
STATUTORY INSTRUMENTS

1992 No. 3073

HEALTH AND SAFETY

The Supply of Machinery (Safety) Regulations 1992

Made - - - - *30th November 1992*
Laid before Parliament *9th December 1992*
Coming into force - - *1st January 1993*

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the design and construction of, and to the placing on the market and putting into service of, machinery, in exercise of the powers conferred on him by that section and of all his other enabling powers, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Supply of Machinery (Safety) Regulations 1992 and shall come into force on 1st January 1993.

(2) The Regulations specified in the first column of Schedule 1 hereto are hereby revoked with effect from the date specified in the second column of that Schedule provided that each of the Regulations so specified shall continue to apply in respect of the machinery to which they respectively apply and which was supplied for the first time in the Community in accordance with the applicable Regulations on or before 31st December 1995.

(1) [S.I. 1992/707](#).

(2) [1972 c. 68](#); section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with section 32(7) and (9) of the Magistrates' Courts Act [1980 \(c. 43\)](#), [S.I. 1984/447](#) and section 17(2) of the Criminal Justice Act [1991 \(c. 53\)](#), as regards Scotland, with section 289B(4) and (6) of the Criminal Procedure (Scotland) Act [1975 \(c. 21\)](#), as inserted by paragraph 5 of Schedule 11 to the Criminal Law Act [1977 \(c. 45\)](#) and amended by section 55(2) of the Criminal Justice Act [1982 \(c. 48\)](#), [S.I. 1984/526](#) and the said section 17(2) of the Criminal Justice Act 1991 and as regards Northern Ireland, with [S.I. 1984/703 \(N.I. 3\)](#) and [S.R. \(N.I.\) 1984 No. 253](#).

Interpretation

2.—(1) In these Regulations, the “Machinery Directive” means Council Directive [89/392/EEC](#) on the approximation of the laws of the Member States relating to machinery⁽³⁾ as amended by Council Directive [91/368/EEC](#)⁽⁴⁾.

(2) In these Regulations, unless the context otherwise requires—

“approved body” shall be construed in accordance with regulation 17 below;

“business” includes a profession and an undertaking, and a supply in the course of a business includes any supply by a business;

“certificate of adequacy” shall be construed in accordance with regulation 20(1) below;

“the Commission” means the Commission of the European Communities;

“the Community” means the European Economic Community;

“declaration of incorporation” shall be construed in accordance with regulation 23(2) below;

“EC declaration of conformity” shall be construed in accordance with regulation 22 below;

“EC mark” means a mark consisting of the symbol “CE” set out in the form shown in Schedule 2 hereto, followed by the last two figures of the year in which it is affixed;

“EC type-examination” shall be construed in accordance with regulation 21(1) below;

“EC type-examination certificate” means a certificate issued by an approved body certifying that an example of relevant machinery satisfies those provisions of the Machinery Directive which apply to it;

“enforcement authority” means—

- (a) in Great Britain, the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974⁽⁵⁾;
- (b) in Northern Ireland, subject to paragraph 2(1) of Schedule 6 hereto, the Department of Economic Development and the Department of Agriculture; and
- (c) save in paragraph 3(b) of Schedule 6 hereto, each of the authorities referred to in the said paragraph 3(b);

“essential health and safety requirements” means the requirements in Annex I of the Machinery Directive which is set out in Schedule 3 hereto;

“harmonised standard” means a technical specification adopted by the European Committee for Standardisation or the European Committee for Electrotechnical Standardisation or both, upon a mandate from the Commission in accordance with Council Directive [83/189/EEC](#) of 28th March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽⁶⁾, and of which the reference number is published in the Official Journal of the European Communities;

“interchangeable equipment” shall be construed in accordance with regulation 4(c) below;

“machinery” has the meaning given by regulation 4 below;

“relevant essential health and safety requirements” in relation to relevant machinery means those provisions of the essential health and safety requirements which are applicable to that particular relevant machinery for the purposes of establishing that it satisfies the essential health and safety requirements of the Machinery Directive:

(3) OJ No. L183, 29.6.89, p.9; the second sub-paragraph of Article 8.4 was corrected in the Corrigendum to the Council Directive OJ No. L296, 14.10.89, p.40.

(4) OJ No. L198, 22.7.91, p.16.

(5) [1974 c. 37](#).

(6) OJ No. L109, 26.4.83, p.8. Council Directive [83/189/EEC](#) was amended by Council Directive [88/182/EEC](#) (OJ No. L81, 26.3.88, p.75).

Provided that, subject to regulation 10(1)(a) below, in so far as such provisions relate to risks which are covered by other Community Directives and to the extent that any enactment implementing any such Directive applies to that machinery those provisions shall not be relevant essential health and safety requirements for the purposes of these Regulations;

“relevant machinery” shall be construed in accordance with regulation 3(2) below;

“responsible person” means, in relation to relevant machinery,

- (a) the manufacturer of that machinery;
- (b) the manufacturer’s authorised representative established in the Community; or
- (c) where the manufacturer is not established in the Community and either—
 - (i) he has not appointed an authorised representative established in the Community; or
 - (ii) his authorised representative established in the Community is not the supplier of that machinery,

the person who first supplies the relevant machinery in the Community;

and, in this definition and in regulation 11(2)(a) below, “the manufacturer” includes any person who assembles machinery or parts thereof to form relevant machinery;

“safe” in relation to relevant machinery means that, when the machinery is properly installed and maintained and used for the purposes for which it is intended, there is no risk (apart from one reduced to a minimum) of its being the cause or occasion of death or injury to persons or, where appropriate, to domestic animals or damage to property, and cognate expressions shall be construed accordingly:

For the purposes of this definition, when considering whether or not a risk has been reduced to a minimum, regard shall be had to the practicability of so reducing that risk at the time of the construction of the relevant machinery;

“Schedule 4 machinery” means machinery posing special hazards which is specified in Annex IV of the Machinery Directive and listed in Schedule 4 hereto;

“series manufacture” means the manufacture of more than one item of relevant machinery of the same type in accordance with a common design;

“standard” means a technical specification approved by a recognised standardising body for repeated or continuous application, with which compliance is not compulsory;

“supply” is to be read in accordance with section 46 of the Consumer Protection Act 1987(7) and includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and cognate expressions shall be construed accordingly:

Provided that “supply” does not include exhibition at trade fairs and exhibitions of relevant machinery in respect of which the provisions of these Regulations are not satisfied if a notice is displayed in relation to the machinery in question to the effect—

- (a) that it does not satisfy those provisions; and
- (b) that it may not lawfully be supplied until the responsible person has ensured that those provisions are satisfied;

“technical file” shall be construed, in respect of relevant machinery other than Schedule 4 machinery, in accordance with regulation 13(1) below and, in respect of relevant machinery which is Schedule 4 machinery, in accordance with regulation 14(2) below;

“technical specification” means a specification contained in a document which lays down the characteristics required of relevant machinery such as levels of quality, performance, safety

or dimensions, including the requirements applicable to the relevant machinery as regards terminology, symbols, testing and test methods, packaging, marking or labelling; and

“transposed harmonised standard” means a national standard of a member State—

- (a) which transposes a harmonised standard; and
- (b) the reference number of which has been published by that member State in adoption thereof pursuant to Article 5.2 of the Machinery Directive.

PART II

APPLICATION

Relevant machinery

3.—(1) These Regulations apply to relevant machinery.

(2) Relevant machinery is all machinery within the meaning of regulation 4 below other than machinery which is excluded from the scope of these Regulations pursuant to regulations 5 to 10 below.

Definition of “machinery”

4. For the purposes of these Regulations, machinery is—

- (a) an assembly of linked parts or components, at least one of which moves including, without prejudice to the generality of the foregoing, the appropriate actuators, control and power circuits, joined together for a specific application, in particular for the processing, treatment, moving or packaging of a material;
- (b) an assembly of machines, that is to say, an assembly of items of machinery as referred to in paragraph (a) above which, in order to achieve the same end, are arranged and controlled so that they function as an integral whole notwithstanding that the items of machinery may themselves be relevant machinery and accordingly severally required to comply with these Regulations; or
- (c) interchangeable equipment modifying the function of a machine which is supplied for the purpose of being assembled with an item of machinery as referred to in paragraph (a) above or with a series of different items of machinery or with a tractor by the operator himself save for any such equipment which is a spare part or tool.

General exclusions

Excluded machinery

5. These Regulations do not apply to machinery specified in Schedule 5 hereto.

Machinery for export to a third country

6.—(1) These Regulations do not apply to machinery which the supplier believes (with reasonable cause) will not be put into service either in the United Kingdom or in another member State.

(2) Paragraph (1) above shall not apply if the EC mark, or any inscription liable to be confused therewith, is affixed to the machinery.

Transitional exclusions

Machinery first supplied or put into service before 1st January 1993

7. These Regulations do not apply to machinery first supplied or put into service in the Community before 1st January 1993.

Exclusion until 31st December 1994 of machinery which complies with health and safety provisions in force in a member State on 31st December 1992

8.—(1) Subject to paragraph (2) below, these Regulations do not apply to machinery first supplied or put into service in the Community on or before 31st December 1994 which—

- (a) complies with any health and safety provisions with which it would have been required to comply for it to be lawfully supplied in the United Kingdom on 31st December 1992; or
- (b) in the case of machinery supplied in the United Kingdom which the supplier believes (with reasonable cause) will be put into service in another member State, complies with the health and safety provisions in relation to the supply and putting into service of that machinery in force in that member State on 31st December 1992.

(2) The exceptions provided in paragraph (1) above do not apply in the case of machinery which—

- (a) in the case of machinery which is not required to bear the EC mark pursuant to any other Community obligation, bears the EC mark or an inscription liable to be confused therewith; or
- (b) bears or is accompanied by any other indication, howsoever expressed, that it complies with the Machinery Directive.

(3) In this regulation, “health and safety provisions” means any requirement imposed by an enactment which has the same, or substantially the same, effect as any of the essential health and safety requirements which would, but for the provisions of this regulation, be applicable to that machinery for the purposes of complying with these Regulations.

Exclusion of machinery covered by other Directives

Exclusion of specific machinery

9.—(1) These Regulations do not apply to—

- (a) roll-over protective structures as referred to in Article 1 of Council Directive [86/295/EEC](#) on the approximation of the laws of the member States relating to roll-over protective structures (ROPS) for certain construction plant⁽⁸⁾;
- (b) falling-object protective structures as referred to in Article 1 of Council Directive [86/296/EEC](#) on the approximation of the laws of the member States relating to falling-object protective structures (FOPS) for certain construction plant⁽⁹⁾; or
- (c) industrial trucks as referred to in Article 1 of Council Directive [86/663/EEC](#) on the approximation of the laws of the member States relating to self-propelled industrial trucks⁽¹⁰⁾,

which are supplied or put into service for the first time in the Community before 1st July 1995.

⁽⁸⁾ OJ No. L186, 8.7.86, p.1.

⁽⁹⁾ OJ No. L186, 8.7.86, p.10.

⁽¹⁰⁾ OJ No. L384, 31.12.86, p.12. Council Directive [86/663/EEC](#) was adapted to technical progress by Commission Directive [89/240/EEC](#) (OJ No. L100, 12.4.89, p.1).

(2) On and after 1st July 1995, in respect of machinery mentioned in paragraph (1) above which is supplied or put into service for the first time in the Community on or before 31st December 1995, a supplier may comply with—

- (a) the requirements of these Regulations; or
- (b) the requirements of—
 - (i) in the case of roll-over protective structures, the Roll-over Protective Structures for Construction Plant (EEC Requirements) Regulations 1988(11);
 - (ii) in the case of falling-object protective structures, the Falling-object Protective Structures for Construction Plant (EEC Requirements) Regulations 1988(12); or
 - (iii) in the case of industrial trucks, in Great Britain, the Self-Propelled Industrial Trucks (EEC Requirements) Regulations 1988(13) as amended by the Self-Propelled Industrial Trucks (EEC Requirements) (Amendment) Regulations 1989(14), and in Northern Ireland, the Self-Propelled Industrial Trucks (EEC Requirements) Regulations (Northern Ireland) 1990(15).

Machinery where risks are wholly covered by other Directives

10.—(1) These Regulations do not apply to—

- (a) machinery where all the essential health and safety requirements which would have applied to it, but for the provisions of this sub-paragraph, relate to risks wholly covered by Community Directives other than the Machinery Directive to the extent that any enactment implementing any such Directive is applicable to that machinery; or
- (b) machinery which is electrical equipment in so far as the risks as to the safety of such equipment are mainly of electrical origin.

(2) In paragraph (1)(b) above, “electrical equipment” has the meaning given by Article 1 of Council Directive [73/23/EEC](#) on the harmonization of the laws of member States relating to electrical equipment designed for use within certain voltage limits(16).

PART III

GENERAL REQUIREMENTS

General duty

11.—(1) Subject to paragraph (3) below, no person shall supply relevant machinery unless the requirements of regulation 12 below are complied with in relation thereto.

(2) Where a person—

- (a) being the manufacturer of relevant machinery, himself puts that relevant machinery into service in the course of a business; or
- (b) having imported relevant machinery from a country or territory outside the Community, himself puts that relevant machinery into service in the course of a business,

(11) S.I. 1988/363.

(12) S.I. 1988/362.

(13) S.I. 1988/1736.

(14) S.I. 1989/1035.

(15) S.R. 1990 No. 172.

(16) OJ No. L77, 26.3.73, p.29.

for the purposes of these Regulations that person shall be deemed to have supplied that relevant machinery to himself.

(3) The requirements of paragraph (1) above do not apply in relation to supply by any person of relevant machinery which has previously been put into service in the Community.

Requirements for supply of relevant machinery

12.—(1) The requirements of this regulation are that—

- (a) the relevant machinery satisfies the relevant essential health and safety requirements;
- (b) the appropriate conformity assessment procedure in respect of the relevant machinery has been carried out by the responsible person in accordance with one of the procedures described in regulations 13, 14 and 15 below;
- (c) the responsible person, at his election, has issued either—
 - (i) an EC declaration of conformity in accordance with regulation 22 below; or
 - (ii) in the case of relevant machinery to which regulation 23 below applies, a declaration of incorporation in accordance with that regulation,in respect of the relevant machinery;
- (d) except in the case of relevant machinery to which regulation 23 below applies, the EC mark has been properly affixed by the responsible person to the relevant machinery in accordance with regulation 25 below; and
- (e) the relevant machinery is in fact safe.

(2) It is the responsibility of the manufacturer of relevant machinery to carry out the necessary research or tests on components, fittings or the completed machine to determine whether by its design or construction the machine is capable of being erected and put into service safely.

Conformity assessment procedures

Relevant machinery other than Schedule 4 machinery

13.—(1) In the case of relevant machinery which is not Schedule 4 machinery the responsible person must draw up a technical file which comprises—

- (a) an overall drawing of the machinery together with drawings of the control circuits;
- (b) full detailed drawings, accompanied by any calculation notes, test results and such other data as may be required to check the conformity of the machinery with the essential health and safety requirements;
- (c) a list of:
 - (i) the essential health and safety requirements;
 - (ii) transposed harmonised standards;
 - (iii) standards; and
 - (iv) other technical specifications,which were used when the machinery was designed;
- (d) a description of methods adopted to eliminate hazards presented by the machinery;

- (e) if he so desires, any technical report or certificate obtained from a competent body or laboratory⁽¹⁷⁾;
- (f) if he declares conformity with a transposed harmonised standard which provides therefor, any technical report giving the results of tests carried out at his choice either by himself or by a competent body or laboratory; and
- (g) a copy of the instructions for the machinery drawn up in accordance with paragraph 1.7.4 of Schedule 3 hereto.

(2) For series manufacture, the responsible person must also have available documentation in respect of the internal measures that will be implemented to ensure that all the items of machinery so produced are in conformity with the provisions of the Machinery Directive.

(3) Where the file referred to in paragraph (1) above is drawn up in the United Kingdom it shall be in English always provided that the instructions for the machinery referred to in sub-paragraph (g) thereof shall be in such languages as are specified in paragraph 1.7.4(b) of Schedule 3 hereto.

