

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Ordinance on Electromagnetic Compatibility (OEMC)

of 18 November 2009 (Status as of 1 January 2010)

The Swiss Federal Council,

based on Article 3 of the Electricity Act of 24 June 1902¹ (ELA),
the Telecommunications Act of 30 April 1997 (TCA)² and
the Federal Act of 6 October 1995³ on Technical Barriers to Trade (TBTA),
decrees:

Section 1: General provisions

Art. 1 Subject

¹ This Ordinance applies to apparatus and fixed installations liable to generate electromagnetic disturbance and to apparatus and fixed installations whose performance can be affected by such disturbance.

² This Ordinance relates to:

- a. the procedure for placing apparatus on the market and the putting fixed installations into service;
- b. the recognition of testing laboratories and conformity assessment bodies;
- c. the inspection of apparatus placed on the market and of apparatus and fixed installations in service.

Art. 2 Terms

¹ In this ordinance:

- a. *Apparatus* means:
 - 1. a product intended for the end-user or a combination of such products placed on the market as a functional unit and liable to generate electro-

AS 2009 6243

¹ SR 734.0

² SR 819.1

³ SR 946.51

magnetic disturbance, or the performance of which is liable to be affected by such disturbance;

2. components and sub-assemblies intended for incorporation by the end-user into such a product and which are liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance,
 3. a combination of such products and, where applicable, other devices intended to be moved and operated in a range of locations;
- b. *fixed installation* means a combination of apparatus and devices which are intended to be used permanently at a predefined location;
 - c. *electromagnetic disturbance* means any electromagnetic phenomenon which may degrade the performance of apparatus or a fixed installation, in particular electromagnetic noise, an unwanted signal or a change in the propagation medium itself;
 - d. *placing on the market* means the transfer or delivery of an apparatus with or without payment and the initial operation of an apparatus or a fixed installation;
 - e. *putting into service* means the installation and initial operation of apparatus or a fixed installation.

² The putting into service of apparatus is regarded as placing on the market if this has not already been done in accordance with paragraph 1 letter d.

Art. 3 Exceptions

This Ordinance does not apply to:

- a. apparatus and fixed installations for which the electromagnetic compatibility is governed by special provisions;
- b. apparatus:
 1. which has such a low electromagnetic emission level that operation as intended of radiocommunications and telecommunications equipment, other apparatus or fixed installations is possible; and
 2. which can be operated without unacceptable effects despite the electromagnetic disturbance which their use normally entails;
- c. radio equipment used by radio amateurs, with the exception of equipment that is available commercially;
- d. kits which are to be assembled by radio amateurs and commercially available equipment modified by and for the use by radio amateurs;
- e. apparatus used exclusively by the competent federal authorities to carry out tasks in accordance with the Armed Forces Act of 3 February 1995⁴, the Federal Act of 21 March 1997⁵ on Measures to Safeguard Internal Security

⁴ SR 510.10

⁵ SR 120

and the Federal Act of 3 October 2008⁶ on Responsibilities in the Area of the Civilian Intelligence Service.

Art. 4 Essential requirements

¹ Apparatus and fixed installations must be designed and manufactured in accordance with the state of the art in such a way that:

- a. the electromagnetic disturbance generated by them is below a level which would not permit an use as intended of radiocommunications and telecommunications equipment or other devices and fixed installations;
- b. they are protected from the electromagnetic disturbance which is to be expected during their intended use in such a way that this operation is not unacceptably affected.

² Fixed installations must be installed in accordance with good engineering practices. The information concerning the intended use of their components must be respected during installation.

³ The good engineering practices according to which a fixed installation is installed must be documented. The operator of the fixed installation shall retain the documents for as long as the installation is in operation and submit them for inspection at the request of the competent authorities.

Art. 5 Technical standards

¹ The Federal Office of Communications (OFCOM) in agreement with the State Secretariat for Economic Affairs shall designate the technical standards that permit the essential requirements to be satisfied.

² Wherever possible, it shall designate internationally harmonised standards.

³ It may instruct independent Swiss standards organisations to draw up technical standards.

⁴ It shall publish the designated technical standards with titles and references in the Federal Gazette.⁷

Art. 6 Fulfilling essential requirements for apparatus

¹ Apparatus manufactured in accordance with the technical standards in terms of Article 5 are assumed to have met the essential requirements.

² If these standards are not or are only partially applied, the person placing apparatus on the market must be able to prove that it fulfills the essential requirements in some other way.

