or affixed to the packaging as a sticker.

(5) Where the radio equipment referred to in paragraph (3) does not have packaging, a sticker with the label referred to in paragraph (3) shall be affixed to the radio equipment.

(6) Where the size or nature of the radio equipment does not allow otherwise, the label referred to in paragraph (3) shall be printed and made available as a separate document accompanying the radio equipment.

(7) A manufacturer of radio equipment which the manufacturer has placed on the market shall—

- (a) retain the technical documentation and a copy of the EU declaration of conformity for 10 years after the radio equipment has been placed on the market,
- (b) when deemed appropriate with regard to a risk presented by radio equipment and to protect the health and safety of consumers, carry out sample testing of the radio equipment which has been made available on the market,
- (c) investigate, and, if necessary, keep a register of complaints of nonconforming radio equipment and recalls of radio equipment,
- (d) keep distributors informed of monitoring referred to in subparagraphs (b) and (c),
- (e) in respect of radio equipment which the manufacturer considers or has reason to believe is not in conformity with the requirements of these Regulations—
  - (i) immediately take any corrective measures necessary to bring the radio equipment into conformity including the withdrawal or recall of the radio equipment if appropriate, and
  - (ii) where the radio equipment presents a risk, immediately inform the competent authority to that effect, giving details of—
    - (I) the non-compliance, and

- (II) any corrective measures taken and the results of such measures,
- (f) further to a request in a notice given to the manufacturer by the competent authority, giving reasons for the request, provide the competent authority with all the information and documentation in paper or electronic form, in both the Irish and English languages or the English language only, necessary to demonstrate the conformity of radio equipment with these regulations, and
- (g) co-operate with the competent authority, on receipt of a request in that behalf from it, on any action taken to eliminate a risk posed by radio equipment which the manufacturer has placed on the market.

#### *Authorised Representatives*

14. (1) A manufacturer may, by a written mandate, appoint an authorised representative.

(2) Subject to paragraph (3), an authorised representative shall perform the tasks specified in the mandate received from the manufacturer.

(3) The mandate referred to in paragraph (1) shall not include the obligations laid down in subparagraph (a) of Regulation 13(1) or subparagraph (a), (b) or (c) of Regulation 13(2).

(4) The mandate referred to in paragraph (1) shall, at a minimum permit the authorised representative to perform the following tasks:

- (a) retaining a copy of the EU declaration of conformity and the technical documentation at the disposal of the market surveillance authority for 10 years after the radio equipment has been placed on the market;
- (b) further to a request in a notice given to the authorised representative by the competent authority, giving reasons for the request, provide the competent authority with all the information and documentation necessary to demonstrate the conformity of radio equipment;
- (c) co-operating with the competent authority, at its request, on any action taken to eliminate the risks posed by radio equipment covered by the authorised representative's mandate.

#### *Obligations of Importers*

15. (1) An importer of radio equipment shall only place radio equipment on the market that complies with these Regulations.

(2) Before placing radio equipment on the market an importer shall ensure that—

- (a) the conformity assessment procedure has been complied with by the manufacturer in accordance with Regulation 20,
- (b) the radio equipment is so constructed that it can be operated in at least one Member State without infringing requirements applying in that State relating to the use of the radio spectrum,



- (c) the manufacturer has drawn up the technical documentation,
- (d) the radio equipment bears the CE marking,
- (e) the radio equipment is accompanied by documents and information required under subparagraphs (g), (h) and (i) of Regulation 13(2),
- (f) the manufacturer has complied with subparagraphs (d), (f) and (j) of Regulation 13(2),
- (g) the radio equipment is accompanied by instructions and safety information,
- (h) the importers name, registered trade name or registered trademark and the postal address at which the importer can be contacted are indicated—
  - (i) on the radio equipment, or
  - (ii) if, for reasons including the size of the radio equipment or that it would require opening its packaging, compliance with clause (i) is not possible, on the packaging of, or in a document accompanying, the radio equipment, and,
  - (i) the information required under paragraphs (g) and (h) is provided in both the Irish and English languages or in the English language only.

(3) Where, before placing radio equipment on the market, an importer considers or has reason to believe that radio equipment is not in conformity with the essential requirements, the importer—

- (a) shall not place the radio equipment on the market until it has been brought into conformity, and
- (b) where the radio equipment presents a risk, shall inform the manufacturer and the market surveillance authority of the risk.

(4) An importer shall ensure that, while radio equipment is under the responsibility of the importer, the storage of the radio equipment or the conditions under which it is transported do not jeopardise its compliance with the essential requirements.

(5) An importer of radio equipment who has placed radio equipment on the market shall—

- (a) for a period of 10 years after the radio equipment has been placed on the market, retain a copy of the EU declaration of conformity and the technical documentation at the disposal of the market surveillance authority, and make it available upon request,
- (b) carry out, as required, when deemed appropriate with regard to a risk presented by radio equipment and to protect the health and safety of consumers, sample testing of the radio equipment which has been made available on the market,
- (c) investigate and, if necessary, keep a register of complaints of nonconforming radio equipment and recalls of radio equipment,

- (d) keep distributors informed of monitoring referred to in subparagraphs (b) and (c),
- (e) in respect of radio equipment which the importer considers or has reason to believe is not in conformity with the requirements of these Regulations—
  - (i) immediately take any corrective measures necessary to bring the radio equipment into conformity including withdrawal or recall of the radio equipment, if appropriate, and
  - (ii) where the radio equipment presents a risk, immediately inform the competent authority to that effect, giving details of—
    - (I) the non-compliance, and
    - (II) any corrective measures taken,
- (f) further to a request in a notice given to the importer by the competent authority, giving reasons for the request, provide the competent authority with all the information and documentation, in paper or electronic form, in both the Irish and English languages or the English language only, necessary to demonstrate the conformity of radio equipment, and
- (g) co-operate with the competent authority on receipt of a reasoned request from it on any action taken to eliminate a risk posed by radio equipment which the importer has placed on the market.

#### *Obligations of Distributors*

16. (1) A distributor shall not make radio equipment available on the market without acting with due care in relation to the requirements of these Regulations.

(2) Before making radio equipment available on the market a distributor shall verify that—

- (a) the radio equipment bears the CE marking,
- (b) the radio equipment is accompanied by the documents required by these Regulations,
- (c) the radio equipment is accompanied by the instructions and safety information in both the Irish and English languages or the English language only, and
- (d) the manufacturer and the importer have complied with the requirements set out in subparagraph (b) of Regulation 13(1), subparagraphs (d), (f), (g), (h), (i) and (j) of Regulation 13(2) and subparagraphs (e), (h) and (i) of Regulation 15(2) respectively.

(3) Where, before making radio equipment available on the market a distributor considers or has reason to believe that the radio equipment is not in conformity with the essential requirements, the distributor—

- (a) shall not make the radio equipment available on the market until it has been brought into conformity, and

- (b) where the radio equipment presents a risk, shall inform the manufacturer or importer and the market surveillance authority.

(4) While radio equipment is under the responsibility of a distributor, that distributor shall ensure that the storage of the radio equipment or the conditions under which it is transported do not jeopardise its compliance with the essential requirements.

(5) A distributor who has made radio equipment available on the market shall—

- (a) in respect of radio equipment which the distributor considers or has reason to believe is not in conformity with these Regulations—
  - (i) ensure that any corrective measures necessary to bring that radio equipment into conformity are taken, including withdrawal or recall of the radio equipment, if appropriate, and
  - (ii) where the radio equipment presents a risk, immediately inform the competent authority to that effect, giving details of—
    - (I) the non-compliance, and
    - (II) any corrective measures taken,
- (b) further to a request in a notice given to the distributor by the competent authority, giving reasons for the request, provide the competent authority with all the information and documentation, in paper or electronic form, necessary to demonstrate the conformity of the radio equipment with these Regulations, and
- (c) co-operate with the competent authority on receipt of a reasoned request from it on any action taken to eliminate a risk posed by radio equipment which the distributor has made available on the market.

*Cases Where Obligations of Manufacturers Apply to Importer or Distributor*

17. (1) An importer or a distributor shall be considered to be a manufacturer for the purposes of these Regulations and shall fulfil the obligations of the manufacturer under Regulation 13 where any of the following circumstances apply:

- (a) the importer places radio equipment on the market under the importer's name or trademark;
- (b) the distributor places radio equipment on the market under the distributor's name or trademark;
- (c) the importer or distributor modifies radio equipment already placed on the market in such a way that compliance with these Regulations may be affected.

(2) Regulation 13 applies where an importer or distributor is considered to be a manufacturer under paragraph (1), subject to the following:

- (a) a reference in Regulation 13 to a manufacturer shall be construed as a reference, as the case may be, to an importer or distributor;
- (b) any other necessary modifications.

#### *Identification of Economic Operators*

18. (1) Upon receipt of a request given in a notice by the market surveillance authority, an economic operator (the “first economic operator”) shall identify the following to the market surveillance authority:

- (a) any other economic operator who has supplied the first economic operator with radio equipment;
- (b) any other economic operator to whom the first economic operator has supplied radio equipment.

(2) An economic operator is required to be able to present the information referred to in paragraph (1) for a period of 10 years after the economic operator has been supplied with, or has supplied, the radio equipment.

### **PART 4**

#### **CONFORMITY OF RADIO EQUIPMENT**

##### *Presumption of Compliance with Conformity Assessment Procedures*

19. Radio equipment, which is in conformity with harmonised standards (or parts of harmonised standards) references to which standards have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the essential requirements to which the harmonised standards (or parts thereof) apply.