Schedule 4 machinery manufactured in accordance with transposed harmonised standards

14.—(1) In the case of relevant machinery which is Schedule 4 machinery manufactured in accordance with transposed harmonised standards the responsible person must, at his election—

- (a) draw up and forward to an approved body for retention by that body a technical file;
- (b) submit the technical file referred to in paragraph (a) above to an approved body requesting—
 - (i) verification by that body that the transposed harmonised standards have been correctly applied; and
 - (ii) that the body draw up a certificate of adequacy for the file submitted in accordance with regulation 20 below; or
- (c) submit the technical file referred to in paragraph (a) above to an approved body together with an example of the relevant machinery for EC type-examination or, where appropriate, a statement as to where such an example might be examined, in accordance with regulation 21 below.

(2) The technical file referred to in this regulation and regulation 15 below must include—

- (a) an overall drawing of the machinery together with drawings of the control circuits;
- (b) full detailed drawings, accompanied by any calculation notes, test results and such other data as may be required to check the conformity of the machinery with the essential health and safety requirements;
- (c) a description of methods adopted to eliminate hazards presented by the machinery, a list of transposed harmonised standards used and, in the case of relevant machinery to which regulation 15 below applies, a list of standards used;
- (d) a copy of the instructions for the machinery drawn up in accordance with paragraph 1.7.4 of Schedule 3 hereto; and
- (e) for series manufacture, the internal measures that will be implemented to ensure that all the items of machinery so produced are in conformity with the provisions of the Machinery Directive.

(3) The technical file referred to in this regulation and regulations 15 and 21(2) below must be drawn up in an official language of the member State in which the approved body is established (in the United Kingdom, English) or in such other language as is acceptable to the approved body,

⁽¹⁷⁾ A body or laboratory meeting the assessment criteria laid down in the relevant harmonised standards is presumed to be competent for the purposes of this regulation.

always provided that the instructions for the machinery referred to in paragraph 2(d) above shall be in such languages as are specified in paragraph 1.7.4(b) of Schedule 3 hereto.

Schedule 4 machinery not manufactured in accordance with transposed harmonised standards

15. In the case of relevant machinery which is Schedule 4 machinery and—
- (a) which is not manufactured in accordance with transposed harmonised standards;
 - (b) which is only partly manufactured in accordance with transposed harmonised standards; or
 - (c) in respect of which there are no transposed harmonised standards,

the responsible person must submit a technical file, as described in regulation 14(2) above, to an approved body together with an example of the machinery for EC typeexamination or, where appropriate, a statement as to where such an example might be examined, in accordance with regulation 21 below.

Modifications to relevant machinery

16. Where the responsible person complies with one of the conformity assessment procedures referred to in regulation 14 or 15 above he must inform the approved body of any modifications, even of a minor nature, which he or, where the responsible person is not the manufacturer, the manufacturer has made or plans to make to the relevant machinery to which the technical file relates.

Approved bodies

17. For the purposes of these Regulations, an approved body is a body responsible for carrying out functions relating to the conformity assessment procedures set out in Article 8 of the Machinery Directive and described in regulations 14 and 15 above which has been—

- (a) appointed as a United Kingdom approved body pursuant to regulation 18 below; or
- (b) appointed by a member State other than the United Kingdom,

and in the case of either (a) or (b) above has been notified by the member State concerned to the Commission and the other member States pursuant to Article 9(1) of the Machinery Directive.

United Kingdom approved bodies

18.—(1) The Secretary of State may from time to time appoint such qualified persons as he thinks fit to be United Kingdom approved bodies for the purposes of these Regulations.

- (2) An appointment—
- (a) may relate to all descriptions of Schedule 4 machinery or such descriptions (which may be framed by reference to any circumstances whatsoever) of Schedule 4 machinery as the Secretary of State may from time to time determine;
 - (b) may be made subject to such conditions as the Secretary of State may from time to time determine, and such conditions may include conditions which are to apply upon or following termination of the appointment;
 - (c) shall, without prejudice to the generality of sub-paragraph (b) above, require that body, subject to paragraph (4) below—
 - (i) to acknowledge receipt of technical files submitted to it for retention pursuant to regulation 14(1)(a) above;

- (ii) to carry out the required procedures in respect of the provision of certificates of adequacy at the request of responsible persons in accordance with regulation 20 below; and
 - (iii) to carry out EC type-examinations of examples of Schedule 4 machinery submitted to it or, where appropriate, made available for examination, in accordance with regulation 21 below;
 - (d) shall be terminated—
 - (i) if it appears to the Secretary of State that the approved body is no longer a qualified person; or
 - (ii) upon 90 days' notice in writing to the Secretary of State, at the request of the approved body; and
 - (e) may be terminated if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.
- (3) Subject to paragraph (2)(d) and (e) above, an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.
- (4) A United Kingdom approved body shall not be required to carry out the functions referred to in paragraph (2)(c) above where—
- (a) the documents submitted to it (other than the instructions for the machinery) in relation to carrying out such functions are not in English or another language acceptable to that body;
 - (b) the responsible person has not submitted with its application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 19 below; or
 - (c) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to carry out the required work within 3 months of receiving the application.
- (5) If for any reason the appointment of an approved body is terminated under this regulation, the Secretary of State may authorise another United Kingdom approved body to take over its functions in respect of such cases as he may specify.
- (6) In this regulation—
- “qualified person” means a person (which may include the Secretary of State) who meets the minimum criteria; and
 - “minimum criteria” means the criteria set out in Annex VII of the Machinery Directive (minimum criteria to be taken into account by member States for the notification of bodies)(18).

Fees

- 19.**—(1) Without prejudice to the power of the Secretary of State, where he is a United Kingdom approved body, to charge fees pursuant to regulations made under section 56 of the Finance Act 1973(19) and subject to paragraph (2) below, a United Kingdom approved body other than the Secretary of State may charge such fees in connection with, or incidental to, carrying out its duties in relation to the functions referred to in regulation 18(2)(c) above as it may determine; provided that such fees shall not exceed the sum of the following—
- (a) the costs incurred or to be incurred by the approved body in performing the relevant function; and

(18) Approved bodies meeting the assessment criteria laid down in the relevant harmonised standards are presumed to meet the minimum criteria.

(19) 1973 c. 51.

- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done or to be done by the body on behalf of the responsible person; and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.
- (2) The power in paragraph (1) above includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the responsible person.

Certificate of adequacy

20.—(1) A certificate of adequacy is a document drawn up by an approved body to which a technical file as described in regulation 14(2) above has been submitted in which that body certifies that—

- (a) the transposed harmonised standards have been correctly applied in respect of the design and construction of the relevant machinery to which the file relates; and
 - (b) the file contains all the necessary information.
- (2) A United Kingdom approved body to which such a file has been submitted by a responsible person as described in regulation 14(1)(b) above shall, if satisfied in respect of the matters referred to in paragraph (1)(a) and (b) above, draw up a certificate of adequacy in respect of the file, and send a copy thereof to the responsible person.

- (3) If the United Kingdom approved body is not so satisfied, it shall—
- (a) give the responsible person the opportunity, within a reasonable period, of making representations as to why it should not refuse to draw up a certificate of adequacy for the file; and
 - (b) if, after considering any representations made pursuant to sub-paragraph (a) above, it remains unsatisfied in respect of the matters referred to in paragraph (1)(a) and (b) above, it shall—
 - (i) refuse to draw up a certificate of adequacy for the file;
 - (ii) notify its decision in writing to the responsible person who submitted the file stating the grounds on which such refusal is based; and
 - (iii) at the same time inform all other approved bodies of such decision.

(4) Where the United Kingdom approved body which has drawn up a certificate of adequacy for a technical file is notified, pursuant to regulation 16 above, by the responsible person who submitted the file of a modification which he or, where the responsible person is not the manufacturer, the manufacturer has made, or plans to make, to the relevant machinery to which the file relates, the United Kingdom approved body shall examine such modification and—

- (a) if it is satisfied that the requirements of paragraph (1)(a) and (b) above are or, as the case may be, would be met in respect of the relevant machinery so modified, it shall notify the responsible person in writing that the certificate of adequacy remains valid; or
- (b) if it is not so satisfied it shall notify the responsible person in writing that the certificate of adequacy for the file does not or would not, as the case may be, remain valid in respect of the relevant machinery as modified stating the grounds on which such decision was based.

EC type-examination

21.—(1) EC type-examination is the procedure whereby an approved body ascertains and certifies that an example of relevant machinery satisfies those provisions of the Machinery Directive which apply to it.

(2) An application for EC type-examination by a responsible person (in this regulation referred to as the applicant) to a United Kingdom approved body shall—

- (a) specify—
 - (i) the name and address of the applicant; and
 - (ii) the place of manufacture of the machinery to which the application relates; and
- (b) be accompanied by—
 - (i) a technical file for the machinery as described in regulation 14(2) above; and
 - (ii) an example of the machinery or, where appropriate, a statement as to where such an example might be examined.

(3) The United Kingdom approved body to which such application is made shall satisfy itself that the technical file contains all the necessary information.

(4) The United Kingdom approved body shall also—

- (a) examine and perform such tests as it considers appropriate on the example; and
- (b) if satisfied that—
 - (i) the example has been manufactured in conformity with the technical file and may safely be used under its intended working conditions;
 - (ii) the standards or transposed harmonised standards, as the case may be, if used, have been properly applied; and
 - (iii) the example complies with the relevant essential health and safety requirements,draw up and forward to the applicant an EC type-examination certificate which shall state the conclusions of the EC type-examination, indicate any conditions to which the issue of the certificate is subject and shall be accompanied by the descriptions and drawings necessary to identify the example to which the certificate relates.

(5) The United Kingdom approved body shall, if so requested, taking the necessary measures to guarantee confidentiality, supply to the Secretary of State a copy of the EC type-examination certificate, a copy of the technical file and copies of the reports on the examinations and tests that it has carried out in relation to that application.

(6) If the United Kingdom approved body is not satisfied that the requirements of paragraphs (3) and (4)(b) above are met and is minded to refuse to issue an EC type-examination certificate, it shall—

- (a) inform the applicant in writing of the reasons why it proposes to refuse to issue an EC type-examination certificate;
- (b) give the applicant the opportunity, within a reasonable period, of making representations as to why it should not be refused; and
- (c) if, after considering any representations made pursuant to sub-paragraph (b) above, it remains unsatisfied in respect of the requirements of paragraphs (3) and (4)(b) above, it shall—
 - (i) notify its decision in writing to the applicant stating the grounds on which the refusal is based; and
 - (ii) at the same time inform all other approved bodies of such decision.

(7) Where the United Kingdom approved body which has issued an EC type-examination certificate in respect of an example of relevant machinery to an applicant is notified, pursuant to

regulation 16 above, by that person of a modification which he or, where that person is not the manufacturer, the manufacturer has made, or plans to make, to the relevant machinery to which that example relates, the United Kingdom approved body shall examine such modification and—

- (a) if it is satisfied that the relevant machinery as modified does, or would, as the case may be, conform sufficiently with the example as to the matters referred to in paragraph (4)(b) above, it shall notify the applicant in writing that the EC type-examination certificate is or would be, as the case may be, valid in respect of the relevant machinery as modified for the purposes of issuing EC declarations of conformity in accordance with regulation 22(5) below; or
- (b) if it is not so satisfied it shall notify the applicant in writing that the EC typeexamination certificate is not, or would not be, as the case may be, a valid certificate in respect of the relevant machinery as modified for the abovementioned purposes stating the grounds on which such decision was based.

Declaration and marking procedures

EC declaration of conformity

22.—(1) Drawing up an EC declaration of conformity is the procedure whereby the responsible person declares in respect of each item of relevant machinery which he supplies in the Community that that particular item of relevant machinery complies with all the essential health and safety requirements applying to it.

- (2) An EC declaration of conformity must—
 - (a) state the business name and full address of—
 - (i) the responsible person; and
 - (ii) where that person is not the manufacturer, of the manufacturer;
 - (b) contain a description of the machinery to which the declaration relates which, without prejudice to the generality of the foregoing, includes, in particular—
 - (i) its make;
 - (ii) type; and
 - (iii) serial number;
 - (c) indicate all relevant provisions with which the machinery complies;
 - (d) state in the case of relevant machinery in relation to which an EC typeexamination certificate has been issued the name and address of the approved body which issued the certificate and the number of such certificate;
 - (e) state in the case of relevant machinery in respect of which a technical file as described in regulation 14(2) above has been drawn up the name and address of the approved body to which the file has been sent or which has drawn up a certificate of adequacy for the file, as the case may be;
 - (f) specify (as appropriate) the transposed harmonised standards used;
 - (g) specify (as appropriate) the national standards and any technical specifications used; and
 - (h) identify the person authorised to sign the declaration on behalf of the responsible person.
- (3) An EEC declaration of conformity must be—
 - (a) drawn up in the same language as the instructions for the machinery are drawn up as specified in paragraph 1.7.4(b) of Schedule 3 hereto; and
 - (b) typed or written by hand in block capitals.

(4) In the case of relevant machinery in respect of which the responsible person has carried out one of the conformity assessment procedures described in regulations 13, 14(1)(a) or 14(1)(b) above, the responsible person must state in the EC declaration of conformity that the item of machinery to which the declaration relates complies with the relevant essential health and safety requirements.

(5) In the case of relevant machinery in respect of which the responsible person has carried out the conformity assessment procedure described in regulation 14(1)(c) or 15 above and an EC type-examination certificate has been issued in respect of an example of that machinery, and such certificate remains valid, the responsible person must state that the item of machinery in respect of which the declaration is made conforms with the example to which that certificate relates.

(6) For the purposes of these Regulations, the requirement in paragraph (2)(c) above shall be satisfied where the EC declaration of conformity specifies the Machinery Directive and any other Community Directives with which the relevant machinery complies.

Declaration of incorporation

23.—(1) This regulation applies in the case of relevant machinery which—

- (a) is intended for—
 - (i) incorporation into other machinery; or
 - (ii) assembly with other machinery,to constitute relevant machinery;
- (b) cannot function independently; and
- (c) is not interchangeable equipment.

(2) A declaration of incorporation is a document whereby a responsible person declares the matters referred to in paragraph (1)(a) above and which includes the particulars set out in paragraph (3) below.

(3) A declaration of incorporation must—

- (a) state the name and address of the responsible person;
- (b) contain a description of the machinery or machinery parts;
- (c) state in the case of relevant machinery in respect of which an EC typeexamination certificate has been issued the name and address of the approved body which issued the certificate and the number of such certificate;
- (d) state in the case of relevant machinery in respect of which a technical file as described in regulation 14(2) above has been drawn up the name and address of the approved body to which the file has been sent or which has drawn up a certificate of adequacy for the file, as the case may be;
- (e) specify the transposed harmonised standards (if any) used;
- (f) state that the machinery (to which the declaration of incorporation relates) must not be put into service until the relevant machinery into which it is to be incorporated has been declared in conformity with the provisions of the Machinery Directive; and
- (g) identify the person signing the declaration of incorporation.

Retention of documentation

24.—(1) A responsible person who issues EC declarations of conformity or declarations of incorporation, as the case may be, in the United Kingdom shall retain on his premises the technical file or a copy of the technical file submitted to an approved body, as the case may be, which relates to the relevant machinery in respect of which such declarations are made so that such file is available

to the enforcement authorities for a period of 10 years beginning with the date on which the last unit of relevant machinery to which the file relates is produced.

(2) Nothing in paragraph (1) above shall require the responsible person to keep the documents comprising a technical file available as a permanent file provided that all the required documents are individually available and can be assembled into a technical file.

(3) For the avoidance of doubt, it is hereby declared that for the purposes of enforcing these Regulations a technical file is a document or record and shall be construed accordingly in any of the statutory provisions applied to these Regulations pursuant to Schedule 6 hereto.

The EC mark

25.—(1) For the purposes of these Regulations, the EC mark shall be regarded as properly affixed to relevant machinery if—

- (a) the responsible person who affixes the EC mark to the relevant machinery has issued an EC declaration of conformity in respect thereof;
- (b) the EC mark is affixed to the relevant machinery in a distinct, visible, legible and indelible manner; and
- (c) in the case of relevant machinery which is the subject of Community Directives other than the Machinery Directive, the requirements of those other Directives have also been complied with in respect of the relevant machinery.

(2) No person shall affix the EC mark to any relevant machinery unless that machinery—

- (a) satisfies the relevant essential health and safety requirements; and
- (b) is safe.