⁶ SR 121

⁷ The designated standards may be obtained from the Swiss Information Centre for Technical Rules (switec), available at <http://www.snv.ch>

³ In the event of changes to a designated technical standard, OFCOM shall indicate the point in time from which the presumption of conformity stated in paragraph 1 ceases for apparatus which is manufactured according the previous standard.

Section 2: Placing New Apparatus on the Market

Art. 7 Requirements

Apparatus may be placed on the market only if they comply with the essential requirements in terms of Article 4 and the other relevant provisions of this Ordinance.

Art. 8 Conformity assessment

¹ The conformity of apparatus with the essential requirements must be demonstrated by means of the conformity assessment procedure described in Annex 1.

² The procedure described in Annex 2 may also be applied at the discretion of the manufacturer or its authorised representative established within Switzerland.

Art. 9 Declaration of conformity

¹ Anyone placing apparatus on the market must be able to present a declaration of conformity stating that the apparatus fulfils the essential requirements.

² The declaration of conformity shall be issued by the manufacturer or his authorised representative established within Switzerland.

³ If the apparatus is subject to several regulations requiring a declaration of conformity, a single declaration is sufficient.

Art. 10 Content of the declaration of conformity

¹ The declaration of conformity shall include the following information in particular:

- a. the marking (Art. 13);
- b. the name and address of the manufacturer or of his authorised representative established within Switzerland;
- c. references to the technical standards or other specifications with which the apparatus complies and on the basis of whose the conformity with the provisions of this ordinance is declared;
- d. the date of the declaration;
- e. the name and signature of the person authorised to sign.

² It must be drawn up in one of the official languages of Switzerland or in English.

Art. 11 Technical documentation

¹ The manufacturer shall draw up technical documentation providing evidence of the conformity of the apparatus with the essential requirements. The technical documen-

tation must cover the design and manufacture of the apparatus and must include the following information as a minimum:

- a. a description, preferably illustrated with photographs, which enables the apparatus to be unambiguously identified;
- b. evidence that the apparatus complies in full or in part with the technical standards designated in accordance with Article 5;
- c. a declaration from the conformity assessment body that the apparatus complies with the requirements, provided the procedure described in Annex 2 has been followed.

² If the technical standards designated in accordance with Article 5 have not been applied or have been only partially applied, the technical documentation must contain the following in place of the evidence according to paragraph 1 letter b:

- a. a description and an explanation of the steps taken to meet the essential requirements;
- b. a description of the assessment undertaken in accordance with Article 7, in particular of electromagnetic compatibility, the results of the design calculations, examinations carried out and test reports.

³ The technical documentation must be in one of the official languages of Switzerland or in English; it may be in a different language if the information required for its assessment is provided in one of the above-mentioned languages.

Art. 12 Retention of the declaration of conformity and technical documentation

¹ The manufacturer, his authorised representative or, if none of these persons is established in Switzerland, the persons responsible for offering or placing on the market must be able to present a copy of the declaration of conformity and of the technical documentation for ten years from the date of manufacture of the apparatus.

² In the case of the series production of apparatus, this period begins on the date of manufacture of the final example.

Art. 13 Marking

Each apparatus must be identified in terms of type, batch, serial number or any other information allowing its unambiguous identification.

Art. 14 Information

¹ Each apparatus must be accompanied by the following information:

- a. name of the manufacturer and, if the manufacturer is not established in Switzerland, additionally the name and address of his authorised representative established within Switzerland or of the person responsible for placing on the market;

- b. all information on the precautions that must be taken when the apparatus is assembled, installed, maintained or used, in order to ensure that it meets the essential requirements when in use;
- c. a clear indication of any restriction of use where it is not guaranteed that the apparatus will comply with the essential requirements in residential areas.

² The information mentioned in paragraph 1 letter c shall also be present on the packaging, if applicable.

³ The information required to enable the apparatus to be used in accordance with the intended purpose must be included in the instructions for use accompanying the apparatus.

⁴ The information must be in the official language of the location of sale in Switzerland; in bilingual locations it must be in both official languages.

Art. 15 Testing laboratories and conformity assessment bodies

¹ Testing laboratories and conformity assessment bodies that draw up reports or issue declarations must:

- a. be accredited in accordance with the Accreditation and Designation Ordinance of 17 June 1996⁸;
- b. be recognised in Switzerland by virtue of international agreements; or
- c. be otherwise qualified under Swiss law.