##### *Conformity Assessment Procedures*

20. (1) A manufacturer of radio equipment shall perform a conformity assessment of the radio equipment for the purpose of ensuring that the radio equipment complies with the essential requirements.

(2) The conformity assessment shall—

- (a) take into account all operating conditions under which the radio equipment is intended to be operated, and,
- (b) for the essential requirements referred to in Regulation 4(1)(a), also take into account reasonably foreseeable conditions under which the radio equipment could be operated.

(3) Where the radio equipment is capable of taking different configurations, the conformity assessment shall confirm whether the radio equipment meets the essential requirements in all possible configurations.

(4) A manufacturer of radio equipment shall demonstrate compliance of the radio equipment with the essential requirements applicable by virtue of subparagraphs (a) and (b) of Regulation 4(1) and Regulation 4 (6) using any of the following conformity assessment procedures:

- (a) Module A (internal production control) set out in Annex II to the Directive;

- (b) Module B (EU-type examination), followed by Module C (conformity to type based on internal production control) set out in Annex III to the Directive;
- (c) Module H (conformity based on full quality assurance) set out in Annex IV to the Directive.

(5) The manufacturer of radio equipment who has applied harmonised standards, the references of which have been published in the Official Journal of the European Union, in assessing the compliance of the radio equipment with the essential requirements referred to in Regulation 4(2) and in paragraph (5) of Regulation 4 shall use any of the procedures referred to in subparagraph (a), (b) or (c) of paragraph (4).

(6) The manufacturer of radio equipment who has not applied or has partly applied harmonised standards the references of which have been published in the Official Journal of the European Union, or in respect of whose radio equipment no harmonised standard exists, in assessing the compliance of the radio equipment with the essential requirements referred to in Regulation 4(2) and in paragraph (5) of Regulation 4, shall use the procedures referred to in subparagraph (b) or (c) of paragraph (4).

#### *EU Declaration of Conformity*

21. (1) A manufacturer of radio equipment, when drawing up an EU declaration of conformity or having one drawn up by an authorised representative, in respect of the radio equipment shall ensure that the declaration—

- (a) states that the fulfilment of the essential requirements has been demonstrated,
- (b) has the model structure set out in Annex VI to the Directive,
- (c) contains the elements set out in Annex VI to the Directive,
- (d) is continuously updated, and
- (e) when the radio equipment is placed or made available on the market in the State, is translated into—
  - (i) both the Irish and English languages, or
  - (ii) the English language only.

(2) The manufacturer when drawing up a simplified EU declaration of conformity, or having one drawn up by an authorised representative, in respect of the radio equipment shall ensure that the simplified declaration—

- (a) contains the elements set out in Annex VII to the Directive,
- (b) is continuously updated,
- (c) when the radio equipment is placed or made available on the market in the State, is translated into—
  - (i) both the Irish and English languages, or
  - (ii) the English language only,

and

- (d) contains the exact internet address at which the full text of the EU declaration of conformity shall be available in both the Irish and English languages or the English language only.

(3) A manufacturer of radio equipment, when drawing up an EU declaration of conformity or having one drawn up by an authorised representative, in respect of the radio equipment which is subject to more than one Union act requiring an EU declaration of conformity, shall ensure that—

- (a) a single EU declaration of conformity relating to the radio equipment shall be drawn up in respect of all such Union acts, and
- (b) the EU declaration of conformity referred to in subparagraph (a) shall identify the Union acts concerned including their publication references.

(4) A manufacturer of radio equipment who has drawn up an EU declaration of conformity in accordance with this Regulation shall be responsible for compliance of the radio equipment in respect of which the declaration has been drawn up with these Regulations.

#### *CE Marking*

22. (1) A manufacturer of radio equipment or the authorised representative of that manufacturer shall affix the CE marking to the radio equipment before it is placed on the market.

(2) The CE marking referred to in paragraph (1) shall be the only marking which attests to the conformity of radio equipment with the applicable requirements of the relevant EU harmonisation legislation providing for its affixing.

(3) Unless it is not possible or warranted because of the nature of the radio equipment, the CE marking shall be affixed visibly, legibly and indelibly to the radio equipment or its data plate.

(4) The manufacturer of radio equipment or the authorised representative of that manufacturer shall also affix the CE marking visibly and legibly to the packaging of radio equipment.

(5) The CE marking affixed to radio equipment may be lower than 5 mm in height, provided that it remains visible and legible.

(6) The CE marking shall be followed by the identification number of the notified body, where the conformity assessment procedure set out in Annex IV to the Directive is applied, which number shall have the same height as the CE marking.

(7) The identification number of the notified body shall be affixed—

- (a) by the notified body itself or,
- (b) where instructed to do so by the notified body, by—
  - (i) the manufacturer, or
  - (ii) the authorised representative of the manufacturer.

(8) The market surveillance authority shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

(9) A person shall not affix a sign, marking or inscription to radio equipment that is likely to mislead third parties as to the meaning or form of the CE marking.

(10) A person shall not affix a marking to radio equipment if it is likely to impair the visibility, legibility or meaning of the CE marking.

#### *Technical Documentation*

23. (1) The technical documentation shall contain—

- (a) all relevant data or details of the means used by the manufacturer of radio equipment to ensure that the radio equipment complies with the essential requirements, and
- (b) at a minimum, the elements set out in Annex V to the Directive.

(2) The manufacturer shall continuously update the technical documentation drawn up by the manufacturer.

(3) The technical documentation and correspondence relating to any EU-type examination procedure concerning radio equipment shall be drawn up by the manufacturer of the radio equipment in—

- (a) both the Irish and English languages, or
- (b) the English language only.

(4) Where the technical documentation does not comply with paragraph (1), (2) or (3) and in so doing fails to present sufficient relevant data or means used to ensure compliance of radio equipment with the essential requirements, the market surveillance authority may give notice to the manufacturer or importer concerned requiring that manufacturer or importer to have a test performed by a body acceptable to the market surveillance authority at the expense of the manufacturer or importer, within a specified period, and to furnish the results of the test to the market surveillance authority in order that it may verify compliance of the radio equipment with the essential requirements.

(5) The manufacturer or importer shall have the test referred to in paragraph (4) performed and furnish the results of that test to the market surveillance authority as required by the authority under paragraph (4).

## **PART 5**

### **NOTIFICATION OF CONFORMITY ASSESSMENT BODIES**

#### *Notifying Authority*

24. (1) The Commission for Communications Regulation is designated as the notifying authority in the State for the purposes of Article 23 of the Directive and these Regulations.

(2) The notifying authority shall—

- (a) set up and carry out the necessary procedures for the assessment and notification of conformity assessment bodies, and

- (b) carry out the monitoring of notified bodies, including compliance by a notified body with Article 28 of the Directive.

(3) The notifying authority shall inform the European Commission of its procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies and any changes thereto.

(4) The notifying authority shall comply with the requirements of Article 24 of the Directive.

#### *Application for Notification*

25. (1) A conformity assessment body established in the State shall apply to the notifying authority for notification.

(2) The application under paragraph (1) shall be accompanied by—

- (a) a description of—
  - (i) the conformity assessment activities,
  - (ii) the conformity assessment module or modules, and
  - (iii) the radio equipment,

for which the conformity assessment body claims to be competent, and

- (b) such other information and documentation as the notifying authority may require to satisfy itself that the conformity assessment body complies with the requirements specified in Article 26 of the Directive.

(3) The application under paragraph (1) shall also be accompanied by—

- (a) where one exists, a certificate of accreditation,
- (b) where no certificate of accreditation exists, all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements set down in Article 26 of the Directive

(4) Without prejudice to any other enactment, the national accreditation body may issue a certificate of accreditation for the purposes of an application under this Regulation.

#### *Presumption of Conformity of Notified Bodies*

26. Where a conformity assessment body demonstrates conformity with the criteria laid down in the relevant harmonised standards (or part of such standards) the references of which have been published in the Official Journal of the European Union, the body shall be presumed to comply with the requirements set out in Article 26 of the Directive, in so far as the applicable harmonised standards (or part of such standards) cover those requirements.

#### *Notification Procedure*

27. (1) The notifying authority may notify only a conformity assessment body which has satisfied the requirements laid down in Article 26 of the Directive.



(2) The notifying authority shall notify the European Commission and the other Member States using the electronic notification tool developed and managed by the European Commission.

(3) The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and the radio equipment concerned and the relevant attestation of competence.

(4) Where a notification is not based on an accreditation certificate, the notifying authority shall provide the European Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 26 of the Directive.

(5) The conformity assessment body concerned may perform the activities of a notified body only where no objections are raised by the European Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

(6) Only such a body shall be considered a notified body for the purposes of these Regulations and the Directive.

(7) The notifying authority shall notify the European Commission and the other Member States of changes to the notification under this Regulation as it considers relevant.

*Restriction, Suspension or Withdrawal of Notification*

28. (1) Where the notifying authority has ascertained, or has been informed that a notified body—

- (a) no longer meets the requirements laid down in Article 26 of the Directive, or
- (b) that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification, as it considers appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations.

(2) The notifying authority shall immediately inform the European Commission and the other Member States of the matters referred to in paragraph (1).

(3) The notifying authority shall—

- (a) give notice to the notified body advising the body of the restriction, suspension or withdrawal of a notification under paragraph (1) as soon as possible, and
- (b) advise the notified body concerned that it may make representations to the authority in respect of the restriction, suspension or withdrawal, as the case may be, of a notification.