(3) No mark or inscription which is capable of being confused with the EC mark shall be affixed to relevant machinery.

(4) A person who supplies relevant machinery which does not bear the EC mark shall, at the request of an enforcement authority, or of an officer of such an authority, give any information which he has, or which is available to him, concerning the date when the relevant machinery was first supplied in the Community and explain (so far as he is able) why the machinery does not bear that mark.

Supplementary provisions

Conditions for relevant machinery being taken to comply with the relevant essential health and safety requirements

26.—(1) Subject to paragraph (2) below, relevant machinery which is accompanied by an EC declaration of conformity and to which the EC mark is affixed shall be taken to comply with the relevant essential health and safety requirements, unless there are reasonable grounds for suspecting that it does not so comply.

(2) Paragraph (1) above does not apply—

- (a) in relation to an enforcement authority where the responsible person fails or refuses to make available to the enforcement authority the technical file or a copy thereof pursuant to regulation 24(1) above; or
- (b) in the case of relevant machinery—
 - (i) which is resupplied in the circumstances described in regulation 11(3) above; and
 - (ii) to which the EC mark is indelibly affixed.

Judicial review of decisions of approved bodies

27.—(1) A person aggrieved by a decision of an approved body under regulation 20(3)(b), 20(4)(b), 21(6)(c) or 21(7)(b) shall, at the same time as he is notified of the decision, be given information about the judicial remedies available to him.

(2) That information shall include—

- (a) a brief statement of the procedure by which judicial review may be applied for in accordance with Rules of Court (or, in Northern Ireland, with rules of court made, or having effect as if made, under section 55 of the Judicature (Northern Ireland) Act 1978(20)); and
- (b) the information that in England and Wales or in Northern Ireland, an application for leave to apply to the Court for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the court considers that there is good reason for extending the period within which the application shall be made.

PART IV ENFORCEMENT

Application of Schedule 6

28. Schedule 6 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

Offences

29. Any person who—

- (a) contravenes or fails to comply with regulation 11 above;
- (b) affixes the EC mark to any relevant machinery in contravention of regulation 25(2) above;
- (c) affixes a mark or inscription to relevant machinery in contravention of regulation 25(3) above;
- (d) contravenes the requirements of regulation 24 above; or
- (e) fails or refuses to give information or an explanation as required by regulation 25(4) above,

shall be guilty of an offence.

Penalties

30.—(1) A person guilty of an offence under regulation 29(a) or (b) above shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding 3 months; or
- (b) to a fine not exceeding—
 - (i) in Great Britain, level 5 on the standard scale; or
 - (ii) in Northern Ireland, £2,000,or to both.

(2) A person guilty of an offence under regulation 29(c), (d) or (e) above shall be liable on summary conviction to a fine not exceeding—

- (i) in Great Britain, level 5 on the standard scale; or
- (ii) in Northern Ireland, £2,000.

Defence of due diligence

31.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 29 above it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) above involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) below on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) above by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than the principal offender

32.—(1) Where the commission by any person of an offence under regulation 29 above is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1) above) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

Consequential disapplication of United Kingdom law

33.—(1) Subject to paragraph (3) below, any requirement which—

- (a) is imposed by or under any of the enactments (relating in various respects to the safety of machinery) specified in paragraph (2) below; and
- (b) but for the provisions of this paragraph, would have to be satisfied by or in respect of relevant machinery if it is to be lawfully supplied,

is hereby disapplied.

(2) The enactments referred to in paragraph (1) above are—

- (a) in the Factories Act 1961**(21)**—
 - (i) subsection (1) of section 26 but only to the extent that it imposes requirements in respect of the supply of chains, ropes and lifting tackle to be put into service for raising or lowering goods or materials; and
 - (ii) subsections (1) and (6) of section 27;
- (b) in the Factories Act (Northern Ireland) 1965**(22)**—
 - (i) subsection (1) of section 27 but only to the extent that it imposes requirements in respect of the supply of chains, ropes and lifting tackle to be put into service for raising or lowering goods or materials; and
 - (ii) subsections (1) and (6) of section 28;
- (c) in the Construction (General Provisions) Regulations 1961**(23)** (having effect as if made under the Factories Act 1961) and in the Construction (General Provisions) Regulations (Northern Ireland) 1963**(24)** (having effect as if made under the Factories Act (Northern Ireland) 1965) respectively, regulation 26, paragraphs (1) and (2) of regulation 29 and regulation 31(1);
- (d) in the Construction (Lifting Operations) Regulations 1961**(25)** (having effect as if made under the Factories Act 1961), and in the Construction (Lifting Operations) Regulations (Northern Ireland) 1963**(26)** (having effect as if made under the Factories Act (Northern Ireland) 1965) respectively, regulations 10(1)(a), 11(3), 13(1), 13(2), 14(1), 14(4), 15, 16, 20(2), 21, 22, 24, 30(1), the first sentence of 30(2) and 34(1);
- (e) in the Shipbuilding & Ship-repairing Regulations 1960**(27)** (having effect as if made under the Factories Act 1961), regulations 33, 34(1), 35 and 36(1);
- (f) in the Shipbuilding & Ship-repairing Regulations (Northern Ireland) 1971**(28)** (made under the Factories Act (Northern Ireland) 1965), regulations 32, 33(1), 34 and 35(1);
- (g) in the Mines and Quarries Act 1954**(29)** and the Mines Act (Northern Ireland) 1969**(30)** respectively, sections 83 and 85(1);
- (h) in the Coal and Other Mines (Locomotives) Regulations 1956**(31)**(having effect as if made under the Mines and Quarries Act 1954), paragraphs (1), (2)(a) to (c) and (3) of regulation 3, regulation 4 and paragraphs (1)(a) to (g), (2) and (3) of regulation 5;

(21) 1961 c. 34.

(22) 1965 c. 20 (N.I.).

(23) S.I. 1961/1580, to which there are amendments not relevant to these Regulations.

(24) S.R. & O. (N.I.) 1963 No. 87.

(25) S.I. 1961/1581, amended by S.I. 1984/1593.

(26) S.R. & O. (N.I.) 1963 No. 86.

(27) S.I. 1960/1932.

(28) S.R. & O. (N.I.) 1971 No. 372.

(29) 1954 c. 70.

(30) 1969 c. 6 (N.I.).

(31) S.I. 1956/1771.

- (i) in the Coal and Other Mines (Support) Regulations 1966(32) (made under the Mines and Quarries Act 1954), regulation 16(2);
 - (j) in the Miscellaneous Mines (General) Regulations 1956(33) (having effect as if made under the Mines and Quarries Act 1954), regulation 52;
 - (k) in the Quarries (General) Regulations 1956(34) (having effect as if made under the Mines and Quarries Act 1954), regulation 14;
 - (l) in the Quarry Vehicles Regulations 1970(35) (made under the Mines and Quarries Act 1954), regulations 3(1) and 4(1);
 - (m) in the Agriculture (Threshers and Balers) Regulations 1960(36) (made under the Agriculture (Safety, Health and Welfare Provisions) Act 1956(37)) paragraph 7 of Part II of the Schedule thereto;
 - (n) in the Coal Mines (Firedamp Drainage) Regulations 1960(38) (made under the Mines and Quarries Act 1954), regulation 11.
 - (o) in the Docks Regulations 1988(39) (made under the Health and Safety at Work etc. Act 1974(40)) and in the Docks Regulations (Northern Ireland) 1989(41) (made under the Health and Safety at Work (Northern Ireland) Order 1978(42)) respectively, regulation 13(1)(a), (b), and (c), the words “or assembled” in regulation 13(1)(d), regulations 13(2)(b), (c) and (d), 14(1)(a) and 16(7);
 - (p) in the Electricity at Work Regulations 1989(43) (made under the Health and Safety at Work etc. Act 1974) and in the Electricity at Work Regulations (Northern Ireland) 1991(44) (made under the Health and Safety at Work (Northern Ireland) Order 1978) respectively, regulation 26; and
 - (q) in the Regulations specified in the first column of Schedule 7 hereto, the regulations respectively specified in the third column of that Schedule.
- (3) For the avoidance of doubt, it is hereby declared that nothing in paragraph (2) above affects the application of the enactments so listed to the use in service of relevant machinery.

Relevant machinery which is electrical equipment

34.—(1) The Low Voltage Electrical Equipment (Safety) Regulations 1989(45) are hereby disapplied in respect of relevant machinery which is electrical equipment in so far as the risks as to the safety of such equipment are not mainly of electrical origin.

(2) In this regulation, “electrical equipment” has the meaning given by Article 1 of Council Directive 73/23 EEC on the harmonization of the laws of member States relating to electrical equipment designed for use within certain voltage limits(46).

(32) S.I. 1966/881.

(33) S.I. 1956/1778.

(34) S.I. 1956/1780.

(35) S.I. 1970/168.

(36) S.I. 1960/1199; relevant amending instrument is S.I. 1981/1414.

(37) 1956 c. 49.

(38) S.I. 1960/1015.

(39) S.I. 1988/1655.

(40) 1974 c. 37.

(41) S.R. 1989 No. 320.

(42) S.I. 1978/1039 (N.I. 9).

(43) S.I. 1989/635.

(44) S.R. 1991 No. 13.

(45) S.I. 1989/728.

(46) OJ No. L77, 26.3.73, p.29.

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(3) For the avoidance of doubt, it is hereby declared that paragraph (1) above does not affect the applicability of the above-mentioned Regulations to machinery which is electrical equipment for the purposes of regulation 8(1)(a) above.

30th November 1992

E. Leigh
Parliamentary Under-Secretary of State for
Technology,
Department of Trade and Industry

SCHEDULE 1

Regulation 1(2)

REVOCATION OF REGULATIONS

| | |
|---|------------------|
| The Roll-over Protective Structures for Construction Plant (EEC Requirements) Regulations 1988 (47) | 1st January 1996 |
| The Falling-object Protective Structures for Construction Plant (EEC Requirements) Regulations 1988 (48) | 1st January 1996 |
| The Self-Propelled Industrial Trucks (EEC Requirements) Regulations 1988 (49) | 1st January 1996 |
| The Self-Propelled Industrial Trucks (EEC Requirements) (Amendment) Regulations 1989 (50) | 1st January 1996 |
| The Self-Propelled Industrial Trucks (EEC Requirements) Regulations (Northern Ireland) 1990 (51) | 1st January 1996 |

SCHEDULE 2

Regulations 2(2) and 25

THE EC MARK (Annex III of the Machinery Directive)

The EC mark consists of the symbol shown below and the last two figures of the year in which the mark is affixed.



The different elements of the EC mark should have materially the same vertical dimensions, which should not be less than 5mm.

(47) [S.I. 1988/363.](#)
(48) [S.I. 1988/362.](#)
(49) [S.I. 1988/1736.](#)
(50) [S.I. 1989/1035.](#)
(51) [S.R./1990 No. 172.](#)

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SCHEDULE 3

Regulation 2(2)

ESSENTIAL HEALTH AND SAFETY REQUIREMENTS RELATING
TO THE DESIGN AND CONSTRUCTION OF MACHINERY

(Annex I of the Machinery Directive)

PRELIMINARY OBSERVATIONS

The obligations laid down by the essential health and safety requirements apply only when the corresponding hazard exists for the machinery in question when it is used under the conditions foreseen by the manufacturer. In any event, requirements 1.1.2, 1.7.3 and 1.7.4 apply to all machinery covered by this Directive.

The essential health and safety requirements laid down in this Directive are mandatory. However, taking into account the state of the art⁽⁵²⁾, it may not be possible to meet the objectives set by them. In this case, the machinery must as far as possible be designed and constructed with the purpose of approaching those objectives.

1. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS**(1.1) General remarks***(1.1.1) Definitions*

For the purpose of this Directive

1. “danger zone” means any zone within and/or around machinery in which an exposed person is subject to a risk to his health or safety;
2. “exposed person” means any person wholly or partially in a danger zone;
3. “operator” means the person or persons given the task of installing, operating, adjusting, maintaining, cleaning, repairing or transporting machinery.

(1.1.2) Principles of safety integration

- (a) Machinery must be so constructed that it is fitted for its function, and can be adjusted and maintained without putting persons at risk when these operations are carried out under the conditions foreseen by the manufacturer.

The aim of measures taken must be to eliminate any risk of accident throughout the foreseeable lifetime of the machinery, including the phases of assembly and dismantling, even where risks of accident arise from foreseeable abnormal situations.

- (b) In selecting the most appropriate methods, the manufacturer must apply the following principles, in the order given:
- eliminate or reduce risks as far as possible (inherently safe machinery design and construction);
 - take the necessary protection measures in relation to risks that cannot be eliminated;
 - inform users of the residual risks due to any shortcomings of the protection measures adopted, indicate whether any particular training is required and specify any need to provide personal protection equipment.

(52) The recitals to the Machinery Directive indicate that the essential health and safety requirements must be applied with discernment to take account of the state of the art at the time of construction and of technical and economic requirements.

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- (c) When designing and constructing machinery, and when drafting the instructions, the manufacturer must envisage not only the normal use of the machinery but also uses which could reasonably be expected.

The machinery must be designed to prevent abnormal use if such use would engender a risk. In other cases the instructions must draw the user's attention to ways — which experience has shown might occur — in which the machinery should not be used.

- (d) Under the intended conditions of use, the discomfort, fatigue and psychological stress faced by the operator must be reduced to the minimum possible taking ergonomic principles into account.
- (e) When designing and constructing machinery, the manufacturer must take account of the constraints to which the operator is subject as a result of the necessary or foreseeable use of personal protection equipment (such as footwear, gloves, etc).
- (f) Machinery must be supplied with all the essential special equipment and accessories to enable it to be adjusted, maintained and used without risk.

(1.1.3) *Materials and products*

The materials used to construct machinery or products used and created during its use must not endanger exposed persons' safety or health.

In particular, where fluids are used, machinery must be designed and constructed for use without risks due to filling, use, recovery or draining.

(1.1.4) *Lighting*

The manufacturer must supply integral lighting suitable for the operations concerned where its lack is likely to cause a risk despite ambient lighting of normal intensity.

The manufacturer must ensure that there is no area of shadow likely to cause nuisance, that there is no irritating dazzle and that there are no dangerous stroboscopic effects due to the lighting provided by the manufacturer.

Internal parts requiring frequent inspection, and adjustment and maintenance areas, must be provided with appropriate lighting.

(1.1.5) *Design of machinery to facilitate its handling*

Machinery or each component part thereof must:

- be capable of being handled safely;
- be packaged or designed so that it can be stored safely and without damage (eg adequate stability, special supports, etc).

Where the weight, size or shape of machinery or its various component parts prevents them from being moved by hand, the machinery or each component part must:

- either be fitted with attachments for lifting gear; or
- be designed so that it can be fitted with such attachments (eg threaded holes); or
- be shaped in such a way that standard lifting gear can easily be attached.

Where machinery or one of its component parts is to be moved by hand, it must:

- either be easily movable; or
- be equipped for picking up (eg hand-grips etc) and moving in complete safety.

Special arrangements must be made for the handling of tools and/or machinery parts, even if lightweight, which could be dangerous (shape, material, etc).

(1.2) **Controls**

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(1.2.1) *Safety and reliability of control systems*

Control systems must be designed and constructed so that they are safe and reliable, in a way that will prevent a dangerous situation arising. Above all they must be designed and constructed in such a way that:

- they can withstand the rigours of normal use and external factors;
- errors in logic do not lead to dangerous situations.

(1.2.2) *Control devices*

Control devices must be:

- clearly visible and identifiable and appropriately marked where necessary;
- positioned for safe operation without hesitation or loss of time, and without ambiguity;
- designed so that the movement of the control is consistent with its effect;
- located outside the danger zones, except for certain controls where necessary, such as emergency stop or a console for training of robots;
- positioned so that their operation cannot cause additional risk;
- designed or protected so that the desired effect, where a risk is involved, cannot occur without an intentional operation;
- made so as to withstand foreseeable strain; particular attention must be paid to emergency stop devices liable to be subjected to considerable strain.

Where a control is designed and constructed to perform several different actions, namely where there is no one-to-one correspondence (eg keyboards, etc), the action to be performed must be clearly displayed and subject to confirmation where necessary.