² Documents issued by a different body may be recognised if it can be credibly demonstrated that the procedures or assessments and the qualifications of this body fulfil the Swiss requirements (Art. 18 para. 2 TBTA).

Section 3: Apparatus intended for Incorporation in a Fixed Installation

Art. 16

¹ Apparatus which is intended for incorporation into a fixed installation and which is not commercially available need not be subjected to the conformity assessment procedure.

² In addition to the information mentioned in Articles 13 and 14 paragraph 1 letter a, the documentation accompanying such apparatus must contain the following information:

- a. identification of the fixed installation into which it is to be incorporated and its electromagnetic compatibility characteristics;
- b. the precautions to be taken for the incorporation of the apparatus into the installation in order not to compromise the conformity of that installation.

Section 4: Exhibition and Demonstration

Art. 17

¹ Anyone exhibiting or demonstrating apparatus or a fixed installation which does not comply with the requirements for placing on the market or putting into service must clearly indicate that the apparatus or fixed installation in question does not comply with the regulations and may only be placed on the market or put into service when it has been brought into conformity with this Ordinance.

² Demonstrations may be carried out only if appropriate measures have been taken to prevent electromagnetic disturbance.

Section 5: Placing Used Apparatus on the Market

Art. 18

¹ Used apparatus may be placed on the market only if they met the requirements in force at the time they were first placed on the market.

² Used apparatus in which important components have been modified for its operation are subject to the same provisions as new apparatus.

Section 6: Inspection

Art. 19 Principles

¹ OFCOM shall check whether apparatus placed on the market and apparatus and fixed installations in service comply with the provisions of this Ordinance.

² For this purpose, it shall carry out spot checks and follow up well-founded indications that apparatus or a fixed installation does not comply with the provisions of this Ordinance.

³ It may require that apparatus be handed over free of charge or that unimpeded access be permitted, free of charge, to fixed installations. If disturbances occur, it may carry out checks at any time and order measures to be taken.

⁴ It may request the Federal Customs Administration to provide information on imports of apparatus for a specific period.

Art. 20 Powers

¹ OFCOM may request the documents and information which it needs to perform its inspection mandate from the person responsible for placing an apparatus on the market or for the operation of a fixed installation. It shall allow a reasonable period for this.

² With regard to the checks, users must disclose the following:

- a. the documents in their possession relating to the apparatus and fixed installations;
- b. information which is useful for determining the person responsible for placing on the market or the operation.

Art. 21 Tests

¹ OFCOM may have apparatus or a fixed installation inspected by a laboratory if:

- a. the required documents and information are not presented within the specified period.
- b. it is not clear from the declaration of conformity whether the apparatus meets the requirements imposed;
- b. there is reason to assume that the apparatus does not conform with the declaration of conformity or another certificate;
- d. there is reason to assume that the apparatus or the fixed installation does not comply with the regulations in force.

² It may arrange for a fixed installation to be tested if there are complaints regarding disturbances.

³ Before it arranges for apparatus to be tested, it shall consult the person responsible for placing it on the market. Before it arranges for a fixed installation to be tested, it shall consult the owner thereof.

⁴ The costs of the tests shall be borne by the person responsible for placing the apparatus on the market or by the owner of the installation when:

- a. he or she has not supplied the required documents and information or parts thereof within the specified period; or
- b. the tests show that the apparatus or the fixed installation does not comply with the requirements.

Art. 22 Measures

¹ If the inspection or the test shows that regulations in this Ordinance are being violated, OFCOM shall take appropriate measures.

² If it appears that apparatus or a fixed installation is generating or suffering from disturbance, OFCOM may:

- a. prohibit it from being placed on the market further;
- b. order its recall, seizure or forfeiture;
- c. forbid or restrict its continued operation or
- d. order a modification of the apparatus or the fixed installation.

³ If, despite compliance with recognised engineering practice, disturbance or hazardous influences occur, OFCOM shall order appropriate measures and decide on the apportionment of costs among those concerned.

⁴ It may publish the measures taken.

Art. 23 Fees

¹ OFCOM shall charge fees for the decisions it issues in the performance of its inspection mandate.

² Fees shall be charged in accordance with the DETEC Telecommunications Fees Ordinance of 7 December 2007⁹.

³ When the fee is set, the costs of involving third parties in accordance with Article 21 shall be calculated separately.