(4) Where—

- (a) a restriction, suspension or withdrawal of a notification is made, or

- (b) the notified body concerned has ceased its activity, the notifying authority shall take appropriate steps to ensure—
  - (i) that the files of that notified body are processed by another notified body, or
  - (ii) that those files are kept in a manner that will permit the notifying authority to have access to them for the performance by the authority of its functions under these Regulations.

#### *Challenge of the Competence of Notified Bodies*

29. (1) The notifying authority shall comply with paragraph 2 of Article 33 of the Directive.

(2) The notifying authority may give notice to the notified body concerned requesting the body to provide the authority with information or documents relating to or connected with the performance by the authority of its functions under paragraph (1).

(3) A notified body shall comply with a notice referred to in paragraph (2).

#### *Operational Obligations of Notified Bodies*

30. (1) A notified body shall carry out a conformity assessment in accordance with the conformity assessment procedures specified in Annexes III and IV to the Directive.

(2) Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators.

(3) A conformity assessment body shall perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the radio equipment technology in question and the mass or serial nature of the production process.

(4) In performing its activities under paragraph (3), a conformity assessment body shall nevertheless respect the degree of rigour and the level of protection required to ensure the compliance of the radio equipment with the Directive and these Regulations.

(5) Where a notified body finds that the essential requirements set out in Article 3 of the Directive or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue an EU-type examination certificate or a quality system approval.

(6) Where, in the course of the monitoring of conformity following the issue of an EU-type examination certificate or a quality system approval, a notified body finds that radio equipment no longer complies, it shall give notice to the manufacturer requiring the manufacturer to take appropriate corrective measures and shall suspend or withdraw the EU-type examination certificate or the quality system approval if necessary.

(7) Where corrective measures referred to in paragraph (6) are not taken or do not have the required effect, the notified body shall, having considered any

representations made to it by the manufacturer, restrict, suspend or withdraw any EU-type examination certificate or quality system approval, as appropriate.

(8) A notified body who has subcontracted specific tasks or has recourse to a subsidiary shall comply with Article 28 of the Directive.

*Appeal of Decision under Part 5*

31. (1) Where—

- (a) a manufacturer is aggrieved by a decision of a notified body under Regulation 30 which affects the manufacturer, or
- (b) a notified body is aggrieved by a decision of the notifying authority under Regulation 28 to restrict, suspend or withdraw its notification, the manufacturer, or as the case may be, notified body concerned may, within the period of 7 days beginning on the day on which the decision is taken or communicated to the manufacturer, or as the case may be, notified body, appeal to a judge of the District Court in the District Court District in which the manufacturer, or as the case may be, notified body, carries on business, against the decision and in determining the appeal the judge may—
  - (i) affirm the decision with or without modification, or
  - (ii) quash the decision.

(2) The judge of the District Court determining the appeal under paragraph (1) may make such order as to the payment of costs of the appeal as he or she considers appropriate.

*Information Obligation of Notified Bodies*

32. (1) A notified body shall inform the notifying authority of any of the following:

- (a) any refusal, restriction, suspension or withdrawal of an EU-type examination certificate or a quality system approval in accordance with the requirements of Annexes III and IV to the Directive,
- (b) any circumstances affecting the scope of or conditions for notification,
- (c) any request for information which it has received in a notice given by market surveillance authorities regarding conformity assessment activities, or
- (d) on receipt of a notice given by the notifying authority containing a request in that behalf, conformity assessment activities performed within the scope of the body's notification and any other conformity assessment activity performed, including cross-border activities and subcontracting.

(2) A notified body shall, in accordance with the requirements of Annexes III and IV to the Directive, provide other bodies notified under the Directive or these Regulations which perform conformity assessment activities of a similar nature in respect of radio equipment of the same class or categories with relevant

information on matters relating to negative and, on request, positive conformity assessment results.

(3) A notified body shall fulfil the information obligations under Annexes III and IV to the Directive.

#### *Coordination of Notified Bodies*

33. (1) A notified body shall participate in the work of a sectoral group of notified bodies established by the European Commission pursuant to Article 38 of the Directive.

(2) A notified body shall participate in the work of a sectoral group under paragraph (1) either directly or by means of a designated representative.

(3) A notified body shall, on receipt of a notice given by the notifying authority containing a request in that behalf, provide information to the notifying authority concerning compliance by the notified body with its obligations under this Regulation.

### **PART 6**

#### **UNION MARKET SURVEILLANCE, CONTROL OF RADIO EQUIPMENT ENTERING UNION MARKET AND SAFEGUARD PROCEDURE**

##### *Union Market Surveillance, Control of Radio Equipment Entering Union Market and Market Surveillance Authority*

34. (1) For the purposes of these Regulations, the Directive and Article 10 of Regulation (EU) 2019/1020 the Commission for Communications Regulation is designated as the market surveillance authority in the State in respect of radio equipment.

(2) For the purposes of Article 39 of the Directive and the application to radio equipment, of Articles 2(3), 10 - 14, 16 - 20, 22 - 28, 30 - 32 and 34 of Regulation (EU) 2019/1020 and Regulation (EC) No. 765/2008<sup>15</sup> and Regulation (EU) 2023/988<sup>15</sup>, the market surveillance authority shall—

- (a) without prejudice to its existing powers, for the purpose of its role as a market surveillance authority under any related enactment, have the powers set out in Article 14(4) of Regulation (EU) 2019/1020.
- (b) be the market surveillance authority, within the meaning of Article 10(2) of Regulation (EU) 2019/1020, in the State for the purposes of those Articles and in relation to that application,
- (c) perform the functions assigned to a market surveillance authority in those Articles of Regulation (EU) 2019/1020 and in relation to that application, and
- (d) perform the functions specified in Articles 19, 20 and 34(4) of Regulation (EU) 2019/1020 in relation to that application.

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<sup>15</sup> OJ L 135, 23.5.2023, pp. 1–51

*Procedure for Dealing with Radio Equipment Presenting a Risk at National Level*

35. (1) In respect of:

- (a) all radio equipment from the final transition date; and
- (b) until the final transition date, all radio equipment except equipment referred to in Part I, point 1.13 of Annex Ia to the Directive

where the market surveillance authority has sufficient reason to believe that such radio equipment presents a risk to the health and safety of persons or to other aspects of protection of the public interest or does not comply with at least one of the applicable essential requirements, the authority shall, without delay, carry out an evaluation in relation to the radio equipment concerned in respect of all relevant requirements of these Regulations.

(2) In respect of radio equipment referred to in Part I, point 1.13 of Annex Ia to the Directive, until the final transition date, where the market surveillance authority has sufficient reason to believe that such radio equipment presents a risk to the health or safety of persons or to other aspects of public interest protection covered by the Directive, the authority shall, without delay, shall carry out an evaluation in relation to the radio equipment concerned in respect of all relevant requirements of these Regulations.

(3) The relevant economic operators shall co-operate as necessary with the market surveillance authority for the purpose of an evaluation carried out under paragraphs (1) or (2).

(4) Where, in the course of carrying out the evaluation under paragraphs (1) or (2), the market surveillance authority finds that the radio equipment does not comply with the requirements of these Regulations, it shall give notice without delay to the economic operator concerned informing the operator of its finding.

(5) Where, in the course of the evaluation under paragraphs (1) or (2) the market surveillance authority has reason to believe that action is required to prevent a risk to the health and safety of persons or protection of the public interest, it may, having regard to the nature of the risk, give a direction, giving the reasons for the direction, to the economic operator requiring the economic operator to, within such period specified in the direction as the market surveillance authority considers reasonable—

- (a) take all appropriate corrective action to bring the radio equipment into compliance with the requirements of these Regulations,
- (b) withdraw the radio equipment from the market or from service, or
- (c) recall the radio equipment.

(6) The market surveillance authority shall give notice to the notified body which carried out the conformity assessment of the product informing the body of the giving of the direction under paragraph (5).

(7) Where a direction is given under paragraph (5)—

- (a) Article 18 of Regulation (EU) 2019/1020 shall apply to the measures specified in the direction, and
- (b) the market surveillance authority shall ensure that any measure specified in that direction complies with Article 18 of Regulation (EU) 2019/1020 and without prejudice to the generality of the foregoing, for the purposes of making representations, the market surveillance authority shall have regard to the period specified in Article 18 of Regulation (EU) 2019/1020 in respect of the making of those representations.

(8) Where the market surveillance authority considers that non-compliance is not restricted to the State, the authority shall inform the European Commission and the other Member States of the results of the evaluation and of the giving of the direction to take action.

(9) The economic operator shall, within the time specified in the direction, comply with a direction given to the operator under paragraph (5).

*Procedures Where Radio Equipment Continues to Present a Risk at National Level*

36. (1) Where the relevant economic operator does not take adequate corrective action within the period specified in a direction given under Regulation 35(5), the market surveillance authority shall, without delay, take all appropriate provisional measures it considers necessary.

(2) The provisional measures which the market surveillance authority may take under paragraph (1) are—

- (a) the prohibition or restriction of the radio equipment from being made available on the market,
- (b) the withdrawal of the radio equipment from the market in the State, or
- (c) the recall of the radio equipment from the market in the State.

(3) Where the market surveillance authority takes a measure specified in paragraph (2)—

- (a) the authority shall give notice to the economic operator informing the operator of the measure concerned, and
- (b) paragraph (7) of Regulation 35 shall apply to a notice under this paragraph as it applies to a direction under Regulation 35 subject to any other necessary modifications.

(4) An economic operator shall comply with a measure taken under paragraph (2) and a notice given under paragraph (3).

(5) The market surveillance authority shall inform the European Commission and other Member States, without delay, of a measure which the authority has taken under paragraph (2).