Controls must be so arranged that their layout, travel and resistance to operation are compatible with the action to be performed, taking account of ergonomic principles. Constraints due to the necessary or foreseeable use of personal protection equipment (such as footwear, gloves, etc) must be taken into account.

Machinery must be fitted with indicators (dials, signals, etc) as required for safe operation. The operator must be able to read them from the control position.

From the main control position the operator must be able to ensure that there are no exposed persons in the danger zones.

If this is impossible, the control system must be designed and constructed so that an acoustic and/or visual warning signal is given whenever the machinery is about to start. The exposed person must have the time and the means to take rapid action to prevent the machinery starting up.

(1.2.3) *Starting*

It must be possible to start machinery only by voluntary actuation of a control provided for the purpose.

The same requirement applies:

- when restarting the machinery after a stoppage, whatever the cause;
- when effecting a significant change in the operating conditions (eg speed, pressure, etc),

unless such restarting or change in operating conditions is without risk to exposed persons.

This essential requirement does not apply to the restarting of the machinery or to the change in operating conditions resulting from the normal sequence of an automatic cycle.

Where machinery has several starting controls and the operators can therefore put each other in danger, additional devices (eg enabling devices or selectors allowing only one part of the starting mechanism to be actuated at any one time) must be fitted to rule out such risks.

It must be possible for automated plant functioning in automatic mode to be restarted easily after a stoppage once the safety conditions have been fulfilled.

(1.2.4) *Stopping device*

Normal stopping

Each machine must be fitted with a control whereby the machine can be brought safely to a complete stop.

Each workstation must be fitted with a control to stop some or all of the moving parts of the machinery, depending on the type of hazard, so that the machinery is rendered safe. The machinery's stop control must have priority over the start controls.

Once the machinery or its dangerous parts have stopped, the energy supply to the actuators concerned must be cut off.

Emergency stop

Each machine must be fitted with one or more emergency stop devices to enable actual or impending danger to be averted. The following exceptions apply:

- machines in which an emergency stop device would not lessen the risk, either because it would not reduce the stopping time or because it would not enable the special measures required to deal with the risk to be taken;
- hand-held portable machines and hand-guided machines.

This device must:

- have clearly identifiable, clearly visible and quickly accessible controls;
- stop the dangerous process as quickly as possible, without creating additional hazards;
- where necessary, trigger or permit the triggering of certain safeguard movements.

The emergency stop control must remain engaged; it must be possible to disengage it only by an appropriate operation; disengaging the control must not restart the machinery, but only permit restarting; the stop control must not trigger the stopping function before being in the engaged position.

Complex installations

In the case of machinery or parts of machinery designed to work together, the manufacturer must so design and construct the machinery that the stop controls, including the emergency stop, can stop not only the machinery itself but also all equipment upstream and/or downstream if its continued operation can be dangerous.

(1.2.5) *Mode selection*

The control mode selected must override all other control systems with the exception of the emergency stop.

If machinery has been designed and built to allow for its use in several control or operating modes presenting different safety levels (eg to allow for adjustment,

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maintenance, inspection etc), it must be fitted with a mode selector which can be locked in each position. Each position of the selector must correspond to a single operating or control mode.

The selector may be replaced by another selection method which restricts the use of certain functions of the machinery to certain categories of operator (eg access codes for certain numerically controlled functions, etc).

If, for certain operations, the machinery must be able to operate with its protection devices neutralised, the mode selector must simultaneously:

- disable the automatic control mode;
- permit movements only by controls requiring sustained action;
- permit the operation of dangerous moving parts only in enhanced safety conditions (eg reduced speed, reduced power, step-by-step, or other adequate provision) while preventing hazards from linked sequences;
- prevent any movement liable to pose a danger by acting voluntarily or involuntarily on the machine's internal sensors.

In addition, the operator must be able to control operation of the parts he is working on at the adjustment point.

(1.2.6) *Failure of the power supply*

The interruption, re-establishment after an interruption or fluctuation in whatever manner of the power supply to the machinery must not lead to a dangerous situation.

In particular:

- the machinery must not start unexpectedly;
- the machinery must not be prevented from stopping if the command has already been given;
- no moving part of the machinery or piece held by the machinery must fall or be ejected;
- automatic or manual stopping of the moving parts whatever they may be must be unimpeded;
- the protection devices must remain fully effective.

(1.2.7) *Failure of the control circuit*

A fault in the control circuit logic, or failure of or damage to the control circuit must not lead to dangerous situations.

In particular:

- the machinery must not start unexpectedly;
- the machinery must not be prevented from stopping if the command has already been given;
- no moving part of the machinery or piece held by the machinery must fall or be ejected;
- automatic or manual stopping of the moving parts whatever they may be must be unimpeded;
- the protection devices must remain fully effective.

(1.2.8) *Software*

Interactive software between the operator and the command or control system of a machine must be user-friendly.

(1.3) Protection against mechanical hazards

(1.3.1) Stability

Machinery, components and fittings thereof must be so designed and constructed that they are stable enough, under the foreseen operating conditions (if necessary taking climatic conditions into account) for use without risk of overturning, falling or unexpected movement.

If the shape of the machinery itself or its intended installation does not offer sufficient stability, appropriate means of anchorage must be incorporated and indicated in the instructions.

(1.3.2) Risk of break-up during operation

The various parts of machinery and their linkages must be able to withstand the stresses to which they are subject when used as foreseen by the manufacturer.

The durability of the materials used must be adequate for the nature of the work place foreseen by the manufacturer, in particular as regards the phenomena of fatigue, ageing, corrosion and abrasion.

The manufacturer must indicate in the instructions the type and frequency of inspection and maintenance required for safety reasons. He must, where appropriate, indicate the parts subject to wear and the criteria for replacement.

Where a risk of rupture or disintegration remains despite the measures taken (eg as with grinding wheels) the moving parts must be mounted and positioned in such a way that in case of rupture their fragments will be contained.

Both rigid and flexible pipes carrying fluids, particularly those under high pressure, must be able to withstand the foreseen internal and external stresses and must be firmly attached and/or protected against all manner of external stresses and strains; precautions must be taken to ensure that no risk is posed by a rupture (sudden movement, highpressure jets, etc).

Where the material to be processed is fed to the tool automatically, the following conditions must be fulfilled to avoid risks to the persons exposed (eg tool breakage):

- when the workpiece comes into contact with the tool the latter must have attained its normal working conditions;
- when the tool starts and/or stops (intentionally or accidentally) the feed movement and the tool movement must be coordinated.

(1.3.3) Risks due to falling or ejected objects

Precautions must be taken to prevent risks from falling or ejected objects (eg workpieces, tools, cuttings, fragments, waste, etc).

(1.3.4) Risks due to surfaces, edges or angles

In so far as their purpose allows, accessible parts of the machinery must have no sharp edges, no sharp angles, and no rough surfaces likely to cause injury.

(1.3.5) Risks related to combined machinery

Where the machinery is intended to carry out several different operations with the manual removal of the piece between each operation (combined machinery), it must be designed and constructed in such a way as to enable each element to be used separately without the other elements constituting a danger or risk for the exposed person.

For this purpose, it must be possible to start and stop separately any elements that are not protected.

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(1.3.6) *Risks relating to variations in the rotational speed of tools*

When the machine is designed to perform operations under different conditions of use (eg different speeds or energy supply), it must be designed and constructed in such a way that selection and adjustment of these conditions can be carried out safely and reliably.

(1.3.7) *Prevention of risks related to moving parts*

The moving parts of machinery must be designed, built and laid out to avoid hazards or, where hazards persist, fixed with guards or protective devices in such a way as to prevent all risk of contact which could lead to accidents.

All necessary steps must be taken to prevent accidental blockage of moving parts involved in the work. In cases where, despite the precautions taken, a blockage is likely to occur, specific protection devices or tools, the instruction handbook and possibly a sign on the machinery should be provided by the manufacturer to enable the equipment to be safely unblocked.

(1.3.8) *Choice of protection against risks related to moving parts*

Guards or protection devices used to protect against the risks related to moving parts must be selected on the basis of the type of risk. The following guidelines must be used to help make the choice.

A. Moving transmission parts

Guards designed to protect exposed persons against the risks associated with moving transmission parts (such as pulleys, belts, gears, rack and pinions, shafts, etc) must be:

- either fixed, complying with requirements 1.4.1 and 1.4.2.1; or
- movable, complying with requirements 1.4.1 and 1.4.2.2.A.

Movable guards should be used where frequent access is foreseen.

B. Moving parts directly involved in the process

Guards or protection devices designed to protect exposed persons against the risks associated with moving parts contributing to the work (such as cutting tools, moving parts of presses, cylinders, parts in the process of being machined, etc) must be:

- wherever possible fixed guards complying with requirements 1.4.1 and 1.4.2.1;
- otherwise, movable guards complying with requirements 1.4.1 and 1.4.2.2.B or protection devices such as sensing devices (eg non-material barriers, sensor mats), remote-hold protection devices (eg two-hand controls), or protection devices intended automatically to prevent all or part of the operator's body from encroaching on the danger zone in accordance with requirements 1.4.1 and 1.4.3.

However, when certain moving parts directly involved in the process cannot be made completely or partially inaccessible during operation owing to operations requiring nearby operator intervention, where technically possible such parts must be fitted with:

- fixed guards, complying with requirements 1.4.1 and 1.4.2.1 preventing access to those sections of the parts that are not used in the work;
- adjustable guards, complying with requirements 1.4.1 and 1.4.2.3 restricting access to those sections of the moving parts that are strictly for the work.

(1.4) Required characteristics of guards and protection devices

(1.4.1) General requirement

Guards and protection devices must:

- be of robust construction;
- not give rise to any additional risk;
- not be easy to by-pass or render non-operational;
- be located at an adequate distance from the danger zone;
- cause minimum obstruction to the view of the production process;
- enable essential work to be carried out on installation and/or replacement of tools and also for maintenance by restricting access only to the area where the work has to be done, if possible without the guard or protection device having to be dismantled.

(1.4.2) Special requirements for guards

(1.4.2.1) Fixed guards Fixed guards must be securely held in place.

They must be fixed by systems that can be opened only with tools.

Where possible, guards must be unable to remain in place without their fixings.

(1.4.2.2) Movable guards

(A) Type A movable guards must:

- as far as possible remain fixed to the machinery when open;
- be associated with a locking device to prevent moving parts starting up as long as these parts can be accessed and to give a stop command whenever they are no longer closed.

(B) Type B movable guards must be designed and incorporated into the control system so that:

- moving parts cannot start up while they are within the operator's reach;
- the exposed person cannot reach moving parts once they have started up;
- they can be adjusted only by means of an intentional action, such as the use of a tool, key, etc;
- the absence or failure of one of their components prevents starting or stops the moving parts;
- protection against any risk of ejection is proved by means of an appropriate barrier.

(1.4.2.3) Adjustable guards restricting access

Adjustable guards restraining access to those areas of the moving parts strictly necessary for the work must:

- be adjustable manually or automatically according to the type of work involved;
- be readily adjustable without the use of tools;
- reduce as far as possible the risk of ejection.

(1.4.3) Special requirements for protection devices

Protection devices must be designed and incorporated into the control system so that:

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- moving parts cannot start up while they are within the operator's reach;
- the exposed person cannot reach moving parts once they have started up;
- they can be adjusted only by means of an intentional action, such as the use of a tool, key, etc;
- the absence or failure of one of their components prevents starting or stops the moving parts.

(1.5) Protection against other hazards

(1.5.1) Electricity supply

Where machinery has an electricity supply it must be designed, constructed and equipped so that all hazards of an electrical nature are or can be prevented.

The specific rules in force relating to electrical equipment designed for use within certain voltage limits must apply to machinery which is subject to those limits.

(1.5.2) Static electricity

Machinery must be so designed and constructed as to prevent or limit the build-up of potentially dangerous electrostatic charges and/or be fitted with a discharging system.

(1.5.3) Energy supply other than electricity

Where machinery is powered by an energy other than electricity (eg hydraulic, pneumatic or thermal energy, etc), it must be so designed, constructed and equipped as to avoid all potential hazards associated with these types of energy.

(1.5.4) Errors of fitting

Errors likely to be made when fitting or refitting certain parts which could be a source of risk must be made impossible by the design of such parts or, failing this, by information given on the parts themselves and/or the housings. The same information must be given on moving parts and/or their housings where the direction of movement must be known to avoid a risk. Any further information that may be necessary must be given in the instructions.

Where a faulty connection can be the source of risk, incorrect fluid connections, including electrical conductors, must be made impossible by the design or, failing this, by information given on the pipes, cables, etc and/or connector blocks.

(1.5.5) Extreme temperatures

Steps must be taken to eliminate any risk of injury caused by contact with or proximity to machinery parts or materials at high or very low temperatures.

The risk of hot or very cold material being ejected should be assessed. Where this risk exists, the necessary steps must be taken to prevent it or, if this is not technically possible, to render it non-dangerous.

(1.5.6) Fire

Machinery must be designed and constructed to avoid all risk of fire or overheating posed by the machinery itself or by gases, liquids, dusts, vapours or other substances produced or used by the machinery.

(1.5.7) Explosion

Machinery must be designed and constructed to avoid any risk of explosion posed by the machinery itself or by gases, liquids, dusts, vapours or other substances produced or used by the machinery.

To that end the manufacturer must take steps to:

- avoid a dangerous concentration of products;
- prevent combustion of the potentially explosive atmosphere;
- minimise any explosion which may occur so that it does not endanger the surroundings.

The same precautions must be taken if the manufacturer foresees the use of the machinery in a potentially explosive atmosphere.

Electrical equipment forming part of the machinery must conform, as far as the risk from explosion is concerned, to the provision of the specific Directives in force.

(1.5.8) *Noise*

Machinery must be so designed and constructed that risks resulting from the emission of airborne noise are reduced to the lowest level taking account of technical progress and the availability of means of reducing noise, in particular at source.

(1.5.9) *Vibration*

Machinery must be so designed and constructed that risks resulting from vibrations produced by the machinery are reduced to the lowest level, taking account of technical progress and the availability of means of reducing vibration, in particular at source.

(1.5.10) *Radiation*

Machinery must be so designed and constructed that any emission of radiation is limited to the extent necessary for its operation and that the effects on exposed persons are nonexistent or reduced to non-dangerous proportions.

(1.5.11) *External radiation*

Machinery must be so designed and constructed that external radiation does not interfere with its operation.

(1.5.12) *Laser equipment*

Where laser equipment is used, the following provisions should be taken into account:

- laser equipment on machinery must be designed and constructed so as to prevent any accidental radiation;
- laser equipment on machinery must be protected so that effective radiation, radiation produced by reflection or diffusion and secondary radiation do not damage health;
- optical equipment for the observation or adjustment of laser equipment on machinery must be such that no health risk is created by the laser rays.

(1.5.13) *Emissions of dust, gases, etc*

Machinery must be so designed, constructed and/or equipped that risks due to gases, liquids, dust, vapours and other waste materials which it produces can be avoided.

Where a hazard exists, the machinery must be so equipped that the said substances can be contained and/or evacuated.

Where machinery is not enclosed during normal operation, the devices for containment and/or evacuation must be situated as close as possible to the source of the emission.

(1.6) Maintenance

(1.6.1) *Machinery maintenance*

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Adjustment, lubrication and maintenance points must be located outside danger zones. It must be possible to carry out adjustment, maintenance, repair, cleaning and servicing operations while machinery is at a standstill.

If one or more of the above conditions cannot be satisfied for technical reasons, these operations must be possible without risk (see 1.2.5).

In the case of automated machinery and, where necessary, other machinery, the manufacturer must make provision for a connecting device for mounting diagnostic fault-finding equipment.

Automated machine components which have to be changed frequently, in particular for a change in manufacture or where they are liable to wear or likely to deteriorate following an accident, must be capable of being removed and replaced easily and in safety. Access to the components must enable these tasks to be carried out with the necessary technical means (tools, measuring instruments, etc) in accordance with an operating method specified by the manufacturer.

(1.6.2) *Access to operating position and servicing points*

The manufacturer must provide means of access (stairs, ladders, catwalks, etc) to allow access in safety to all areas used for production, adjustment and maintenance operations.

Parts of the machinery where persons are liable to move about or stand must be designed and constructed to avoid falls.