Section 7: Final Provisions

Art. 24 Repeal and amendment of existing legislation

The repeal and amendment of existing legislation is regulated in Annex 3.

Art. 25 Transitional provisions

¹ Apparatus in compliance with current legislation may be placed on the market for up to one year after this ordinance enters into force.

² Fixed installations in compliance with existing law may be put into service for up to one year after this ordinance enters into force.

Art. 26 Commencement

This Ordinance comes into force on 1 January 2010.

⁹ SR 784.106.12

Annex 1
(Art. 8 paragraph 1)

Procedure relating to internal production control

- 1 The manufacturer shall assess the electromagnetic compatibility of its apparatus on the basis of the relevant phenomena and determine whether it meets the essential requirements in accordance with Article 4. The correct application of all the relevant technical standards in accordance with Article 5 for which references have been published in the Federal Gazette shall be equivalent to the assessment of electromagnetic compatibility.
- 2 The electromagnetic compatibility assessment shall take account of all normal intended operating conditions. Where the apparatus is capable of operation in different configurations, the electromagnetic compatibility assessment shall confirm that the apparatus meets the essential requirements in accordance with Article 4 in all configurations identified by the manufacturer as representative of its intended use.
- 3 In accordance with Article 11, the manufacturer shall draw up technical documentation providing evidence of the conformity of the apparatus with the essential requirements of this Ordinance.
- 4 The manufacturer or his authorised representative established within Switzerland shall draw up the declaration of conformity in accordance with Articles 9 and 10.
- 5 The manufacturer shall take all measures necessary to ensure that the apparatus is manufactured in accordance with the technical documentation cited in No. 3 above and with the requirements of this Ordinance.

Annex 2
(Art. 8 paragraph 2)

Test procedure for the conformity assessment body

- 1 This procedure corresponds to the procedure described in Annex 1 with the following additional provisions.
- 2 The manufacturer or his authorised representative established within Switzerland shall present the technical documentation to the conformity assessment body in accordance with Article 15 and request from it an assessment of the documentation. The manufacturer or his authorised representative established within Switzerland shall specify to the conformity assessment body which aspects of the essential requirements must be assessed by it.
- 3 The conformity assessment body shall review the technical documentation and assess whether it is appropriately demonstrated (in these documents) that the requirements which are the subject of the assessment have been met. If the conformity of the apparatus with the requirements is confirmed, the conformity assessment body shall issue a statement to the manufacturer or his authorised representative established within Switzerland in which the conformity of the apparatus with the requirements is confirmed. This statement shall be limited to those aspects of the essential requirements which have been assessed by the conformity assessment body.
- 4 The manufacturer shall add the statement of the conformity assessment body to the technical documentation.

Repeal and amendment of existing legislation

I

The Ordinance of 9 April 1997¹⁰ on Electromagnetic Compatibility is repealed.

II

The following ordinances are amended as follows:

1. Organisation Ordinance of 6 December 1999¹¹ for the Federal Department of the Environment, Transport, Energy and Communications

Art. 11 para. 3 let. e

...

2. Low Current Ordinance of 30 March 1994¹²

Art. 5 para. 5

...

3. Ordinance of 7 December 1992¹³ on the Federal Inspectorate for Heavy Current Installations

Art. 2 para. 1 let. k

Repealed

¹⁰ [AS 1997 1008, 2000 762 No. I 6 3012 No. I Art. 34 para. 3]

¹¹ SR 172.217.1 The amendment below is inserted into the said enactment.

¹² SR 734.1 The amendment below is inserted into the said enactment.

¹³ SR 734.24

4. Ordinance of 9 April 1997¹⁴ on Low-Voltage Electrical Equipment

Art. 1 para. 3

...

Art. 4 para. 1

...

5. Low-Voltage Installation Ordinance of 7 November 2001¹⁵

Art. 4 para. 3

...

6. Ordinance of 5 December 1994¹⁶ on the Electrical Installations of the Railways

Art. 6 para. 4

...

7. Ordinance of 14 June 2002¹⁷ on Telecommunications Installations

Art. 6 para. 3

...

13 para. 5 and 14 para. 3

Repealed.

¹⁴ SR **734.26** The amendments below are inserted into the said enactment.

¹⁵ SR **734.37** The amendment below is inserted into the said enactment.

¹⁶ SR **734.42** The amendment below is inserted into the said enactment.

¹⁷ SR **784.101.2** The amendment below is inserted into the said enactment.