(6) The information provided under paragraph (5) shall—

- (a) include all available details,

- (b) without prejudice to the generality of subparagraph (a), include details of—
  - (i) the data necessary for the identification of the non-compliant radio equipment,
  - (ii) the origin of the radio equipment,
  - (iii) the nature of the non-compliance alleged, and the risk involved,
  - (iv) the nature and duration of the measure taken, and
  - (v) the arguments put forward by the relevant economic operator,

and

- (c) indicate, in the information, whether the non-compliance is due to either—
  - (i) the failure of the radio equipment to meet the relevant essential requirements or
  - (ii) shortcomings in the harmonised standards referred to in Regulation 19 conferring a presumption of conformity.

(7) Where another Member State initiates the procedure under Article 40 of the Directive—

- (a) the market surveillance authority shall without delay inform the European Commission and the other Member States of—
  - (i) any measures adopted, and
  - (ii) any additional information at the disposal of the market surveillance authority relating to the non-compliance of the radio equipment concerned,

and

- (b) where the market surveillance authority disagrees with the adopted national measure, the objections of the market surveillance authority.

(8) Where, within 3 months of the market surveillance authority informing, under paragraph (5), the European Commission and other Member States of a provisional measure taken, no objection has been raised by the European Commission or a Member State in respect of the measure, the provisional measure shall be deemed to be justified.

#### *Union Safeguard Procedure*

37. (1) Where, pursuant to Article 41 of the Directive, a national measure of a Member State is considered to be justified, the market surveillance authority shall—

- (a) take the necessary measures to ensure that the non-compliant radio equipment is withdrawn or recalled from the market in the State, and

- (b) inform the European Commission accordingly.

(2) Where, pursuant to Article 41 of the Directive a national measure taken by the market surveillance authority is considered to be unjustified, the market surveillance authority shall withdraw the measure.

*Compliant Radio Equipment Presenting Risk*

38. (1) Where having carried out an evaluation under Regulation 35(1) or 35(2), the market surveillance authority is of the opinion that radio equipment that is in compliance with these Regulations nonetheless presents a risk to the health or safety of persons or to the protection of the public interest, it shall give a direction to the economic operator requiring the economic operator to do any of the following within such period specified in the direction as the market surveillance authority considers reasonable:

- (a) to take all appropriate measures to ensure that the radio equipment concerned, when placed on the market, no longer presents that risk;
- (b) to withdraw the radio equipment from the market in the State;
- (c) to recall the radio equipment from the market in the State;
- (d) to do or refrain from doing anything in order to comply with these Regulations and the Directive.

(2) The economic operator shall, within the time specified in the direction, comply with a direction given to the operator under paragraph (1).

(3) The market surveillance authority shall give notice to the European Commission and the other Member States of a direction given under paragraph (1) which shall include all available details, in particular—

- (a) the data necessary for the identification of the non-compliant radio equipment,
- (b) the origin and supply chain of the radio equipment,
- (c) the nature of the non-compliance alleged and the risk involved, and
- (d) the nature and duration of the national measures taken.

*Formal Non-Compliance*

39. (1)(a) Without prejudice to Regulation 35 or 36, where the market surveillance authority makes one of the findings specified in paragraph (b), the authority shall give a direction to the relevant economic operator to take specified measures to end the non-compliance concerned.

- (b) The findings referred to in paragraph (a) are:
  - (i) the CE marking has been affixed in violation of—
    - (I) Article 30 of Regulation (EC) No. 765/2008<sup>6</sup>, or
    - (II) Regulation 22;
  - (ii) the CE marking has not been affixed;



- (iii) the identification number of the notified body, where the conformity assessment procedure set out in Annex IV of the Directive is applied, has been affixed in contravention of Regulation 22 or has not been affixed;
- (iv) the EU declaration of conformity has not been drawn up;
- (v) the EU declaration of conformity has not been drawn up correctly;
- (vi) the technical documentation is either not available or not complete;
- (vii) the information referred to in subparagraphs (d) and (f) of Regulation 13(2) or subparagraph (h) of Regulation 15(2) is absent, false or incomplete;
- (viii) the information, the EU declaration of conformity or usage restrictions as set out in subparagraphs (g), (h) and (i) of Regulation 13(2) does not accompany the radio equipment;
- (ix) an economic operator has not complied with Regulation 18;
- (x) the pictogram referred to in Regulation 5(2), or label referred to in Regulation 13(3), has not been drawn up correctly;
- (xi) the label referred to in Regulation 13(3) does not accompany the radio equipment concerned;
- (xii) the pictogram is not affixed or displayed in accordance with Regulation 5 or the label is not affixed or displayed in accordance with paragraph (2)(h)(vi), (3), (4), (5) or (6) of Regulation 13;
- (xiii) Regulation 5 has not been complied with;
- (xiv) Regulation 7 has not been complied with.

(2) The economic operator shall, within the time specified in the direction, comply with a direction given to the operator under paragraph (1).

(3) Where the relevant economic operator does not take adequate corrective action within the period specified in a direction given under paragraph (1) the market surveillance authority may, in respect of the non-compliance, take all appropriate measures to—

- (a) restrict or prohibit the radio equipment from being made available on the market,
- (b) withdraw the radio equipment from the market in the State, or
- (c) recall the radio equipment from the market in the State.

(4) Where the market surveillance authority takes a measure specified in paragraph (3)—

- (a) the authority shall give notice to the economic operator informing the economic operator of the measure concerned, and

- (b) paragraph (7) of Regulation 35 shall apply to a notice under this paragraph as it applies to a direction under Regulation 35 subject to any other necessary modifications.

(5) An economic operator shall comply with a measure taken under paragraph (3) and a notice under paragraph (4).

## PART 7

### ENFORCEMENT

#### *General*

40. (1) The market surveillance authority in the State may use, as part of an investigation to verify the compliance of radio equipment, evidence that has been used by a market surveillance authority in another Member State without further formal requirements.

(2) The market surveillance authority in the State may use any information, document, finding, statement or intelligence as evidence for the purpose of an investigation, irrespective of the format in which and medium on which it is stored.

#### *Appointment of Authorised Officers*

41. (1) The market surveillance authority may appoint such and so many members of staff of the authority, or other person whom the authority considers to be suitably qualified, to be authorised officers for the purpose of ensuring compliance with the Directive, Regulation (EU) 2019/1020 and these Regulations.

(2) An authorised officer shall be furnished with a certificate of his or her appointment and shall, when exercising a power conferred on him or her under the Directive, Regulation (EU) 2019/1020 or these Regulations, if requested by a person affected, produce to the person the certificate of appointment, or a copy of it, and a form of personal identification.

(3) The market surveillance authority may terminate the appointment of an authorised officer appointed by the authority whether or not the appointment was for a fixed period.

(4) An appointment of an authorised officer ceases-

- (a) if it is terminated under paragraph (3),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is a member of staff of the market surveillance authority, upon the person ceasing to be such a member of staff.

(5) Section 41 of the Act of 2002 shall apply to an authorised officer appointed under these Regulations and to any member of staff of the market surveillance authority.

(6) An authorised officer appointed under these Regulations, may in the same certificate of appointment be appointed under the Act of 2002 and/or any other applicable legislation.

*Powers of Authorised Officers*

42. (1) Without prejudice to any power or powers under any other provision of these Regulations or under the Act of 2002, an authorised officer shall, for the purposes of enforcement of the provisions of the Directive, Regulation (EU) 2019/1020 and these Regulations have the power to do—one or more of the following:

- (a) subject to paragraph (3) or (4), enter at any time without warrant any premises, land or means of transport that the economic operator in question uses for purposes related to the economic operator's trade, business, craft or profession, in order to identify non-compliance and obtain evidence;
- (b) make inquiries in respect of, search, examine or inspect, as appropriate-
  - (i) any place, any part of any place, referred to in subparagraph (a),
  - (ii) any activity, process, procedure, matter or thing at, or carried on at, a place referred to in subparagraph (a),
  - (iii) any radio equipment or any record, books or documents relating to such radio equipment to ascertain whether the Directive, Regulation (EU) 2019/1020 or these Regulations have been or are being complied with and, for that purpose, take with him or her and use any equipment or materials he or she considers necessary.
- (c) secure for later inspection a place referred to in subparagraph (a) or part of that place, or radio equipment or records kept at that place and require that the place, part thereof, radio equipment or records or any other thing kept at that place as the authorised officer considers appropriate having regard to his or her functions is or are left undisturbed for so long as is reasonably necessary for the purpose of any search, examination, investigation, inspection or inquiry under the Directive, Regulation (EU) 2019/1020 or these Regulations;
- (d) require any person in charge of, employed at or other relevant person at a place referred to in subparagraph (a) to –
  - (i) produce to the authorised officer any radio equipment or any partly completed radio equipment in the possession or under the control of the person;
  - (ii) produce to the authorised officer any books, documents or records that are in the person's power, possession, or control, and in the case of such information in a non-legible form to reproduce it in a permanent legible form, and
  - (iii) to give the authorised officer such information as the officer may reasonably require in relation to any entries in such books, documents and records referred to in clause (ii);