(1.6.3) *Isolation of energy sources*

All machinery must be fitted with means to isolate it from all energy sources. Such isolators must be clearly identified. They must be capable of being locked if reconnection could endanger exposed persons. In the case of machinery supplied with electricity through a plug capable of being plugged into a circuit, separation of the plug is sufficient.

The isolator must be capable of being locked also where an operator is unable, from any of the points to which he has access, to check that the energy is still cut off.

After the energy is cut off, it must be possible to dissipate normally any energy remaining or stored in the circuits of the machinery without risk to exposed persons.

As an exception to the above requirements, certain circuits may remain connected to their energy sources in order, for example, to hold parts, protect information, light interiors, etc. In this case, special steps must be taken to ensure operator safety.

(1.6.4) *Operator intervention*

Machinery must be so designed, constructed and equipped that the need for operator intervention is limited.

If operator intervention cannot be avoided, it must be possible to carry it out easily and in safety.

(1.6.5) *Cleaning of internal parts*

The machinery must be designed and constructed in such a way that it is possible to clean internal parts which have contained dangerous substances or preparations without entering them; any necessary unblocking must also be possible from the outside. If it is absolutely impossible to avoid entering the machinery, the manufacturer must take steps during its construction to allow cleaning to take place with the minimum of danger.

(1.7) **Indicators**

(1.7.0) *Information devices*

The information needed to control machinery must be unambiguous and easily understood.

It must not be excessive to the extent of overloading the operator.

Where the health and safety of exposed persons may be endangered by a fault in the operation of unsupervised machinery, the machinery must be equipped to give an appropriate acoustic or light signal as a warning.

(1.7.1) *Warning devices*

Where machinery is equipped with warning devices (such as signals, etc), these must be unambiguous and easily perceived.

The operator must have facilities to check the operation of such warning devices at all times.

The requirements of the specific Directives concerning colours and safety signals must be complied with.

(1.7.2) *Warning of residual risks*

Where risks remain despite all the measures adopted or in the case of potential risks which are not evident (eg electrical cabinets, radioactive sources, bleeding of a hydraulic circuit, hazard in an unseen area, etc), the manufacturer must provide warnings.

Such warnings should preferably use readily understandable pictograms and/or be drawn up in one of the languages of the country in which the machinery is to be used, accompanied, on request, by the languages understood by the operators.

(1.7.3) *Marking*

All machinery must be marked legibly and indelibly with the following minimum particulars:

- name and address of the manufacturer;
- CE mark, which includes the year of construction;
- designation of series or type;
- serial number, if any.

Furthermore, where the manufacturer constructs machinery intended for use in a potentially explosive atmosphere, this must be indicated on the machinery.

Machinery must also bear full information relevant to its type and essential to its safe use (eg maximum speed of certain rotating parts, maximum diameter of tools to be fitted, mass, etc).

Where a machine part must be handled during use with lifting equipment, its mass must be indicated legibly, indelibly and unambiguously.

Interchangeable equipment must bear the same information.

(1.7.4) *Instructions*

- (a) All machinery must be accompanied by instructions including at least the following:
- a repeat of the information with which the machinery is marked (see 1.7.3), together with any appropriate additional information to facilitate maintenance (eg addresses of the importer, repairers, etc);
 - foreseen use of the machinery within the meaning of 1.1.2(c);
 - workstation(s) likely to be occupied by operators;

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- instructions for safe:
 - putting into service;
 - use;
 - handling, giving the mass of the machinery and in various parts where they are regularly to be transported separately;
 - assembly, dismantling;
 - adjustment;
 - maintenance (servicing and repair);
 - where necessary, training instructions;
 - where necessary, the essential characteristics of tools which may be fitted to the machinery.

Where necessary, the instructions should draw attention to ways in which the machinery should not be used.

- (b) The instructions must be drawn up by the manufacturer or his authorised representative established in the Community in one of the languages of the country in which the machinery is to be used and should preferably be accompanied by the same instructions drawn up in another Community language, such as that of the country in which the manufacturer or his authorised representative is established. By way of derogation from this requirement, the maintenance instructions for use by the specialised personnel frequently employed by the manufacturer or his authorised representative may be drawn up in only one of the official Community languages.
- (c) The instructions must contain the drawings and diagrams necessary for putting into service, maintenance, inspection, checking of correct operation and, where appropriate, repair of the machinery, and all useful instructions in particular with regard to safety.
- (d) Any sales literature describing the machinery must not contradict the instructions as regards safety aspects; it must give information regarding the airborne noise emissions referred to in (f) and, in the case of hand-held and/or hand-guided machinery, information regarding vibration as referred to in 2.2.
- (e) Where necessary, the instructions must give the requirements relating to installation and assembly for reducing noise or vibration (eg use of dampers, type and mass of foundation block, etc).
- (f) The instructions must give the following information concerning airborne noise emissions by the machinery, either the actual value or a value established on the basis of measurements made on identical machinery;
 - equivalent continuous A-weighted sound pressure level at workstations, where this exceeds 70 dB(A); where this level does not exceed 70 dB(A), this fact must be indicated;
 - peak C-weighted instantaneous sound pressure value at workstations, where this exceeds 63 Pa (130 dB in relation to 20 μ Pa);
 - sound power level emitted by the machinery where the equivalent continuous A-weighted sound pressure level at workstations exceeds 85 dB(A).

In the case of very large machinery, instead of the sound power level, the equivalent continuous sound pressure levels at specified positions around the machinery may be indicated.

Where the harmonized standards are not applied, sound levels must be measured using the most appropriate method for the machinery.

The manufacturer must indicate the operating conditions of the machinery during measurement and what methods have been used for the measurement.

Where the workstation(s) are undefined or cannot be defined, sound pressure levels must be measured at a distance of 1 metre from the surface of the machinery and at height of 1.60 metres from the floor or access platform. The position and value of the maximum sound pressure must be indicated.

- (g) If the manufacturer foresees that the machinery will be used in a potentially explosive atmosphere, the instructions must give all the necessary information.
- (h) In the case of machinery which may also be intended for use by non-professional operators, the wording and layout of the instructions for use, whilst respecting the other essential requirements mentioned above, must take into account the level of general education and acumen that can reasonably be expected from such operators.

2. ADDITIONAL ESSENTIAL HEALTH AND SAFETY REQUIREMENTS FOR CERTAIN CATEGORIES OF MACHINERY

(2.1) Agri-foodstuffs machinery

In addition to the essential health and safety requirements set out in 1 above, where machinery is intended to prepare and process foodstuffs (eg cooking, refrigeration, thawing, washing, handling, packaging, storage, transport or distribution), it must be so designed and constructed as to avoid any risk of infection, sickness or contagion and the following hygiene rules must be observed:

- (a) materials in contact, or intended to come into contact, with the foodstuffs must satisfy the conditions set down in the relevant Directives. The machinery must be so designed and constructed that these materials can be cleaned before each use;
- (b) all surfaces including their joinings must be smooth, and must have neither ridges nor crevices which could harbour organic materials;
- (c) assemblies must be designed in such a way as to reduce projections, edges and recesses to a minimum. They should preferably be made by welding or continuous bonding. Screws, screwheads and rivets may not be used except where technically unavoidable;
- (d) all surfaces in contact with foodstuffs must be easily cleaned and disinfected, where possible after removing easily dismantled parts. The inside surfaces must have curves of a radius sufficient to allow thorough cleaning;
- (e) liquid deriving from foodstuffs as well as cleaning, disinfecting and rinsing fluids should be able to be discharged from the machine without impediment (possibly in a “clean” position);
- (f) machinery must be so designed and constructed as to prevent any liquids or living creatures, in particular insects, entering, or any organic matter accumulating in areas that cannot be cleaned (eg for machinery not mounted on feet or casters, by placing a seal between the machinery and its base, by the use of sealed units, etc);
- (g) machinery must be so designed and constructed that no ancillary substances (eg lubricants, etc) can come into contact with foodstuffs. Where necessary, machinery must be designed and constructed so that continuing compliance with this requirement can be checked.

Instructions

In addition to the information required in section 1, the instructions must indicate recommended products and methods for cleaning, disinfecting and rinsing (not only for easily

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accessible areas but also where areas to which access is impossible or unadvisable, such as piping, have to be cleaned in situ).

(2.2) Portable hand-held and/or hand-guided machinery

In addition to the essential health and safety requirements set out in 1 above, portable hand-held and/or hand-guided machinery must conform to the following essential health and safety requirements:

- according to the type of machinery, it must have a supporting surface of sufficient size and have a sufficient number of handles and supports of an appropriate size and arranged to ensure the stability of the machinery under the operating conditions foreseen by the manufacturer;
- except where technically impossible or where there is an independent control, in the case of handles which cannot be released on complete safety, it must be fitted with start and stop controls arranged in such a way that the operator can operate them without releasing the handles;
- it must be designed, constructed or equipped to eliminate the risks of accidental starting and/or continued operation after the operator has released the handles. Equivalent steps must be taken if this requirement is not technically feasible;
- portable hand-held machinery must be designed and constructed to allow, where necessary, a visual check of the contact of the tool with the material being processed.

Instructions

The instructions must give the following information concerning vibrations transmitted by hand-held and hand-guided machinery;

- the weighted root mean square acceleration value to which the arms are subjected, if it exceeds 2.5m/s^2 as determined by the appropriate test code. Where the acceleration does not exceed 2.5m/s^2 , this must be mentioned.

If there is no applicable test code, the manufacturer must indicate the measurement methods and conditions under which measurements were made.

(2.3) Machinery for working wood and analogous materials

In addition to the essential and safety requirements set out in 1 above, machinery for working wood and machinery for working materials with physical and technological characteristics similar to those of wood, such as cork, bone, hardened rubber, hardened plastic material and other similar stiff material must conform to the following essential health and safety requirements:

- (a) the machinery must be designed, constructed or equipped so that the piece being machined can be placed and guided in safety; where the piece is hand-held on a work-bench the latter must be sufficiently stable during the work and must not impede the movement of the piece;
- (b) where the machinery is likely to be used in conditions involving the risk of ejection of pieces of wood, it must be designed, constructed or equipped to eliminate this ejection, or, if this is not the case, so that the ejection does not engender risks for the operator and/or exposed persons;
- (c) the machinery must be equipped with an automatic brake that stops the tool in a sufficiently short time if there is a risk of contact with the tool whilst it runs down;
- (d) where the tool is incorporated into a non-fully automated machine, the latter must be so designed and constructed as to eliminate or reduce the risk of serious accidental injury, for example by using cylindrical cutter blocks, restricting depth of cut, etc.

3. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS TO OFFSET THE PARTICULAR HAZARDS DUE TO THE MOBILITY OF MACHINERY

In addition to the essential health and safety requirements given in the sections 1 and 2, machinery presenting hazards due to mobility must be designed and constructed to meet the requirements below.

Risks due to mobility always exist in the case of machinery which is self-propelled, towed or pushed or carried by other machinery or tractors, is operated in working areas and whose operations requires either mobility while working, be it continuous or semicontinuous movement, between a succession of fixed working positions.

Risks due to mobility may also exist in the case of machinery operated without being moved, but equipped in such a way as to enable it to be moved more easily from one place to another (machinery fitted with wheels, rollers, runners, etc. or placed on gantries, trolleys, etc).

In order to verify that rotary cultivators and power harrows do not present unacceptable risks to the exposed persons, the manufacturer or his authorised representative established within the Community must, for each type of machinery concerned, perform the appropriate tests or have such tests performed.

(3.1) **General**

(3.1.1) *Definition*

“Driver” means an operator responsible for the movement of machinery. The driver may be transported by the machinery or may be on foot, accompanying the machinery, or may be guiding the machinery by remote control (cables, radio, etc).

(3.1.2) *Lighting*

If intended by the manufacturer to be used in dark places, self-propelled machinery must be fitted with a lighting device appropriate to the work to be carried out, without prejudice to any other regulations applicable (road traffic regulations, navigation rules, etc).

(3.1.3) *Design of machinery to facilitate its handling*

During the handling of the machine and/or its parts there must be no possibility of sudden movements or of hazards due to instability as long as the machine and/or its parts are handled in accordance with the manufacturer’s instructions.

(3.2) **Work stations**

(3.2.1) *Driving position*

The driving position must be designed with due regard to ergonomic principles. There may be two or more driving positions and, in such cases, each driving position must be provided with all the requisite controls, Where there is more than one driving position, the machinery must be designed so that the use of one of them precludes the use of the others, except in emergency stops. Visibility from the driving position must be such that the driver can in complete safety for himself and the exposed persons, operate the machinery and its tools in their intended conditions of use. Where necessary, appropriate devices must be provided to remedy hazards due to inadequate direct vision.

Machinery must be so designed and constructed that, from the driving position, there can be no risk to the driver and operators on board from inadvertent contact with the wheels or tracks.

The driving position must be designed and constructed so as to avoid any health risk due to exhaust gases and/or lack of oxygen.

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The driving position of ride-on drivers must be so designed and constructed that a driver's cab may be fitted as long as there is room. In that case, the cab must incorporate a place for the instructions needed for the driver and/or operators. The driving position must be fitted with an adequate cab where there is a hazard due to a dangerous environment.

Where the machinery is fitted with a cab, this must be designed, constructed and/or equipped to ensure that the driver has good operating conditions and is protected against any hazards that might exist (for instance: inadequate heating and ventilation, inadequate visibility, excessive noise and vibration, falling objects, penetration by objects, rolling over, etc). The exit must allow rapid evacuation. Moreover, an emergency exit must be provided in a direction which is different from the usual exit.

The materials used for the cab and its fittings must be fire-resistant.

(3.2.2) *Seating*

The driving seat of any machinery must enable the driver to maintain a stable position and be designed with due regard to ergonomic principles.

The seat must be designed to reduce vibrations transmitted to the driver to the lowest level that can be reasonably achieved. The seat mountings must withstand all stresses to which they can be subjected, notably in the event of rollover. Where there is no floor beneath the driver's feet, the driver must have footrests covered with a slip-resistant material.

Where machinery is fitted with provision for a rollover protection structure, the seat must be equipped with a safety belt or equivalent device which keeps the driver in his seat without restricting any movements necessary for driving or any movements caused by the suspension.

(3.2.3) *Other places*

If the conditions of use provide that operators other than the driver are occasionally or regularly transported by the machinery, or work on it, appropriate places must be provided which enable them to be transported or to work on it without risk, particularly the risk of falling.

Where the working conditions so permit, these work places must be equipped with seats.

Should the driving position have to be fitted with a cab, the other places must also be protected against the hazards which justified the protection of the driving position.

(3.3) **Controls**

(3.3.1) *Control devices*

The driver must be able to actuate all control devices required to operate the machinery from the driving position, except for functions which can be safely activated only by using control devices located away from the driving position. This refers in particular to working positions other than the driving position, for which operators other than the driver are responsible or for which the driver has to leave his driving position in order to carry out the manoeuvre in safety.

Where there are pedals they must be so designed, constructed and fitted to allow operation by the driver in safety with the minimum risk of confusion; they must have a slip-resistant surface and be easy to clean.

Where their operation can lead to hazards, notably dangerous movements, the machinery's controls, except for those with preset positions, must return to the neutral position as soon as they are released by the operator.

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In the case of wheeled machinery, the steering system must be designed and constructed to reduce the force of sudden movements of the steering lever caused by shocks to the guide wheels.

Any control that locks the differential must be so designed and arranged that it allows the differential to be unlocked when the machinery is moving.#

The last sentence of section 1.2.2 does not apply to the mobility function.

(3.3.2) *Starting/moving*

Self-propelled machinery with a ride-on driver must be so equipped as to deter unauthorised persons from starting the engine.

Travel movements of self-propelled machinery with a ride-on driver must be possible only if the driver is at the controls.

Where, for operating purposes, machinery must be fitted with devices which exceed its normal clearance zone (eg stabilisers, jib, etc), the driver must be provided with the means of checking easily, before moving the machinery, that such devices are in a particular position which allows safe movement.

This also applies to all other parts which, to allow safe movement, have to be in particular positions, locked if necessary.

Where it is technically and economically feasible, movement of the machinery must depend on safe positioning of the aforementioned parts.

It must not be possible for movement of the machinery to occur while the engine is being started.

