

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL

C(2022)1708

COMMISSION IMPLEMENTING DECISION (EU) 2022/498 of 22.3.2022 amending Implementing Decision (EU) 2020/167 as regards harmonised standards for avalanche beacons, satellite earth stations and systems, land mobile earth stations, maritime mobile earth stations, IMT cellular networks equipment, fixed radio systems, digital terrestrial TV transmitters, mobile communication on board aircraft systems, multi Gbps radio equipment, broadcast sound receivers, audio frequency induction loop drivers, primary surveillance radars and TETRA radio equipment for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/53/EU on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment.

Submitted by the Department for Business, Energy and Industrial Strategy on 21 April 2022.

SUBJECT MATTER

1. The EU has published Implementing Decision (EU) 2022/498 amending Implementing Decision (EU) 2020/167 regarding harmonised standards for avalanche beacons, satellite earth stations and systems, land mobile earth stations, maritime mobile earth stations, IMT cellular networks equipment, fixed radio systems, digital terrestrial TV transmitters, mobile communication on board aircraft systems, multi Gbps radio equipment, broadcast sound receivers, audio frequency induction loop drivers, primary surveillance radars and TETRA radio equipment. The standards support Directive 2014/53/EU (the Radio Equipment Directive). The publication of this decision in the Official Journal by the European Commission is the formal notification that following these standards will provide a presumption of conformity with those mandatory safety objectives of the Directive that the standards cover.
2. The Decision is directly applicable in Northern Ireland, as the Directive continues to be part of Northern Ireland law under the terms of the Northern Ireland Protocol. The Radio Equipment Regulations 2017 (S.I. 2017/1206) implemented the Radio Equipment Directive into UK law. The 2017 Regulations have been amended to reflect that the UK is no longer part of the EU and that GB is no longer under an obligation to follow EU rules, including that EU published

harmonised standards no longer give rise to a presumption of conformity with GB requirements.

SCRUTINY HISTORY

3. The Radio Equipment Regulations 2017 have been subject to previous Parliamentary scrutiny, but there has been no previous Parliamentary Scrutiny of this EU Implementing Decision. A proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/53/EU on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment was subject to scrutiny as EU document- 12183/21, COM(2022)547 - on which BEIS submitted an EM dated 28 October 2021. That proposal would introduce a mandatory, standardised charging solution for all mobile devices—such as smartphones and tablets—sold within the European Union. The Commons European Scrutiny Committee considered the EM on 1 December 2021 (Report 13, 21/22) and have retained the proposal under scrutiny. The Lords European Affairs Committee sub-committee on Ireland. Northern Ireland has also retained the proposal under scrutiny.

MINISTERIAL RESPONSIBILITY

4. The Secretary of State for the Department for Business, Energy and Industrial Strategy has responsibility for radio equipment products safety policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

5. Product safety is a reserved matter for Scotland and Wales and consumer safety in relation to goods is reserved in respect of Northern Ireland (although the NI Assembly may legislate on reserved matters with the consent of the Secretary of State). The Decision is directly applicable in Northern Ireland, as the Directive continues to be part of Northern Ireland law under the terms of the Northern Ireland Protocol. The Devolved Administrations have been consulted on this Explanatory Memorandum and did not express any concerns about the Decision.

LEGAL AND PROCEDURAL ISSUES

6. The Radio Equipment Directive is implemented in Northern Ireland through the Radio Equipment Regulations 2017 as they apply in Northern Ireland. The essential requirements are specified in Part 2 of those Regulations. The publication of this decision in the Official Journal by the European Commission is the formal notification that each of the standards is considered to provide a presumption of conformity with those essential requirements specified in the Regulations which are covered by that standard. The implementing decision itself does not amend the technical requirements of the Directive and does not

give rise to legal or procedural issues, but it amends the voluntary standards that a manufacturer may apply to achieve a presumption of conformity with the existing essential requirements. Any amendments made to the list of harmonised standards which provide a presumption of conformity, such as are contained in this implementing decision, are applicable in Northern Ireland in accordance with the Northern Ireland Protocol.

POLICY IMPLICATIONS

7. Harmonised standards are different to regulations – they are just one method available to manufacturers to demonstrate that their products are safe and compliant with relevant essential requirements of the Directive before placing them on the EU market and under the Protocol, the NI market. Following a harmonised standard is entirely voluntary, and businesses can use alternative means to demonstrate that their product is safe and meets the requirements of the law.
8. The UK has replaced harmonised standards with designated standards, which are standards designated by the Secretary of State by publishing a reference to them and which provide a presumption of conformity with relevant GB requirements.
9. The standards referenced in this Decision are yet to be considered for designation by the Secretary of State. They will be considered in due course and any decisions on designating these standards will be based on what is in the best interests of the UK internal market. Should the Secretary of State be assured that the new standards meet the GB essential requirements that they cover, they will be designated - meaning that there will be no policy or practical difference between the approaches in GB and NI in this area.
10. The Decision itself does not amend the technical requirements of either the EU Directive or the UK Regulations and therefore does not result in a divergence in regulation between Northern Ireland and GB. However, it will lead to a small difference in the list of voluntary standards that a manufacturer may apply to achieve a presumption of conformity with the relevant essential requirements. As noted above, standards are entirely voluntary, and businesses can use alternative means to demonstrate that their product is compliant and meets the essential requirements of the law. A NI manufacturer who uses these harmonised standards to achieve a presumption of conformity with the existing essential requirements for the NI and EU markets will not need any new regulatory approvals to place their qualifying goods on the market in Great Britain.
11. The government has committed to providing unfettered access for qualifying Northern Ireland goods to the rest of the UK market from 1 January 2021.

CONSULTATION

12. There has been no consultation on this change. In accordance with the Northern Ireland Protocol, the changes made by this Implementing Decision will require implementation in NI.

FINANCIAL IMPLICATIONS

13. There is no specific information available on the financial impact for NI.

MINISTERIAL NAME AND SIGNATURE



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