- (e) inspect and take copies of or extracts from any such books, documents or records or any electronic information system at a place referred to in subparagraph (a), including in the case of information in non-legible form a copy of or extract from such information in a permanent legible form, or require that such a copy be provided;
- (f) require a person in charge of, employed at or other relevant person at a place referred to in subparagraph (a) by whom or on whose behalf a computer is or has been used to produce or store records or any person having control of, or otherwise concerned with the operation of the computer, to afford the authorised officer access to the records on that computer and all reasonable assistance as the authorised officer may require in respect of accessing such records;
- (g) remove from a place referred to in subparagraph (a) and detain, any books, documents or records (including documents stored in a non-legible form) and any copies of such books, documents or records for such period as the authorised officer reasonably considers necessary for further examination or until the conclusion of any legal proceedings;
- (h) require that any books, documents or records at a place referred to in subparagraph (a) be maintained for such period as may be reasonable;
- (i) require a person in charge of, employed at or other relevant person at a place referred to in subparagraph (a) to give the authorised officer such information, assistance and facilities within the person's power or control as the authorised officer may reasonably require for the purposes of any search, examination, investigation, inspection or inquiry under the Directive, Regulation (EU) 2019/1020 or these Regulations;
- (j) examine any person (whether such person is at a place referred to in subparagraph (a) or otherwise) whom the authorised officer reasonably believes to be able to give to the authorised officer information relevant to any search, examination, investigation, inspection or inquiry under Regulation (EU) 2019/1020 or these Regulations and require the person to answer such questions as the authorised officer may ask relative to the search, examination, investigation, inspection or inquiry and to sign a declaration of the truth of the answers;
- (k) require that any procedure be followed for the purposes of any search, examination, investigation, inspection or inquiry under Regulation (EU) 2019/1020 or these Regulations;
- (l) take any measurements or photographs or make any tape, electronic or other recordings that the authorised officer considers necessary for the purposes of any search, examination, investigation, inspection or inquiry under Regulation (EU) 2019/1020 or these Regulations

- (m) where appropriate, install, use and maintain at a place referred to in subparagraph (a) monitoring instruments, systems and seals for the purposes of Regulation (EU) 2019/1020 and these Regulations;
- (n) to acquire samples of radio equipment, including under a cover identity, to inspect those samples and to reverse engineer them in order to identify non-compliance and to obtain evidence;
- (o) take possession of and detain any radio equipment or part thereof or any article or substance used in the manufacture of radio equipment kept at a place referred to in subparagraph (a) for so long as is necessary for all or any of the following purposes, namely:
  - (i) to examine or arrange for the examination, testing or analysis of the radio equipment under subparagraph (s);
  - (ii) to ensure that the radio equipment is not tampered with before the examination, testing or analysis of it is completed;
  - (iii) to ensure that the radio equipment is available for use as evidence in any proceedings;
- (p) cause any radio equipment found at any place to be subjected, at the place it is found or any other location, to any testing, examination or analysis (but not so as to damage or destroy it unless this is necessary for the purposes of Regulation (EU) 2019/1020 or these Regulations) and where an authorised officer proposes to exercise the power conferred by this subparagraph and if so requested by the person in charge, cause anything that is to be done by virtue of this subparagraph to be done in the presence of the person in charge save that the person in charge is responsible for his or her own costs in attending at the exercise of any power under this subparagraph and cannot unreasonably delay the authorised officer in the exercise of those powers;
- (q) for the purposes of exercising a power under subparagraph (p)—
  - (i) require the person in charge to supply to the authorised officer without charge any radio equipment or samples thereof, and
  - (ii) where necessary, remove, or have removed, to another location any radio equipment or samples thereof;
- (r) before exercising the power conferred by subparagraph (o) or (p) in respect of any radio equipment, article or substance, an authorised officer shall, in so far as it is reasonably practicable to do so, consult such persons as appear to him or her to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he or she proposes to do under that power;

- (s) require the person in charge of, employed at or other relevant person at a place referred to in subparagraph (a) to give the authorised officer such facilities and assistance within the person's power, control or responsibilities as are reasonably necessary to enable the authorised officer to exercise any of the powers conferred on him or her by these Regulations;
- (t) require an economic operator to:
  - (i) provide relevant documents, technical specifications, data or information on compliance and technical aspects of radio equipment, including providing access to embedded software in so far as such access is necessary for the purpose of assessing the compliance of any radio equipment with these Regulations, in any form or format and irrespective of the medium of storage or the place where such documents, technical specifications, data or information are stored, and take copies thereof;
  - (ii) provide relevant information on the supply chain, on the details of the distribution network, on quantities of radio equipment on the market and on other radio equipment models that have the same technical characteristics as the radio equipment in question, where relevant for compliance with the applicable requirements in these Regulations or the Directive;
  - (iii) provide relevant information required for the purpose of ascertaining the ownership of a website, where the information in question is related to the subject matter of the investigation.
  - (iv) provide any other information that is relevant for compliance;
- (u) where no other effective means are available to eliminate a serious risk:
  - (i) to require the removal of content referring to the relevant radio equipment from an online interface or to require the explicit display of a warning to end users when they access an online interface; or
  - (ii) where a request according to point (i) has not been complied with, to require information society service providers to restrict access to the online interface, including by requesting a relevant third party to implement such measures.

(2) Where radio equipment is found at a place referred to in paragraph (1)(p), and an inquiry is made by an authorised officer in the course of a search, examination, investigation or inspection as to the identity of the person who supplied the radio equipment, the person in charge shall give the authorised officer the name and address of the supplier from whom the radio equipment was purchased or otherwise obtained

(3) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under Regulation 53 authorising such entry.

(4) Where an authorised officer in the exercise of his or her powers under this Regulation is prevented from entering any place, an application may be made to the District Court under Regulation 53 for a warrant authorising such entry.

(5) A statement or admission made by a person pursuant to a requirement under subparagraph (i) or (j) of paragraph (1) shall not be admissible in proceedings brought against that person for an offence (other than an offence under paragraph (4) of Regulation 55).

(6) The market surveillance authority may recover from the relevant economic operator the totality of the costs of its activities with respect to instances of non-compliance, including those referred to in Article 15(2) of Regulation (EU) 2019/1020. Where any measure has been taken or notice given by the market surveillance authority under this Regulation or Regulation 36, 37, or 39, the costs of any removal, detention, seizure, destruction, rendering inoperable or disposal for the purposes of these Regulations may be charged to the economic operator, the manager of the place where the product was found or the private importer, where known.

(7) (a) In this Regulation “place” means any structure, premises, land or other location or part thereof and includes any container, railway wagon, vessel, aircraft or other vehicle.

(b) In this Regulation—

“person in charge” means, in relation to a place—

- (i) the person under whose direction and control the activities at that place are being conducted, or
- (ii) the person whom the authorised officer has reasonable grounds for believing is in control of that place.

(c) In this Regulation—

“record” includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any of, or any combination of, the foregoing.

#### *Contravention Notice*

43. (1) Where the market surveillance authority is of the opinion that an economic operator or information society service provider is contravening or has contravened any of the provisions of the Directive, Regulation (EU) 2019/1020 or these Regulations or that any radio equipment does not comply with the Directive, Regulation (EU) 2019/1020 or these Regulations for the purposes of Article 28(2) of Regulation (EU) 2019/1020 it may serve a

contravention notice on the relevant economic operator or information society service provider.

(2) A contravention notice under paragraph (1) shall-

- (a) state that the market surveillance authority is of the opinion referred to in paragraph (1),
- (b) state the reason for the opinion referred to in paragraph (1),
- (c) identify the provision or provisions in respect of which the opinion is held,
- (d) direct that the person, where required, do one or more of the following:
  - (i) remedy the contravention or the matters occasioning the contravention notice;
  - (ii) refrain from placing on the market the radio equipment to which the notice relates;
  - (iii) refrain from making available on the market that radio equipment;
  - (iv) withdraw that radio equipment from the market;
  - (v) recall that radio equipment;
  - (vi) dispose of that radio equipment;
  - (vii) destroy that radio equipment;

by a date specified in the contravention notice that shall not be earlier than the expiration of the period within which an appeal can be made under Regulation 44,

- (e) inform the person on whom the contravention notice has been served of the right to appeal the contravention notice under Regulation 44,
- (f) inform the person of the requirement to confirm compliance with the direction in accordance with paragraph (7),
- (g) state that if the person on whom the contravention notice has been served fails to comply with the notice within the time period specified in the notice, that person commits an offence,
- (h) be signed and dated by the market surveillance authority, and
  - (i) be communicated to the relevant person without delay.

(3) A contravention notice may include –

- (a) directions as to the measures to be taken to remedy any contravention or matter to which the contravention notice relates, or to otherwise comply with the notice,
- (b) directions to bring to the contravention notice to the attention of any person who may be affected by it or to the attention of the public generally, and



- (c) any other requirement as the market surveillance authority considers appropriate.
- (4) Subject to Regulation 44(5), the contravention notice shall take effect on the later of—
  - (a) the expiration of the period for making an appeal to the District Court, or
  - (b) the day specified in the contravention notice.
- (5) A person to whom a contravention notice has been given may appeal the notice under Regulation 44.
- (6) A person on whom a contravention notice has been served under paragraph (1) shall comply with the notice.
- (7) As soon as practicable after complying, and in any case not later than 7 days after the date specified in the contravention notice by which it is to be complied with, a person to whom a contravention notice has been given shall notify the market surveillance authority in writing that the contravention notice has been complied with.
- (8) Within one month of receiving a notification under paragraph (7), where the market surveillance authority is satisfied that the contravention notice has been complied with, the market surveillance authority shall give notice to the person of compliance with the contravention notice.
- (9) The market surveillance authority may, where it considers it appropriate to do so, by notice in writing to the person to whom a direction was given—
  - (a) withdraw or amend a contravention notice at any time, or
  - (b) where no appeal is made or pending under Regulation 44, extend the period specified under paragraph (2)(d) of this Regulation.
- (10) Subject to paragraph (11), in the case of radio equipment which the market surveillance authority does not consider to present a serious risk requiring rapid intervention under Article 19 of Regulation (EU) 2019/1020, the intended recipient of a contravention notice shall have the opportunity to make representations in writing to the market surveillance authority within 10 working days of first being advised of the market surveillance authority's intention to serve a contravention notice on that person.
- (11) Where an opportunity to make representations referred to in paragraph (10) is not possible because of the urgency of the measure directed in the contravention notice as referred to in the said paragraph (10), as justified by health or safety requirements or other grounds relating to public interests, the market surveillance authority shall give the recipient of the notice the opportunity to make representations in writing to the market surveillance authority as soon as possible after the service of the notice on that person and the service of the notice shall be reviewed promptly thereafter.