(3.3.3) *Travelling function*

Without prejudice to the provisions of road traffic regulations, self-propelled machinery and its trailers must meet the requirements for slowing down, stopping, braking and immobilisation so as to ensure safety under all the operating, loading, speed, ground and gradient conditions allowed for by the manufacturer and corresponding to conditions encountered in normal use.

The driver must be able to slow down and stop self-propelled machinery by means of a main device. Where safety so requires in the event of a failure of the main device, or in the absence of the energy supply to actuate the main device, an emergency device with fully independent and easily accessible controls must be provided for slowing down and stopping.

Where safety so requires, a parking device must be provided to render stationary machinery immobile. This device may be combined with one of the devices referred to in the second paragraph, provided that it is purely mechanical.

Remote-controlled machinery must be designed and constructed to stop automatically if the driver loses control.

Section 1.2.4 does not apply to the travelling function.

(3.3.4) *Movement of pedestrian-controlled machinery*

Movement of pedestrian-controlled self-propelled machinery must be possible only through sustained action on the relevant control by the driver. In particular, it must not be possible for movement to occur while the engine is being started.

The control systems for pedestrian-controlled machinery must be designed to minimise the hazards arising from inadvertent movement of the machine towards the driver. In particular:

- (a) crushing,

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(b) injury from rotating tools.

Also, the speed of normal travel of the machine must be compatible with the pace of a driver on foot.

In the case of machinery on which a rotary tool may be fitted, it must not be possible to actuate that tool when the reversing control is engaged, except where movement of the machinery results from movement of the tool. In the latter case, the reversing speed must be such that it does not endanger the driver.

(3.3.5) *Control circuit failure*

A failure in the power supply to the power-assisted steering, where fitted, must not prevent machinery from being steered during the time required to stop it.

(3.4) Protection against mechanical hazards

(3.4.1) *Uncontrolled movements*

When a part of a machine has been stopped, any drift away from the stopping position, for whatever reason other than action at the controls, must be such that it is not a hazard to exposed persons.

Machinery must be so designed, constructed and where appropriate placed on its mobile support as to ensure that when moved the uncontrolled oscillations of its centre of gravity do not affect its stability or exert excessive strain on its structure.

(3.4.2) *Risk of break-up during operation*

Parts of machinery rotating at high speed which, despite the measures taken, may break up or disintegrate, must be mounted and guarded in such a way that, in case of breakage, their fragments will be contained or, if that is not possible, cannot be projected towards the driving and/or operation positions.

(3.4.3) *Rollover*

Where, in the case of self-propelled machinery with a ride-on driver and possibly ride-on operators, there is a risk of rolling over, the machinery must be designed for and be fitted with anchorage points allowing it to be equipped with a rollover protective structure (ROPS).

This structure must be such that in case of rolling over it affords the ride-on driver and where appropriate the ride-on operators an adequate deflection-limiting volume (DLV).

In order to verify that the structure complies with the requirement laid down in the second paragraph, the manufacturer or his authorised representative established within the Community must, for each type of structure concerned, perform appropriate test or have such tests performed.

In addition, the earth-moving machinery listed below with a capacity exceeding 15kW must be fitted with a rollover protective structure:

- crawler loaders or wheel loaders,
- backhoe loaders,
- crawler tractors or wheel tractors,
- scrapers, self-loading or not,
- graders,
- articulated steer dumpers.

(3.4.4) *Falling objects*

Where, in the case of machinery with a ride-on driver and possibly ride-on operators, there is a risk due to falling objects or material, the machinery should be designed for, and fitted with, if its size allows, anchorage points allowing it to be equipped with a falling-object protective structure (FOPS).

This structure must be such that in the case of falling objects or material, it guarantees the ride-on operators an adequate deflection-limiting volume (DLV).

In order to verify that the structure complies with the requirement laid down in the second paragraph, the manufacturer or his authorised representative established within the Community must, for each type of structure concerned, perform appropriate tests or have such tests performed.

(3.4.5) *Means of access*

Handholds and steps must be designed, constructed and arranged in such a way that the operators use them instinctively and do not use the controls for that purpose.

(3.4.6) *Towing devices*

All machinery used to tow or to be towed must be fitted with towing or coupling devices designed, constructed and arranged to ensure easy and safe connection and disconnection, and to prevent accidental disconnection during use.

In so far as the towbar load requires, such machinery must be equipped with a support with a bearing surface suited to the load and the ground.

(3.4.7) *Transmission of power between self-propelled machinery (or tractor) and recipient machinery*

Transmission shafts with universal joints linking self-propelled machinery (or tractor) to the first fixed bearing of recipient machinery must be guarded on the self-propelled machinery side and the recipient machinery side over the whole length of the shaft and associated universal joints.

On the side of the self-propelled machinery (or tractor), the power take-off to which the transmission shaft is attached must be guarded either by a screen fixed to the selfpropelled machinery (or tractor) or by any other device offering equivalent protection.

On the towed machinery side, the input shaft must be enclosed in a protective casing fixed to the machinery.

Torque limiters or freewheels may be fitted to universal joint transmissions only on the side adjoining the driven machine. The universal-joint transmission shaft must be marked accordingly.

All towed machinery whose operation requires a transmission shaft to connect it to selfpropelled machinery or a tractor must have a system for attaching the transmission shaft so that when the machinery is uncoupled the transmission shaft and its guard are not damaged by contact with the ground or part of the machinery.

The outside parts of the guard must be so designed, constructed and arranged that they cannot turn with the transmission shaft. The guard must cover the transmission shaft to the ends of the inner jaws in the case of simple universal joints and at least to the centre of the outer joint or joints in the case of “wide-angle” universal joints.

Manufacturers providing means of access to working positions near to the universal joint transmission shaft must ensure that shaft guards as described in the sixth paragraph cannot be used as steps unless designed and constructed for that purpose.

(3.4.8) *Moving transmission parts*

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By way of derogation from section 1.3.8.A, in the case of internal combustion engines, removable guards preventing access to the moving parts in the engine compartment need not have locking devices if they have to be opened either by the use of a tool or key or by a control located in the driving position if the latter is in a fully enclosed cab with a lock to prevent unauthorised access.

(3.5) Protection against other hazards

(3.5.1) Batteries

The battery housing must be constructed and located and the battery installed so as to avoid as far as possible the chance of electrolyte being ejected on to the operator in the event of rollover and/or to avoid the accumulation of vapours in places occupied by operators.

Machinery must be so designed and constructed that the battery can be disconnected with the aid of an easily accessible device provided for that purpose.

(3.5.2) Fire

Depending on the hazards anticipated by the manufacturer when in use, machinery must, where its size permits:

- either allow easily accessible fire extinguishers to be fitted;
- or be provided with built-in extinguisher systems.

(3.5.3) Emissions of dust, gases, etc.

Where such hazards exist, the containment equipment provided for in 1.5.13 may be replaced by other means, for example precipitation by water spraying.

The second and third paragraphs of 1.5.13 do not apply where the main function of the machinery is the spraying of products.

(3.6) Indications

(3.6.1) Signs and warning

Machinery must have means of signalling and/or instruction plates concerning use, adjustment and maintenance, wherever necessary, to ensure the health and safety of exposed persons. They must be chosen, designed and constructed in such a way as to be clearly visible and indelible.

Without prejudice to the requirements to be observed for travelling on the public highway, machinery with a ride-on driver must have the following equipment:

- an acoustic warning device to alert exposed persons;
- a system of light signals relevant to the intended conditions of use such as stop lamps, reversing lamps and rotating beacons. The latter requirement does not apply to machinery intended solely for underground working and having no electrical power.

Remote-controlled machinery which under normal conditions of use exposes persons to the hazards of impact or crushing must be fitted with appropriate means to signal its movements or with means to protect exposed persons against such hazards. The same applies to machinery which involves, when in use, the constant repetition of a forward and backward movement on a single axis where the back of the machine is not directly visible to the driver.

Machinery must be so constructed that the warning and signalling devices cannot all be disabled unintentionally. Where this is essential for safety, such devices must be provided with the means to check that they are in good working order and their failure must be made apparent to the operator.

Where the movement of machinery or its tools is particularly hazardous, signs on the machinery must be provided to warn against approaching the machinery while it is working; the signs must be legible at a sufficient distance to ensure the safety of persons who have to be in the vicinity.

(3.6.2) *Marking*

The minimum requirements set out in 1.7.3 must be supplemented by the following:

- nominal power expressed in kW;
- mass in kg of the most usual configuration and, where appropriate:
 - maximum drawbar pull provided for by the manufacturer at the coupling hook, in N;
 - maximum vertical load provided for by the manufacturer on the coupling hook, in N.

(3.6.3) *Instruction handbook*

Apart from the minimum requirements set out in 1.7.4, the instruction handbook must contain the following information:

- (a) regarding the vibrations emitted by the machinery, either the actual value or a figure calculated from measurements performed on identical machinery:
 - the weighted root mean square acceleration value to which the arms are subjected, if it exceeds 2.5 m/s^2 , should it not exceed 2.5 m/s^2 , this must be mentioned;
 - the weighted root mean square acceleration value to which the body (feet or posterior) is subjected, if it exceeds 0.5 m/s^2 , should it not exceed 0.5 m/s^2 , this must be mentioned.

Where the harmonized standards are not applied, the vibration must be measured using the most appropriate methods for the machinery concerned.

- (b) The manufacturer must indicate the operating conditions of the machinery during measurement and which methods were used for taking the measurements;
- (c) in the case of machinery allowing several uses depending on the equipment used, manufacturers of basic machinery to which interchangeable equipment may be attached and manufacturers of the interchangeable equipment must provide the necessary information to enable the equipment to be fitted and used safely.

4. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS TO OFFSET THE PARTICULAR HAZARDS DUE TO A LIFTING OPERATION

In addition to the essential health and safety requirements given in sections 1, 2 and 3, machinery presenting hazards due to lifting operations — mainly hazards of load falls and collisions or hazards of tipping caused by a lifting operation — must be designed and constructed to meet the requirements below.

Risks due to a lifting operation exist particularly in the case of machinery designed to move a unit load involving a change in level during the movement. The load may consist of objects, materials or goods.

(4.1) **General remarks**

(4.1.1) *Definitions*

- (a) lifting accessories:

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“lifting accessories” means components or equipment not attached to the machine and placed between the machinery and the load or on the load in order to attach it;

(b) separate lifting accessories:

“separate lifting accessories” means accessories which help to make up or use a slinging device, such as eyehooks, shackles, rings, eyebolts, etc;

(c) guided load:

“guided load” means the load where the total movement is made along rigid or flexible guides, whose position is determined by fixed points;

(d) working coefficient:

“working coefficient” means the arithmetic ratio between the load guaranteed by the manufacturer up to which a piece of equipment, and accessory or machinery is able to hold it and the maximum working load marked on the equipment, accessory or machinery respectively;

(e) test coefficient:

“test coefficient” means the arithmetic ratio between the load used to carry out the static or dynamic tests on a piece of equipment, an accessory or machinery and the maximum working load marked on the piece of equipment, accessory or machinery;

(f) static test

“static test” means the test during which the machinery or the lifting accessory is first inspected and then subjected to a force corresponding to the maximum working load multiplied by the appropriate static test coefficient and then reinspected once the said load has been released to ensure no damage has occurred;

(g) dynamic test:

“dynamic test” means the test during which the machinery is operated in all its possible configurations at maximum working load with account being taken of the dynamic behaviour of the machinery in order to check that the machinery and safety features are functioning properly.

(4.1.2) *Protection against mechanical hazards*

(4.1.2.1) Risks due to lack of stability

Machinery must be so designed and constructed that the stability required in 1.3.1 is maintained both in service and out of service, including all stages of transportation, assembly and dismantling, during foreseeable component failures and also during the tests carried out in accordance with the instruction handbook.

To that end, the manufacturer or his authorised representative established within the Community must use the appropriate verification methods; in particular, for selfpropelled industrial trucks with lift exceeding 1.80 m, the manufacturer or his authorised representative established within the Community must, for each type of industrial truck concerned, perform a platform stability test or similar test, or have such tests performed.

(4.1.2.2) Guide rails and rail tracks Machinery must be provided with devices which act on the guide rails or tracks to prevent derailment.

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However, if derailment occurs despite such devices, or if there is a failure of a rail or a running component, devices must be provided which prevent the equipment, component or load from falling or the machine overturning.

(4.1.2.3) Mechanical strength

Machinery, lifting accessories and removable components must be capable of withstanding the stresses to which they are subjected, both in and, where applicable, out of use, under the installation and operating conditions provided for by the manufacturer, and in all relevant configurations, with due regard, where appropriate, to the effects of atmospheric factors and forces exerted by persons. This requirement must also be satisfied during transport, assembly and dismantling.

Machinery and lifting accessories must be designed and constructed so as to prevent failure from fatigue or wear, taking due account of their intended use.

The materials used must be chosen on the basis of the working environments provided for by the manufacturer, with special reference to corrosion, abrasion, impacts, cold brittleness and ageing.

The machinery and the lifting accessories must be designed and constructed to withstand the overload in the static tests without permanent deformation or patent defect. The calculation must take account of the values of the static test coefficient chosen to guarantee an adequate level of safety; that coefficient has, as a general rule, the following values:

- (a) manually-operated machinery and lifting accessories: 1.5;
- (b) other machinery: 1.25.

Machinery must be designed and constructed to undergo, without failure, the dynamic tests carried out using the maximum working load multiplied by the dynamic test coefficient. This dynamic test coefficient is chosen so as to guarantee an adequate level of safety: the coefficient is, as a general rule, equal to 1.1.

The dynamic tests must be performed on machinery ready to be put into service under normal conditions of use. As a general rule, the tests will be performed at the nominal speeds laid down by the manufacturer. Should the control circuit of the machinery allow for a number of simultaneous movements (for example, rotation and displacement of the load), the tests must be carried out under the least favourable conditions, ie as a general rule by combining the movements concerned.

(4.1.2.4) Pulleys, drums, chains or ropes

Pulleys, drums and wheels must have a diameter commensurate with the size of rope or chains with which they can be fitted.

Drums and wheels must be so designed, constructed and installed that the ropes or chains with which they are equipped can wind round without falling off.

Ropes used directly for lifting or supporting the load must not include any splicing other than at their ends (splicings are tolerated in installations which are intended from their design to be modified regularly according to needs for use). Complete ropes and their endings have a working coefficient chosen so as to guarantee an adequate level of safety; as a general rule, this coefficient is equal to five.

Lifting chains have a working coefficient chosen so as to guarantee an adequate level of safety; as a general rule, this coefficient is equal to four.

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In order to verify that an adequate working coefficient has been attained, the manufacturer or his authorised representative established within the Community must, for each type of chain and rope used directly for lifting the load, and for the rope ends, perform the appropriate tests or have such tests performed.

(4.1.2.5) Separate lifting accessories

Lifting accessories must be sized with due regard to fatigue and ageing processes for a number of operating cycles consistent with their expected life-span as specified in the operating conditions for a given application.

Moreover:

- (a) the working coefficient of the metallic rope/rope-end combination is chosen so as to guarantee an adequate level of safety; this coefficient is, as a general rule, equal to five. Ropes must not comprise any splices or loops other than at their ends;
- (b) where chains with welded links are used, they must be of the short link type. The working coefficient of chains of any type is chosen so as to guarantee an adequate level of safety; this coefficient is, as a general rule, equal to four;
- (c) the working coefficient for textile ropes or slings is dependent on the material, method of manufacture, dimensions and use. This coefficient is chosen so as to guarantee an adequate level of safety; it is, as a general rule, equal to seven, provided the materials used are shown to be of very good quality and the method of manufacture is appropriate to the intended use. Should this not be the case, the coefficient is, as a general rule, set at a higher level in order to secure an equivalent level of safety.
Textile ropes and slings must not include any knots, connections or splicing other than at the ends of the sling, except in the case of an endless sling;
- (d) all metallic components making up, or used with, a sling must have a working coefficient chosen as to guarantee an adequate level of safety; this coefficient is, as a general rule, equal to four;
- (e) the maximum working capacity of a multi-legged sling is determined on the basis of the safety coefficient of the weakest leg, the number of legs and a reduction factor which depends on the slinging configuration;
- (f) in order to verify that an adequate working coefficient has been attained, the manufacturer or his authorised representative established within the Community must, for each type of component referred to in (a), (b), (c) and (d) perform the appropriate tests or have such tests performed.

