EXPLANATORY MEMORANDUM TO

THE ELECTROMAGNETIC COMPATIBILITY (AMENDMENT) REGULATIONS 2006

2006 No.1449

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument has been made to amend the Electromagnetic Compatibility Regulations 2005 (SI 2005/281) ("the 2005 Regulations") to fully transpose Council Directive 89/336/EEC (the "EMC Directive") in relation to radio equipment and telecommunications terminal equipment falling within the scope of the Directive on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ("the RTTE Directive").

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 The scope of the EMC Directive was accurately implemented in the Electromagnetic Compatibility Regulations 1992 (S.I. 1992/ 2372) ("the 1992 Regulations") as amended by SI 1992/3080 and SI 1995/3180 and by the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (S.I. 2000/730) ("the RTTE Regulations") which implemented the RTTE Directive.

4.2 The 2005 Regulations consolidated the 1992 Regulations. It was considered appropriate to consolidate the Regulations, particularly in view of the various disapplications of the EMC Directive by subsequent Directives pursuant to Article 2.2 and the need to reflect changes in scope and to appoint OFCOM as an enforcement authority under the Regulations.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The decision to amend the 2005 Regulations was taken as certain radio equipment and telecommunications terminal equipment that is intended to be within the scope of the EMC Directive is not covered by the 2005 Regulations.

7.2 The RTTE Regulations provided that the 1992 Regulations, with the exception of certain provisions, ceased to apply to apparatus covered by the RTTE Regulations. The 2005 Regulations amended the RTTE Regulations to remove that provision and stated that they did not apply to telecommunications and radio equipment as defined in the RTTE Regulations. The definition provision does not make reference to equipment excluded by the RTTE Directive.

7.3 The effect of the disapplication, as expressed in regulation 29 of the 2005 Regulations, is that equipment excluded from the scope of the RTTE Regulations is not subject to the 2005 Regulations, contrary to the intention of the Directives. As a result the EMC Directive is presently not being fully applied in the UK.

8. Impact

No consultation has been carried out and no Regulatory Impact Assessment has been prepared for this instrument as it has no new impact on business, charities or voluntary bodies.

9. Contact

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