*Appeal against contravention notice*

44. (1) A person on whom a contravention notice is served may, within 14 days beginning on the day on which the notice is served on him or her, appeal against the notice to judge of the District Court in the District Court district in

which the notice was served and in determining the appeal the judge may, if he or she considers it appropriate to do so, confirm, vary or cancel the notice.

(2) A person who appeals under paragraph (1) shall at the same time notify the market surveillance authority of the appeal and the grounds for the appeal and the authority shall be entitled to appear, be heard and adduce evidence at the hearing of the appeal.

(3) Where a decision is made under paragraph (1), any person aggrieved may, within 14 days beginning on the day on which the decision was made, appeal it to the Circuit Court in the circuit in which the contravention notice was served and in determining the appeal, the court may, if it considers it appropriate to do so, confirm the decision of the District Court, vary it or allow the appeal.

(4) A decision under paragraph (3) shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(5) Where an appeal is taken and the contravention notice is not withdrawn by the market surveillance authority, the notice shall take effect on the later of—

- (a) the day next following the day on which the contravention notice is confirmed or varied on final appeal,
- (b) the day next following the day on which the appeal is discontinued, or
- (c) the day specified in the contravention notice.

*Order of High Court directing compliance with contravention notice*

45. (1) Where a person fails to comply with a contravention notice the market surveillance authority may apply ex parte to the High Court for an order directing immediate compliance with the notice.

(2) The High Court may, upon an application under this Regulation, if satisfied that the person on whom the contravention notice is served has failed to comply with the notice, grant the order referred to in paragraph (1).

*Radio Equipment presenting a serious risk*

46. (1) A decision taken by the market surveillance authority that radio equipment presents a serious risk shall be based on an appropriate risk assessment that takes account of the nature of the hazard and the likelihood of its occurrence.

(2) The feasibility of obtaining higher levels of safety and the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering that a product presents a serious risk.

(3) The market surveillance authority shall have discretion to assess whether a product presents a serious risk or whether a matter is urgent, on the basis of the information available to it at the date of such assessment and without prejudice to the generality of the foregoing, it is open to it to make such an assessment where due to formal non-compliance, there is insufficient information available to it to apply its normal risk assessment methodology in full. In making such an assessment the market surveillance authority may have regard to all information available to it from any source, including information

relating to other products from the same manufacturer or products from other manufacturers incorporating the same or similar components or modules.

*Prohibition notice – radio equipment presenting a serious risk*

47. (1) Where the market surveillance authority is of the opinion that radio equipment presents, or is likely to present, a serious risk to the health or safety of persons, including a serious risk the effects of which are not immediate, the market surveillance authority may serve a prohibition notice on a person, regardless of whether or not there is or is likely to be a contravention of the Directive, Regulation (EU) 2019/1020 or these Regulations.

(2) For the avoidance of doubt, where any radio equipment does not have any marking (on its packaging or otherwise) or document required under the Directive, Regulation (EU) 2019/1020 or these Regulations, the market surveillance authority may form an opinion referred to in paragraph (1).

(3) A prohibition notice may be served on any person the market surveillance authority has reasonable grounds for believing is in a position to take the measures specified in the notice.

(4) A prohibition notice shall—

- (a) state that the market surveillance authority is of the opinion referred to in paragraph (1),
- (b) specify the exact grounds for the opinion,
- (c) where in the opinion of the market surveillance authority there is or is likely to be a contravention of any provision of the Directive, Regulation (EU) 2019/1020 or these Regulations, specify every such provision (including the particular paragraph and subparagraph of such provision as appropriate),
- (d) prohibit any activity of the person on whom the prohibition notice is served that results in the radio equipment referred to in paragraph (1) being placed on the market or made available on the market,
- (e) inform the person on whom the prohibition notice is served that he or she may appeal the notice to the District Court within 7 days in accordance with Regulation 48,
- (f) state that if the person on whom the prohibition notice is served fails to comply with the notice, that person commits an offence,
- (g) be signed and dated by the market surveillance authority,
- (h) be communicated to the relevant person without delay.

(5) A prohibition notice may include -

- (a) directions as to the measures to be taken by the relevant person to stop the activity referred to in paragraph (4)(d), to remedy any contravention of the Directive, Regulation (EU) 2019/1020 or these Regulations or any matter to which the prohibition notice relates, or to otherwise comply with the notice, including directions to do one or more of the following regarding the radio equipment referred to in paragraph (1):

- (i) refrain from placing on the market the radio equipment;
- (ii) refrain from making available on the market the radio equipment;
- (iii) withdraw the radio equipment from the market;
- (iv) recall the radio equipment;
- (v) dispose of the radio equipment;
- (vi) destroy the radio equipment;
- (b) a requirement to bring the prohibition notice to the attention of any person who may be affected by it or to the attention of the public generally,

and

- (c) any other requirement that the market surveillance authority considers appropriate.

(6) A person to whom a prohibition notice has been given may appeal the notice under Regulation 48.

(7) Subject to Regulation 48(9), a prohibition notice shall take effect immediately at the time the notice is received by the person on whom it is served.

(8) A person on whom a prohibition notice has been served under paragraph (1) shall comply with the notice.

(9) A person to whom a prohibition notice has been served who is of the opinion that the notice has been complied with, shall notify the market surveillance authority in writing that the prohibition notice has been complied with.

(10) Within one month of receiving a notification under paragraph (9), where the market surveillance authority is satisfied that the prohibition notice has been complied with, the market surveillance authority shall give notice to the person of compliance with the prohibition notice.

(11) The market surveillance authority may at any time withdraw a prohibition notice if—

- (a) the market surveillance authority is satisfied that the radio equipment to which the prohibition notice relates no longer gives rise to a serious risk to health or safety of persons, or
- (b) the market surveillance authority is satisfied that the prohibition notice was issued in error or is incorrect in some material respect.

(12) The market surveillance authority shall give the recipient of the prohibition notice the opportunity to make representations in writing to the market surveillance authority as soon as possible after the service of the notice on that person and the service of the notice shall be reviewed promptly thereafter.

#### *Appeal against a prohibition notice*

48. (1) A person on whom a prohibition notice is served may, within 7 days beginning on the day on which the notice is served on him or her, appeal against the notice to judge of the District Court in the District Court district in which the

notice was served and in determining the appeal the judge may, if he or she considers it appropriate to do so, confirm, vary or cancel the notice.

(2) A person who appeals under paragraph (1) shall at the same time notify the market surveillance authority of the appeal and the grounds for the appeal and the authority shall be entitled to appear, be heard and adduce evidence at the hearing of the appeal.

(3) Where a decision is made under paragraph (1), any person aggrieved may, within 7 days beginning on the day on which the decision was made, appeal it to the Circuit Court in the circuit in which the contravention notice was served and in determining the appeal, the court may, if it considers it appropriate to do so, confirm the decision of the District Court, vary it or allow the appeal.

(4) A decision under paragraph (3) shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(5) Subject to paragraph (6), the bringing of an appeal against a prohibition notice shall not have the effect of suspending the operation of the notice.

(6) Where a person brings an appeal under this Regulation, the appellant may apply to the court determining the appeal (being the District Court, Circuit Court or High Court) to have the operation of the prohibition notice suspended until the determination or discontinuation of the appeal before that court and, on such application, the court may, if it thinks proper to do so, grant the application.

(7) Where, on the hearing of an appeal under this Regulation, a prohibition notice is not cancelled, notwithstanding paragraph (6), the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation of the notice for such period as in the circumstances of the case the judge considers appropriate.

(8) A person who applies for the suspension of the operation of a prohibition notice shall at the same time notify the market surveillance authority in the State of the application and the grounds for the application.

(9) Where an appeal is brought under this Regulation and the court (being the District Court, Circuit Court or High Court) has granted a suspension on the operation of the prohibition notice, the prohibition notice shall take effect on the later of—

- (a) the day next following the day on which the notice is confirmed or varied on final appeal,
- (b) the day next following the day on which the appeal is discontinued, or
- (c) the day next following the expiration of the period of final suspension.

*Order of High Court to direct compliance with prohibition notice*

49. (1) Where a person fails to comply with a prohibition notice the market surveillance authority may apply *ex parte* to the High Court for an order directing immediate compliance with the notice.

(2) The High Court may, upon an application under this Regulation, if satisfied that the person on whom the prohibition notice is served has failed to comply with the notice, grant the order referred to in paragraph (1).

*Seizure notice — seizure and disposal of radio equipment presenting a serious risk*

50. (1) Where the market surveillance authority is of the opinion that radio equipment presents a serious risk, the market surveillance authority or any person directed by the market surveillance authority, may seize and destroy or dispose of the radio equipment in such manner and such time and place as the market surveillance authority may direct.

(2) The market surveillance authority may require the economic operator relating to the radio equipment referred to in paragraph (1), where known, to reimburse the cost or any portion of the cost of any measure taken under that paragraph.