(4.1.2.6) Control of movements

Devices for controlling movements must act in such a way that the machinery on which they are installed is kept safe:

- (a) machinery must be so designed or fitted with devices that the amplitude of movement of its components is kept within the specified limits. The operation of such devices must, where appropriate, be preceded by a warning;
- (b) where several fixed or rail-mounted machines can be manoeuvred simultaneously in the same place, with risks of collision, such machines

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must be so designed and constructed as to make it possible to fit systems enabling these risks to be avoided;

- (c) the mechanisms of machinery must be so designed and constructed that the loads cannot creep dangerously or fall freely and unexpectedly, even in the event of partial or total failure of the power supply or when the operator stops operating the machine;
- (d) it must not be possible, under normal operating conditions, to lower the load solely by friction brake, except in the case of machinery, whose function requires it to operate in that way;
- (e) holding devices must be so designed and constructed that inadvertent dropping of the loads is avoided.

(4.1.2.7) Handling of loads

The driving position of machinery must be located in such a way as to ensure that widest possible view of trajectories of the moving parts, in order to avoid possible collisions with persons or equipment or other machinery which might be manoeuvring at the same time and liable to constitute a hazard.

Machinery with guided loads fixed in one place must be designed and constructed so as to prevent exposed persons from being hit by the load or the counter-weights.

(4.1.2.8) Lightning

Machinery in need of protection against the effects of lightning while being used must be fitted with a system for conducting the resultant electrical charges to earth.

(4.2) **Special requirements for machinery whose power source is other than manual effort**

(4.2.1) *Controls*

(4.2.1.1) Driving position

The requirements laid down in section 3.2.1 also apply to non-mobile machinery.

(4.2.1.2) Seating

The requirements laid down in section 3.2.2 first and second paragraphs, and those laid down in section 3.2.3 also apply to non-mobile machinery.

(4.2.1.3) Control devices

The devices controlling movements of the machinery or its equipment must return to their neutral position as soon as they are released by the operator. However, for partial or complete movements in which there is no risk of the load or the machinery colliding, the said devices may be replaced by controls authorising automatic stops at preselected levels without holding a hold-to-run control device.

(4.2.1.4) Loading control

Machinery with a maximum working load of not less than 1000 kilograms or an overturning moment of not less than 40,000 Nm must be fitted with devices to warn the driver and prevent dangerous movements of the load in the event of:

- overloading the machinery
- either as a result of maximum working loads being exceeded, or
- as a result of the moments due to the loads being exceeded,

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- the moments conducive to overturning being exceeded as a result of the load being lifted.

(4.2.2) *Installation guided by cables*

Cable carriers, tractors or tractor carriers must be held by counter-weights or by a device allowing permanent control of the tension.

(4.2.3) *Risks to exposed persons. Means of access to driving position and intervention points*

Machinery with guided loads and machinery whose load supports follow a clearly defined path must be equipped with devices to prevent any risks to exposed persons.

(4.2.4) *Fitness for purpose*

When machinery is placed on the market or is first put into service, the manufacturer or his authorised representative established within the Community must ensure, by taking appropriate measures or having them taken, that lifting accessories and machinery which are ready for use — whether manually or power-operated — can fulfil their specified functions safely. The said measures must take into account the static and dynamic aspects of the machinery.

Where the machinery cannot be assembled in the manufacturer's premises, or in the premises of his authorised representative established within the Community, appropriate measures must be taken at the place of use. Otherwise, the measures may be taken either in the manufacturer's premises or at the place of use.

(4.3) **Marking**

(4.3.1) *Chains and ropes*

Each length of lifting chain, rope or webbing not forming part of an assembly must bear a mark or, where this is not possible, a plate or irremovable ring bearing the name and address of the manufacturer or his authorised representative established in the Community and the identifying reference of the relevant certificate.

The certificate should show the information required by the harmonized standards or, should those not exist, at least the following information:

- the name of the manufacturer or his authorised representative established within the Community;
- the address within the Community of a manufacturer or his authorised representative, as appropriate;
- a description of the chain or rope which includes:
 - its nominal size,
 - its construction,
 - the material from which it is made, and
 - any special metallurgical treatment applied to the material;
- if tested, the standard used;
- a maximum load to which the chain or rope should be subjected in service. A range of values may be given for specified applications.

(4.3.2) *Lifting accessories*

All lifting accessories must show the following particulars:

- identification of the manufacturer;
- identification of the material (eg international classification) where this information is needed for dimensional compatibility;

- identification of the maximum working load;
- EC mark.

In the case of accessories including components such as cables or ropes, on which marking is physically impossible, the particulars referred to in the first paragraph must be displayed on a plate or by some other means and securely affixed to the accessory.

The particulars must be legible and located in a place where they are not liable to disappear as a result of machining, wear, etc, or jeopardise the strength of the accessory.

(4.3.3) *Machinery*

In addition to the minimum information provided for in 1.7.3, each machine must bear, legibly and indelibly, information concerning the nominal load:

- (i) displayed in uncoded form and prominently on the equipment in the case of machinery which has only one possible value;
- (ii) where the nominal load depends on the configuration of the machine, each driving position must be provided with a load plate indicating, preferably in diagrammatic form or by means of tables, the nominal loads for each configuration.

Machinery equipped with a load support which allows access to persons and involves a risk of falling must bear a clear and indelible warning prohibiting the lifting of persons. This warning must be visible at each place where access is possible.

(4.4) *Instruction handbook*

(4.4.1) *Lifting accessories*

Each lifting accessory or each commercially indivisible batch of lifting accessories must be accompanied with an instruction handbook setting out at least the following particulars:

- normal conditions of use;
- instructions for use, assembly and maintenance;
- the limits of use (particularly for the accessories which cannot comply with 4.1.2.6(e)).

(4.4.2) *Machinery*

In addition to section 1.7.4, the instruction handbook must include the following information:

- (a) the technical characteristics of the machinery, and in particular:
 - where appropriate, a copy of the load table described in section 4.3.3(ii);
 - the reactions at the supports or anchors and characteristics of the tracks;
 - where appropriate, the definition and the means of installation of the ballast;
- (b) the contents of the logbook, if the latter is not supplied with the machinery;
- (c) advice for use, particularly to offset the lack of direct sight of the load by the operator;
- (d) the necessary instructions for performing the tests before first putting into service machinery which is not assembled on the manufacturer's premises in the form in which it is to be used.

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5. ESSENTIAL SAFETY AND HEALTH REQUIREMENTS FOR MACHINERY INTENDED SOLELY FOR UNDERGROUND WORK

In addition to the essential safety and health requirements provided in sections 1, 2, 3 and 4, machinery intended solely for underground work must be designed and constructed to meet the requirements below.

(5.1) Risks due to lack of stability

Powered roof supports must be so designed and constructed as to maintain a given direction when moving and not slip before and while they come under load and after the load has been removed. They must be equipped with anchorages for the top plates of the individual hydraulic props.

(5.2) Movement

Powered roof supports must allow for unhindered movement of exposed persons.

(5.3) Lighting

The requirements laid down in the third paragraph of section 1.1.4 do not apply.

(5.4) Control devices

The accelerator and brake controls for the movement of machinery running on rails must be manual. The deadman's control may be foot-operated, however.

The control devices of powered roof supports must be designed and laid out so that, during displacement operations, operators are sheltered by a support in place. The control devices must be protected against any accidental release.

(5.5) Stopping

Self-propelled machinery running on rails for use in underground work must be equipped with a deadman's control acting on the circuit controlling the movement of the machinery.

(5.6) Fire

The second indent of 3.5.2 is mandatory in respect of machinery which comprise highly flammable parts.

The braking system of machinery meant for use in underground working must be designed and constructed so as not to produce sparks or cause fires.

Machinery with heat engines for use in underground working must be fitted only with internal combustion engines using fuel with a low vaporising pressure and which exclude any spark of electrical origin.

(5.7) Emissions of dust, gases etc

Exhaust gases from internal combustion engines must not be discharged upwards.

SCHEDULE 4

Regulation 2(2)

MACHINERY POSING SPECIAL HAZARDS

(Annex IV of the Machinery Directive)

1. Circular saws (single or multi-blade) for working with wood and meat.

(1.1) Sawing machines with fixed tool operation, having a fixed bed with manual feed of the workpiece or with a demountable power feed.

(1.2) Sawing machines with fixed tool during operation, having a manually operated reciprocating saw-bench or carriage.

(1.3) Sawing machines with fixed tool during operation, having a built-in mechanical feed device for the workpieces, with manual loading and/or unloading.

(1.4) Sawing machines with movable tool during operation, with a mechanical feed device and manual loading and/or unloading.

2. Hand-fed surface planing machines for woodworking.
3. Thicknessers for one-side dressing with manual loading and/or unloading for woodworking.
4. Band-saws with a mobile bed or carriage and manual loading and/or unloading for working with wood and meat.
5. Combined machines of the types referred to in 1 to 4 and 7 for woodworking.
6. Hand-fed tenoning machines with several tool holders for woodworking.
7. Hand-fed vertical spindle moulding machines.
8. Portable chain saws for woodworking.
9. Presses, including press-brakes, for the cold working of metals, with manual loading and/or unloading, whose movable working parts may have a travel exceeding 6 mm and a speed exceeding 30 mm/s.
10. Injection or compression plastics-moulding machines with manual loading or unloading.
11. Injection or compression rubber-moulding machines with manual loading or unloading.
12. Machinery for underground working of the following types:
 - machinery on rails: locomotives and brake-vans.
 - hydraulic-powered roof supports.
 - internal combustion engines to be fitted to machinery for underground working.
13. Manually-loaded trucks for the collection of household refuse incorporating a compression mechanism.
14. Guards and detachable transmission shafts with universal joints as described in section 3.4.7(53).
15. Vehicles servicing lifts.

SCHEDULE 5

Regulation 5

EXCLUDED MACHINERY

Lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial trucks with elevating operator position.

Machinery whose only power source is directly applied manual effort unless it is a machine used for lifting or lowering loads.

Machinery for medical use used in direct contact with patients.

Special equipment for use in fairgrounds and/or amusement parks.

Steam boilers, tanks and pressure vessels.

(53) This is a reference to section 3.4.7 of the essential health and safety requirements set out in Schedule 3 to these Regulations.

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Machinery specially designed or put into service for nuclear purposes which, in the event of failure, may result in an emission of radioactivity.

Radioactive sources forming part of a machine.

Firearms.

Storage tanks and pipelines for petrol, diesel fuel, inflammable liquids and dangerous substances.

Means of transport, that is vehicles and their trailers intended solely for transporting passengers by air or on road, rail or water networks, as well as means of transport in so far as such means are designed for transporting goods by air, on public road or rail networks or on water. Vehicles used in the mineral extraction industry shall not be excluded.

Seagoing vessels and mobile offshore units together with equipment on board such vessels or units.

Cableways for the public or private transportation of persons.

Agricultural and forestry tractors, as defined in Article 1(1) of Council Directive [74/150/EEC](#) of 4th March 1974 on the approximation of the laws of the member States relating to the typeapproval of wheeled agricultural or forestry tractors⁽⁵⁴⁾, as last amended by Directive [88/297/EEC](#)⁽⁵⁵⁾.

Machines specially designed and constructed for military or police purposes.

SCHEDULE 6

Regulation 28

ENFORCEMENT

Enforcement in Great Britain in relation to relevant machinery for use at work

1. In Great Britain, in relation to relevant machinery for use at work—
 - (a) it shall be the duty of the Executive to make adequate arrangements for the enforcement of these Regulations, and accordingly a reference in the provisions applied to these Regulations by sub-paragraph (b) below to an “enforcing authority” shall be construed as a reference to the Executive;
 - (b) sections 19 to 28⁽⁵⁶⁾, 33 to 35⁽⁵⁷⁾, 38, 39, 41 and 42 of the 1974 Act shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if—

⁽⁵⁴⁾ OJ No. L84, 28.3.74, p.10.

⁽⁵⁵⁾ OJ No. L126, 20.5.88, p.52.

⁽⁵⁶⁾ In section 22, subsections (1) and (2) were amended and subsection (4) was added by paragraph 2, of Schedule 3 to, and section 36 of, [1987 c. 43](#). There is a modification of the application of section 24 not relevant to these Regulations. Sections 25A and 27A were inserted by paragraphs 3 and 4 respectively, and section 28(1)(a) was amended by paragraph 5, of Schedule 3 to, and section 36 of, [1987 c. 43](#); section 27 was amended by the repeal of subsection (2)(b) and the word “or” immediately preceding it by section 29(3) and (4) of, and paragraph 10(1) and (2) of Schedule 6 and Schedule 7 to, the Employment Act [1989 \(c. 37\)](#), and in subsection (3) by section 33(1) of, and paragraph 7(a) of Part II of Schedule 3 to, the Employment Act [1988 \(c. 19\)](#) and section 29(3) of, and paragraph 10(3) of Schedule 6 to, [1989 c. 37](#); and in section 28, subsections (3)(c) and (5)(b) were amended by section 190 of, and paragraph 46 of Schedule 25 to, the Water Act [1989 \(c. 15\)](#), a new subsection (6) was substituted by section 84 of, and paragraph 52 of Part II of Schedule 14 to, the Local Government Act [1985 \(c. 51\)](#), and new subsections (9) and (10) were added by section 116 of, and paragraph 9 of Schedule 15 to, the Employment Protection Act [1975 \(c. 71\)](#) and section 21 of, and paragraph 13 of Schedule 6 to, the Norfolk and Suffolk Broads Act [1988 \(c. 4\)](#) respectively.

⁽⁵⁷⁾ Section 33 was amended in subsection (1) in paragraph (h) by section 36 of, and paragraph 6 of Schedule 3 to, [1987 c. 43](#), and in paragraph (m) by section 30 of, and Part I of the Schedule to, the Forgery and Counterfeiting Act [1981 \(c. 45\)](#); in subsection (2) as it applies to England and Wales by section 46 of the Criminal Justice Act [1982 \(c. 48\)](#); subsection (5) was repealed by section 4(5) of the Offshore Safety Act [1992 \(c. 15\)](#); and subsection (6) was repealed by section 30 of, and Part

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- (i) references to relevant statutory provisions were references to those sections as applied by this paragraph and to these Regulations;
- (ii) references to articles, substances, articles and substances, or plant, were references to relevant machinery;
- (iii) references to the field of responsibility of an enforcing authority, however expressed, were omitted;
- (iv) in section 20, subsection (3) were omitted;
- (v) in section 23, subsections (3), (4) and (6) were omitted;
- (vi) in section 33—
 - (aa) in subsection (1) the whole of paragraphs (a) to (d) were omitted;
 - (bb) subsection (1A) were omitted;
 - (cc) in subsection (2), the reference to paragraph (d) of subsection (1) were omitted;
 - (dd) subsection (2A) were omitted;
 - (ee) for subsection (3) there were substituted the following:—

“(3) A person guilty of an offence under any paragraph of subsection (1) above not mentioned in subsection (2) above or of an offence under subsection (1)(e) above not falling within that subsection shall be liable—

 - (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
 - (b) on conviction on indictment—
 - (i) in the case of an offence under subsection (1)(g) or of an offence under subsection (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or
 - (ii) in all other cases, to a fine.”; and
 - (ff) subsection (4) were omitted;
- (vii) in section 34—
 - (aa) paragraphs (a) and (b) were omitted from subsection (1); and
 - (bb) in subsection (3) for “six months” there were substituted “twelve months”; and
- (viii) in section 42, subsections (4) and (5) were omitted; and
- (c) sections 36(1) and (2) and 37 shall apply in relation to offences under section 33 as applied to these Regulations and as modified by sub-paragraph (b)(vi) above.

Enforcement in Northern Ireland in relation to relevant machinery for use at work

2.—(1) In Northern Ireland—

- (a) subject to head (b) below, it shall be the duty of the Department of Economic Development to make adequate arrangements for the enforcement of these Regulations in relation to relevant machinery for use at work; and

I of the Schedule to, 1981 c. 45. There are other amendments to section 33, and there is an amendment to section 34, not relevant to these Regulations.