(3) Where the market surveillance authority has seized, or intends to seize, any radio equipment under paragraph (1) it shall serve a seizure notice on the economic operator relating to the radio equipment, which seizure notice shall—

- (a) state that the radio equipment has been or is intended to be seized and that it is intended to destroy or dispose of the radio equipment,
- (b) specify the exact grounds for the seizure and intended destruction or disposal of the radio equipment,
- (c) where in the opinion of the market surveillance authority there is or is likely to be a contravention of any provision of the Directive, Regulation (EU) 2019/1020 or these Regulations, specify every such provision relied upon (including the particular paragraph and subparagraph of such provision as appropriate),
- (d) inform the person on whom the seizure notice is served that he or she may appeal the notice to the District Court within 21 days in accordance with this Regulation,

and

- (e) be signed and dated by the market surveillance authority.

(4) A person on whom a seizure notice is served may, within 21 days beginning on the day on which the seizure notice is served on him or her, appeal against the notice to the appropriate court (as defined in paragraph (17) and in determining the appeal, the court may, if it considers it appropriate to do so, confirm, vary or cancel the notice or make any other order as it considers appropriate.

(5) An appeal under paragraph (4) shall state the grounds on which the appeal is made and shall be made by written notice, which notice shall be lodged with the office of the appropriate court.

(6) A person who appeals under paragraph (4) shall at the same time furnish a copy of the notice referred to in paragraph (5) to the market surveillance

authority and the authority shall be entitled to appear, be heard and adduce evidence at the hearing of the appeal.

(7) If, during the hearing of an appeal under paragraph (4) to the District Court, that court forms the opinion that the value of the radio equipment the subject of the appeal exceeds that court's jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the Circuit Court or the High Court, whichever it considers appropriate having regard to its opinion of the value of the radio equipment.

(8) If, during the hearing of an appeal under paragraph (4) to the Circuit Court, that court forms the opinion that the value of the radio equipment the subject of the appeal, exceeds that court's jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the High Court.

(9) Paragraphs (7) and (8) are without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an appeal under paragraph (4) in relation to which it was, at the time of the hearing of the appeal, the appropriate court.

(10) Where a decision is made under paragraph (4), any person aggrieved may, within 21 days beginning on the day on which the decision was made, appeal the decision to the following court:

- (a) where the decision under paragraph (4) was made by the District Court, the Circuit Court;
- (b) where the decision under paragraph (4) was made by the Circuit Court, the High Court;
- (c) where the decision under paragraph (4) was made by the High Court, the Court of Appeal.

(11) On hearing an appeal under paragraph (10), the court may, if it considers it appropriate to do so, confirm the decision of the appropriate court, vary it or allow the appeal.

(12) A decision under paragraph (11) of the Circuit Court shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(13) A decision under paragraph (11) of the High Court shall be final, save that, by leave of the Court of Appeal, an appeal from the decision shall lie to the Court of Appeal on a specified question of law.

(14) An appeal under paragraph (4) to the District Court shall be determined by a judge of the District Court for the District Court district in which the radio equipment the subject of the appeal was placed on the market or the appellant ordinarily resides.

(15) An appeal under this Regulation (whether under paragraph (4) or (10)) to the Circuit Court shall be determined by a judge of the Circuit Court for the circuit in which the radio equipment the subject of the appeal was placed on the market or the appellant ordinarily resides.

(16) Where an appeal is made under paragraph (4), the radio equipment the subject of the appeal shall not be destroyed or disposed of until at least the day following the determination or discontinuation of the final appeal.

(17) In this Regulation “the appropriate court” means—

- (a) in case the estimated value of the radio equipment the subject of the appeal does not exceed €15,000 or such amount as may stand specified for the time being by law as that Court's jurisdiction in tort, the District Court,
- (b) in case the estimated value of the radio equipment the subject of the appeal does not exceed €75,000 or such amount as may stand specified for the time being by law as that Court's jurisdiction in tort, the Circuit Court, and
- (c) in any other case, the High Court.

(18) In this Regulation “dispose” includes any manner of disposal which in the opinion of the market surveillance authority will least endanger the public and includes surrender of the radio equipment to a member of the Garda Síochána or to any other competent agency or organisation for its destruction, or the certified return of the radio equipment to the economic operator relating to the radio equipment, in order to remove them from the market, at the expense of the economic operator, manager, or person having lawful possession of the radio equipment at the time of seizure, where known.

(19) The market surveillance authority shall give the recipient of a seizure notice an opportunity to make representations in writing as soon as possible after the service of the notice on that person and the service of the notice shall be reviewed promptly thereafter.

#### *Forfeiture order*

51. (1) The market surveillance authority may apply for an order for the forfeiture to the market surveillance authority of any radio equipment on the grounds that the radio equipment does not comply with the Directive or these Regulations or, when properly maintained and used for its intended purpose or otherwise used under conditions which can be reasonably foreseen, is liable to be a risk to the health or safety of persons.

(2) An application under paragraph (1) shall be made to the appropriate court and the proceedings shall be served on the person against whom a forfeiture order is sought without delay.

(3) Upon hearing an application under paragraph (1), the appropriate court may, if it considers it appropriate to do so, grant a forfeiture order.

(4) The appropriate court may order that the person against whom a forfeiture order is granted pay the costs of seizure and destruction or disposal of the radio equipment the subject of the order.

(5) A forfeiture order granted under paragraph (3) may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal.



(6) If, during the hearing of an application under paragraph (1) to the District Court, that court forms the opinion that the value of the radio equipment the subject of the appeal exceeds that court's jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the Circuit Court or the High Court, whichever it considers appropriate having regard to its opinion of the value of the radio equipment.

(7) If, during the hearing of an application under paragraph (1) to the Circuit Court, that court forms the opinion that the value of the radio equipment the subject of the appeal, exceeds that court's jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the High Court.

(8) Paragraphs (6) and (7) are without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an application under paragraph (1) in relation to which it was, at the time of the hearing of the application, the appropriate court.

(9) Where a decision is made under paragraph (3), any person aggrieved may, within 21 days beginning on the day the decision was made, appeal the decision to the following court:

- (a) where the decision under paragraph (3) was made by the District Court, the Circuit Court;
- (b) where the decision under paragraph (3) was made by the Circuit Court, the High Court;
- (c) where the decision under paragraph (3) was made by the High Court, the Court of Appeal.

(10) On hearing an appeal under paragraph (9), the court may, if it considers it appropriate to do so, confirm the decision of the appropriate court, vary it or allow the appeal.

(11) A decision under paragraph (10) of the Circuit Court shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(12) A decision under paragraph (10) of the High Court shall be final, save that, by leave of the Court of Appeal, an appeal from the decision shall lie to the Court of Appeal on a specified question of law.

(13) An application under paragraph (1) to the District Court shall be determined by a judge of the District Court for the District Court district in which the radio equipment the subject of the order sought was placed on the market or the person against whom the order is sought ordinarily resides.

(14) An application under paragraph (1) to the Circuit Court and any appeal under paragraph (9) to the Circuit Court shall be determined in the circuit in which the radio equipment the subject of the application under paragraph (1) was placed on the market or the person against whom the order was sought in an application under paragraph (1) ordinarily resides.

(15) Where a forfeiture order is granted and there is no stay on the coming into force of the order, the radio equipment the subject of the forfeiture order may be seized on behalf of the market surveillance authority by an authorised

officer and destroyed, disposed of or released as the market surveillance authority considers appropriate.

(16) In this Regulation—

- (a) “appropriate court” has the meaning assigned to it under Regulation 50(17); and
- (b) “dispose” has the meaning assigned to it under Regulation 50(18).

*Information notice*

52. (1) The market surveillance authority may serve an information notice on a person which may require the person to give to the authority or an authorised officer, within such period and in such form as may be specified in the notice, any information specified in the notice that the authority may reasonably require for the proper performance of any functions under Regulation (EU) 2019/1020 or these Regulations.

(2) An information notice shall—

- (a) state the exact grounds on which the requirement for information is based and shall inform the person on whom the information notice is served that he or she may appeal the notice to the District Court within 7 days in accordance with this Regulation,
- (b) state that if the person on whom the information notice is served fails to comply with the notice, that person commits an offence, and
- (c) be signed and dated by the market surveillance authority.

(3) The period specified in the information notice referred to in paragraph (1) may be extended at the discretion of the market surveillance authority on the written application of the person on whom the notice is served or at the volition of the authority issuing the notice.

(4) A person on whom an information notice is served may, within 7 days beginning on the day on which the notice is served on him or her, appeal against the notice to a judge of the District Court in the District Court district in which the notice was served and in determining the appeal the judge may, if he or she considers it appropriate to do so, confirm, vary or cancel the notice.

(5) A person who appeals under paragraph (4) shall at the same time notify the market surveillance authority of the appeal and the grounds for the appeal and the authority shall be entitled to appear, be heard and adduce evidence at the hearing of the appeal.

(6) Where a decision is made under paragraph (4), any person aggrieved by that decision may, within 7 days beginning on the day on which the decision was made, appeal it to the Circuit Court in the circuit in which the information notice was served and in determining the appeal, the court may, if it considers it appropriate to do so, confirm the decision of the District Court, vary it or allow the appeal.

(7) A decision under paragraph (6) shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(8) Where, upon the hearing of an appeal under this Regulation (whether under paragraph (4), (6) or (7)), an information notice is not cancelled by the court, the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation of the information notice for such period as in the circumstances of the case the judge considers appropriate.

(9) Subject to paragraph (10), a person on whom an information notice is served shall comply with the notice before the later of—

- (a) the expiration of the period to comply specified in the information notice, or
- (b) where the period referred to in subparagraph (a) is extended under paragraph (3), the expiration of that extended period.

(10) Where an appeal is brought under this Regulation, the person on whom the information notice is served shall comply with the notice before—

- (a) the day next following the day on which the information notice is confirmed or varied on final appeal,
- (b) the day next following the day on which the appeal is discontinued,
- (c) the expiration of the period to comply specified in the information notice,

or

- (d) where the operation of the information notice has been suspended, the expiration of the period of final suspension, whichever occurs latest.

(11) Subject to paragraph (12), in the case of radio equipment which the market surveillance authority does not consider to present a serious risk requiring rapid intervention under Article 19 of Regulation (EU) 2019/1020, the intended recipient of an information notice shall have the opportunity to make representations in writing to the market surveillance authority within 10 working days of first being advised of the market surveillance authority's intention to serve an information notice on that person.

(12) Where an opportunity to make representations referred to in paragraph (11) is not possible because of the urgency of requirement to obtain the information, as justified by health or safety requirements or other grounds relating to public interests, the market surveillance authority shall give the recipient of the information notice the opportunity to be heard as soon as possible after the service of the notice on that person and the service of the notice shall be reviewed promptly thereafter.

### *Search Warrant*

53. (1) Without prejudice to the powers conferred on an authorised officer by any provision of these Regulations, an authorised officer may, for the purposes of an investigation into an offence under these Regulations, apply to a judge of the District Court for a warrant in relation to any place.

(2) Where, on the hearing of an application under paragraph (4) of Regulation 42 or paragraph (1), a judge of the District Court is satisfied on sworn information of the authorised officer that he or she—

- (a) has been prevented from entering any place that is not a private dwelling,
- (b) has reasonable grounds for believing that relevant records are kept at a place that comprises of, or forms part of, a private dwelling, or
- (c) has reasonable grounds for suspecting that evidence of, or relating to the commission of an offence under these Regulations is to be found in any place,

that judge may issue to the authorised officer a warrant under this Regulation authorising one or more than one authorised officer accompanied, if the judge considers it appropriate to so provide, by such number of members of An Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of issue of the warrant, to enter, if necessary by force, the place or private dwelling and exercise any of the powers referred to in Regulation 42.

(3) An application under paragraph (1) in the case of a place shall be made to the judge of the District Court in whose District Court district the place is situated.

(4) In this Regulation “place” has the meaning assigned to it by Regulation 42(7)(a).

## PART 8

### MISCELLANEOUS

#### *Giving of Direction, Notice or Other Document*

54. (1) Subject to paragraphs (2) and (3), a direction, notice or other document that is required to be given to or served on a person by 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 the 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 electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to him or her in that;

- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice relates to a premises, by delivering to the premises or by affixing it in a conspicuous position on or near the premises.
- (f) if all of the methods set out at subparagraphs (a) to (e) are either not possible in the circumstances or have proved insufficient to effect service of the notice or document on the relevant person, by electronic means only.

(2) Where a direction, notice or other document is to be given, under these regulations, to a person who is the owner or occupier of land or property and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.

(3) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) Where an opinion, finding, statement or decision of the competent authority or market surveillance authority is contained in a document which—

- (a) purports to have been made by or at the direction of the competent authority or market surveillance authority, as the case may be, and
- (b) is produced in evidence by an officer of the competent authority or market surveillance authority, as the case may be, or by an authorised officer in any proceedings, such document shall be admissible in evidence and shall be evidence of any such opinion, finding, statement or decision in such proceedings without further proof.

### *Offences*

55. (1) A person who contravenes or fails to comply with any of the following commits an offence:

- (a) paragraph (3) or (4) of Regulation 4;
- (b) Regulation 5, 6 or 7;
- (c) paragraph (2) or subparagraphs (a), (b) or (c) of paragraph (3) of Regulation 8;
- (d) Regulation 12(1), 12(2) or 12(3);
- (e) Regulation 13;
- (f) paragraph (2) of Regulation 14;
- (g) Regulation 15, 16, 18, 20, or 21;
- (h) paragraph (1), (3), (4), (9) or (10) of Regulation 22;
- (i) paragraph (2) or (5) of Regulation 23;
- (j) paragraph (6) of Regulation 27;

- (k) paragraph (3) of Regulation 29;
- (l) paragraph (1), (5), (6) or (7) of Regulation 30;
- (m) Regulation 32;
- (n) paragraph (3) or (9) of Regulation 35;
- (o) paragraph (4) of Regulation 36;
- (p) paragraph (2) of Regulation 38; or
- (q) paragraph (2) or (5) of Regulation 39.

(2) A person who, in relation to CE marking, other marking or any document required for the purposes of the Directive, Regulation (EU) 2019/1020 or these Regulations does one or more of the following commits an offence:

- (a) forges or counterfeits any such document;
- (b) gives or signs a document knowing it to be false in any material particular or makes a marking knowing it to be false in any material particular;
- (c) knowingly uses a marking or document that is forged or counterfeited, or that is false in any material particular;
- (d) knowingly uses as applying to any person or to any radio equipment a marking or document which does not so apply;
- (e) knowingly connives at any such forging, counterfeiting, giving, signing, or using referred to in subparagraphs (a) to (d);
- (f) knowingly makes a false entry in any such document that is so required to be kept, served or sent;
- (g) knowingly uses any false entry referred to in subparagraph (f);
- (h) knowingly and without lawful authority has in his or her possession one or more of the following:
  - (i) a forged marking;
  - (ii) a forged document;
  - (iii) an altered marking;
  - (iv) an altered document.

(3) A person who—

- (a) fails to comply with a contravention notice served under Regulation 43 within the period specified in the notice,
- (b) fails to comply with a prohibition notice served under Regulation 47 within the period specified in the notice,
- (c) fails to comply with any term of a forfeiture order granted under Regulation 51 that requires his or her compliance, or
- (d) fails to comply with an information notice served under Regulation 52 within the period specified in the notice,

commits an offence.

(4) Any person who obstructs or interferes with an authorised officer or a member of the Garda Síochána in the course of exercising a power conferred on him or her by these Regulations or by a warrant under Regulation 53 or who impedes or prevents the exercise by the authorised officer or member, as the case may be, of such power, or fails or refuses to comply with a request or requirement of, or to answer a question asked by, an authorised officer or such a member pursuant to a power conferred by these Regulations, or in purported compliance with such request or requirement or answer to such question asked, gives information to the authorised officer or member that he or she knows to be false or misleading in any material respect, commits an offence.

(5) A person who falsely represents himself or herself to be an authorised officer commits an offence.

(6) In this Regulation “record” has the meaning assigned to it by Regulation 42 (7) (c).

#### *Prosecution of offences*

56. (1) An offence under these Regulations may be prosecuted summarily by the market surveillance authority in the State.

(2) If a person is convicted of an offence under these Regulations the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, reasonably incurred by the prosecutor in relation to the investigation, detection and prosecution of the offence, including costs incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers.

#### *Offences by bodies corporate*

57. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

#### *Penalties*

58. A person who commits an offence under these Regulations is liable—

- (a) on summary conviction, to a class A fine, or imprisonment for a term not exceeding 6 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 2 years or both.

*Review and Reporting*

59. (1) The market surveillance authority shall submit to the European Commission regular reports on the application of the Directive by 12 December 2027, covering the period from 13 June 2023, and at least every five years thereafter.

(2) The reports prepared and submitted in accordance with paragraph (1) shall contain a presentation of the market surveillance activities performed by the market surveillance authority and provide information on whether and to what extent compliance with the requirements of the Directive has been attained, including in particular requirements on identification of economic operators.

*Application of the Wireless Telegraphy Act, 1926*

60. (1) Notwithstanding section 3 (1) of the Wireless Telegraphy Act, 1926, a person shall not be required to hold a licence under that Act to keep or have in his or her possession any apparatus for wireless telegraphy solely for the purpose of placing that apparatus on the market, within the meaning of the Directive.

(2) Nothing in the Wireless Telegraphy Acts, 1926 to 1988, shall operate to restrict or prevent any person from working or using an apparatus for wireless telegraphy, which is lawfully in their possession, or which is otherwise in compliance with the licensing requirements of those Acts for its intended purpose where it complies with the provisions of the Directive, save where such restriction or prevention is related to the effective and appropriate use of the radio frequency spectrum, avoidance of harmful interference or matters relating to public health.

*Revocation*

61. The following are revoked:

- (a) The Regulations of 2017;
- (b) The European Union (Radio Equipment) (Amendment) Regulations 2024.

*Transitional Provisions and Continuation of Regulations of 2001 and 2017*

62. (1) A person who, immediately before the coming into operation of these Regulations, was an authorised officer under the Regulations of 2017 shall be deemed to be an authorised officer appointed under these Regulations.

(2) The Regulations of 2001 continue to apply to Radio Equipment placed on the market prior to 13 June 2016.

(3) Notwithstanding the generality of Regulation 4 (3) and 4 (4) a person may make available on the market or put into service radio equipment which is in conformity with the relevant national and EU harmonisation legislation that was in effect when it was placed on the market and to that end, notwithstanding their revocation, the Regulations of 2017 and the Regulations of 2001 shall continue to apply to such products.

*Act of 2002*

63. (1) These Regulations are a related enactment for the purposes of the Act of 2002.



(2) The functions of the Commission for Communications Regulation under these Regulations shall be deemed to be included in the functions conferred on the Commission for Communications Regulation under the Act of 2002.



GIVEN under my Official Seal,  
20 January, 2026.

PATRICK O'DONOVAN,  
Minister for Culture, Communications, and Sport.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
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