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- (b) it shall be the duty of the Department of Agriculture to make adequate arrangements for the enforcement of these Regulations in relation to relevant machinery for use at work which is wholly or mainly agricultural,

and a reference in the provisions applied to these Regulations by sub-paragraph (2) below to an “enforcing authority” or to its “field of responsibility” (however expressed) or to “the Department concerned” shall be construed accordingly.

- (a) (2) (a) For the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof, Articles 21 to 33(58), 35, 36, 38 and 39 of the Order shall apply as if—

(i) references to relevant statutory provisions were references to those Articles as applied by this paragraph and to these Regulations;

(ii) references to articles, substances, articles and substances, or plant, were references to relevant machinery;

(iii) in Article 22, paragraph (3) were omitted;

(iv) in Article 25, paragraphs (3), (4) and (5) were omitted;

(v) in Article 31—

(aa) in paragraph (1), the whole of sub-paragraphs (a) to (d) were omitted;

(bb) paragraph (1A) were omitted;

(cc) in paragraph (2), the reference to sub-paragraph (d) of paragraph (1) were omitted;

(dd) paragraph (2A) were omitted;

(ee) paragraph (3) were omitted;

(ff) for paragraph (4) there were substituted the following:—

“(4) A person guilty of an offence under any sub-paragraph of paragraph (1) not mentioned in paragraph (2) or of an offence under paragraph (1)(e) not falling within paragraph (2) shall be liable—

(a) on summary conviction, to a fine not exceeding £2000; or

(b) on conviction on indictment—

(i) in the case of an offence under paragraph (1)(g) or of an offence under paragraph (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or

(ii) in all other cases, to a fine.”; and

(gg) paragraph (5) were omitted;

(vi) in Article 32—

(aa) sub-paragraphs (a) and (b) were omitted from paragraph (1); and

(bb) in paragraph (3), for “six months” there were substituted “twelve months”; and

(58) Article 26(4) was repealed by Article 35 of, and Schedule 4 to, the [Industrial Training \(Northern Ireland\) Order 1984 S.I. No. 1159 \(N.I. 9\)](#). There is a modification of the application of Article 26 not relevant to these Regulations. Articles 27A and 29A were inserted, and Articles 30(1)(a) and 31(1)(h) amended, by Article 28 of, and paragraphs 4, 5, 6 and 7 respectively of Schedule 2 to, the [Consumer Protection \(Northern Ireland\) Order 1987 S.I. No. 2049 \(N.I. 20\)](#); Article 29(2) to (4) were repealed, and Article 31(1)(j) amended by Article 10(1)(c) of the [Statistics of Trade and Employment \(Northern Ireland\) Order 1988 S.I. No. 595 \(N.I. 3\)](#); Article 31(1)(m) was amended by Article 13(3) of, and Schedule 5 to, the [Criminal Justice \(Northern Ireland\) Order 1986 S.I. No. 1883 \(N.I. 15\)](#); Article 31(5)(d) and (6) was repealed by Article 6(6) of the [Offshore, and Pipelines, Safety \(Northern Ireland\) Order 1992 S.I. 1728 \(N.I. 17\)](#); and Article 31(7) was repealed by section 30 of, and Part III of the Schedule to, the [Forgery and Counterfeiting Act 1981 \(c. 45\)](#). There are other amendments to Article 31 which are not relevant to these Regulations.

- (vii) in Article 39, paragraphs (4) and (5) were omitted; and
- (b) Articles 34(1) and (2) shall apply in relation to offences under Article 31 as applied to these Regulations and as modified by sub-paragraph (2)(a)(v) above.

Enforcement in relation to relevant machinery as goods for private use or consumption

- 3.** In relation to relevant machinery as goods for private use or consumption—
- (a) it shall be the duty of—
 - (i) every weights and measures authority in Great Britain; and
 - (ii) every district council in Northern Ireland,to enforce these Regulations within their area;
 - (b) a reference in the provisions applied to these Regulations by sub-paragraph (c) below to an “enforcement authority” shall be construed as a reference to each of the following authorities—
 - (i) the bodies mentioned in sub-paragraph (a) above; and
 - (ii) the Secretary of State;
 - (c) sections 14, 15, 28 to 35, 37, 38, 44 and 47 of the 1987 Act shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if—
 - (i) references to safety provisions were references to these Regulations;
 - (ii) references to goods were references to relevant machinery or items of relevant machinery as the context may require;
 - (iii) in section 14, in subsection (6), for “six months” there were substituted “three months”;
 - (iv) in sections 28, 29, 30, 33, 34 and 35, the words “or any provision made by or under Part III of this Act”, on each occasion that they occur, were omitted;
 - (v) in section 28, subsections (3), (4) and (5) were omitted;
 - (vi) in section 29, subsection (4) were omitted;
 - (vii) in section 30, subsections (7) and (8) were omitted; and
 - (viii) in section 38(1), paragraphs (a) to (c) were omitted;
 - (d) sections 39 and 40 shall apply to offences under section 32 as it is applied to these Regulations by sub-paragraph (c) above; and
 - (e) in relation to proceedings for an offence under these Regulations—
 - (i) in Great Britain, section 34 of the 1974 Act shall apply as if—
 - (aa) paragraphs (a) and (b) of subsection (1) were omitted;
 - (bb) references to an “enforcing authority” were references to each of the authorities referred to in sub-paragraph (a)(i) and (b)(ii) of this paragraph, and “responsible enforcing authority” were construed accordingly;
 - (cc) references to “relevant statutory provisions” were references to these Regulations; and
 - (dd) in subsection (3), for “six months” there were substituted “twelve months”;and
 - (ii) in Northern Ireland, Article 32 of the Order shall apply as if—
 - (aa) sub-paragraphs (a) and (b) of paragraph (1) were omitted;

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- (bb) references to an “enforcing authority” were references to each of the authorities referred to in sub-paragraph (a)(ii) and (b)(ii) of this paragraph, and “responsible enforcing authority” were construed accordingly;
- (cc) references to “relevant statutory provisions” were references to these Regulations; and
- (dd) in paragraph (3), for “six months” there were substituted “twelve months”.

Forfeiture: England and Wales and Northern Ireland

4.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this paragraph for an order for the forfeiture of any relevant machinery on the grounds that there has been a contravention in relation thereto of regulation 11.

(2) An application under this paragraph may be made—

- (a) where proceedings have been brought in a magistrates' court in respect of an offence in relation to some or all of the relevant machinery under regulation 29(a) or (b) to that court;
- (b) where an application with respect to some or all of the relevant machinery has been made to a magistrates' court under section 15 or 33 of the 1987 Act as applied for the purposes of the enforcement of these Regulations by paragraph 3(c) above, to that court; and
- (c) where no application for the forfeiture of the relevant machinery has been made under sub-paragraph (a) or (b) above, by way of complaint to a magistrates' court.

(3) On an application under this paragraph the court shall make an order for the forfeiture of the relevant machinery only if it is satisfied that there has been a contravention in relation thereto of regulation 11.

(4) For the avoidance of doubt it is hereby declared that a court may infer for the purposes of this paragraph that there has been a contravention in relation to any relevant machinery of regulation 11 if it is satisfied that that regulation has been contravened in relation to an item of relevant machinery which is representative of that relevant machinery (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this paragraph by a magistrates' court, or by a decision of such court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of an order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980⁽⁵⁹⁾, or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁶⁰⁾ (statement of case)).

(6) Subject to sub-paragraph (7) below, where any relevant machinery is forfeited under this paragraph it shall be destroyed in accordance with such directions as the court may give.

(7) On making an order under this paragraph a magistrates' court may, if it considers it appropriate to do so, direct that the relevant machinery to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—

- (a) does not supply the relevant machinery to any person otherwise than—
 - (i) to a person who carries on a business of buying relevant machinery of the same description as the first mentioned machinery and repairing or reconditioning it; or

⁽⁵⁹⁾ 1980 c. 43.

⁽⁶⁰⁾ S.I. 1981/1675 (N.I. 26).

- (ii) as scrap (that is to say, for the value of materials included in the relevant machinery rather than for the value of the relevant machinery itself); and
- (b) complies with any order to pay costs or expenses (including any order under section 35 of the 1987 Act as applied for the purposes of the enforcement of these Regulations by paragraph 3(c) above) which has been made against that person in the proceedings for the order for forfeiture.

Forfeiture: Scotland

5.—(1) In Scotland a sheriff may make an order for forfeiture of any relevant machinery in relation to which there has been a contravention of any provision of regulation 11—

- (a) on an application by the procurator-fiscal made in the manner specified in section 310 of the Criminal Procedure (Scotland) Act 1975(61); or
- (b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

(2) The procurator-fiscal making an application under sub-paragraph (1)(a) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, relevant machinery to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the relevant machinery should not be forfeited.

(3) Service under sub-paragraph (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1975.

(4) Any person upon whom a notice is served under sub-paragraph (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, the relevant machinery to which an application under this paragraph relates shall be entitled to appear at the hearing of the application to show cause why the relevant machinery as the case may be should not be forfeited.

(5) The sheriff shall not make an order following an application under sub-paragraph (1)(a) above—

- (a) if any person on whom notice is served under sub-paragraph (2) above does not appear, unless service of the notice on that person is proved; or
- (b) if no notice under sub-paragraph (2) above has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.

(6) The sheriff shall make an order under this paragraph only if he is satisfied that there has been a contravention in relation to the relevant machinery of regulation 11.

(7) For the avoidance of doubt it is declared that the sheriff may infer for the purposes of this paragraph that there has been a contravention in relation to any relevant machinery of regulation 11 if he is satisfied that regulation 11 has been contravened in relation to an item of relevant machinery which is representative of that relevant machinery (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(8) Where an order for the forfeiture of any relevant machinery is made following an application by the procurator-fiscal under sub-paragraph (1)(a) above, any person who appeared, or was entitled to appear, to show cause why it should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of

(61) 1975 c. 21. Section 310 was amended by paragraph 53 of Schedule 7, and Schedule 8, to the Criminal Justice (Scotland) Act 1980 (c. 62); there are extensions of section 310 not relevant to these Regulations.

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justice; and section 452(4)(a) to (e) of the Criminal Procedure (Scotland) Act 1975(62) shall apply to an appeal under this sub-paragraph as it applies to a stated case under Part II of that Act.

- (9) An order following an application under sub-paragraph (1)(a) above shall not take effect—
- (a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
 - (b) if an appeal is made under sub-paragraph (8) above within that period, until the appeal is determined or abandoned.
- (10) An order under sub-paragraph (1)(b) shall not take effect—
- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1975; or
 - (b) if an appeal is made within that period, until the appeal is determined or abandoned.
- (11) Subject to sub-paragraph (12) below, relevant machinery forfeited under this paragraph shall be destroyed in accordance with such directions as the sheriff may give.
- (12) If he thinks fit, the sheriff may direct the relevant machinery to be released to such person as he may specify, on condition that that person does not supply it to any person otherwise than—
- (a) to a person who carries on a business of buying relevant machinery of the same description as the first-mentioned relevant machinery and repairing or reconditioning it; or
 - (b) as scrap (that is to say, for the value of materials included in the relevant machinery rather than for the value of the relevant machinery itself).

Duty of enforcement authority to inform Secretary of State of action taken

6. An enforcement authority shall, where action has been taken by it to prohibit or restrict the supply or putting into service (whether under these Regulations or otherwise) of any relevant machinery which bears the EC mark forthwith inform the Secretary of State of the action taken, and the reasons for it, with a view to this information being passed by him to the Commission.

Savings

7. Nothing in these Regulations shall be construed as preventing the taking of any action in respect of any relevant machinery under the provisions of the 1974 Act, the Order or the 1987 Act.

8. Nothing in these Regulations shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

Interpretation

9. In this Schedule—
- “the 1974 Act” means the Health and Safety at Work etc. Act 1974(63);
 - “the 1987 Act” means the Consumer Protection Act 1987(64);
 - “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and the preparation of land for agricultural use;
 - “the Executive” means the Health and Safety Executive established under section 10 of the 1974 Act;

(62) A new section 452 was substituted by paragraph 11 of Schedule 3 to 1980 c. 62.

(63) 1974 c. 37.

(64) 1987 c. 43.

“the Order” means the Health and Safety at Work (Northern Ireland) Order 1978⁽⁶⁵⁾; and
 “machinery for use at work” means machinery—

- (a) designed for use or operation, whether exclusively or not, by persons at work; or
- (b) designed for use or operation, otherwise than at work, in non-domestic premises made available to persons at a place where they may use the machinery provided for their use there, and a reference to relevant machinery for use at work shall be construed accordingly.

SCHEDULE 7

Regulation 33(2)(q)

MINING DISAPPLICATIONS

PART I

MADE UNDER THE MINES AND QUARRIES ACT 1954⁽⁶⁶⁾

| (1) Title | (2) Reference | (3) Extent of disapplication |
|--|--------------------------------|---------------------------------|
| The Loch Aline Mine (Diesel Vehicles) Special Regulations 1958 | S.I. 1958/1678 | Regulations 4 to 6 |
| The Middleton-by-Wirksworth Limestone Mine (Diesel Vehicles) Special Regulations 1959 | S.I. 1959/1520 | Regulations 4 to 6 |
| The Woodside Nos 2 and 3 Mine (Diesel Vehicles) Special Regulations 1960 | S.I. 1960/1291 | Regulations 4 to 6 |
| The Grimethorpe Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/2444 | Regulations 4 to 6 |
| The Lynemouth Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1961 | S.I. 1961/2445 | Regulations 4 to 7 |
| The Calverton Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/931 | Regulations 4 to 6 |
| The Brightling Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1094 | Regulations 5 to 7 |

⁽⁶⁵⁾ S.I. 1978/1039 (N.I. 9).⁽⁶⁶⁾

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| (1) Title | (2) Reference | (3) Extent of disapplication |
|---|--------------------------------|---------------------------------|
| The Easington Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1676 | Regulations 4 to 6 |
| The Rufford Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2059 | Regulations 4 to 6 |
| The Trelewis Drift Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2114 | Regulations 4 to 6 |
| The Wharnccliffe Woodmoor 4 and 5 Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2193 | Regulations 4 to 6 |
| The Seaham Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2512 | Regulations 4 to 6 |
| The Dawdon Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/118 | Regulations 4 to 6 |
| The Thoresby Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/825 | Regulations 4 to 6 |
| The Westoe Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1096 | Regulations 4 to 6 |
| The Silverwood Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1618 | Regulations 4 to 6 |
| The Prince of Wales Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/539 | Regulations 4 to 6 |
| The Newbiggin Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/899 | Regulations 5 to 7 |
| The Cwmgwili Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1225 | Regulations 4 to 6 |
| The Wearmouth Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1476 | Regulations 4 to 6 |
| The South Crofty Mine (Locomotives) Special Regulations 1965 | S.I. 1965/759 | Regulations 4 to 6 |

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| (1) Title | (2) Reference | (3) Extent of disapplication |
|---|--------------------------------|---------------------------------|
| The Bevercotes Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/1194 | Regulations 4 to 6 |
| The Sallet Hole Mine (Storage Battery Locomotives) Special Regulations 1966 | S.I. 1966/1325 | Regulations 4 to 8 |
| The Ellington Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1967 | S.I. 1967/956 | Regulations 4 to 7 |
| The Groverake Mine (Storage Battery Locomotives) Special Regulations 1967 | S.I. 1967/1545 | Regulations 4 to 8 |
| The Fauld Mine (Diesel Vehicles) Special Regulations 1968 | S.I. 1968/1295 | Regulations 5 to 7 |
| The Prince of Wales Mine (Captive Rail Diesel Locomotives) Special Regulations 1969 | S.I. 1969/1377 | Regulation 4 |
| The Winsford Rock Salt Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1971 | S.I. 1971/50 | Regulations 4 to 7 |
| The Boulby Mine (Storage Battery Locomotives) Special Regulations 1972 | S.I. 1972/472 | Regulations 4 to 8 |
| The Marblaegis Mine (Diesel Vehicles) Special Regulations 1972 | S.I. 1972/984 | Regulations 5 to 7 |
| The Longriggs Mine (Diesel Vehicles) Special Regulations 1973 | S.I. 1973/371 | Regulations 5 to 7 |
| The Elsecar Main Mine (Diesel Vehicles) Special Regulations 1974 | S.I. 1974/710 | Regulations 4 to 6 |

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PART II

(MADE UNDER THE MINES AND QUARRIES ACT 1954 AND THE HEALTH AND SAFETY AT WORK ETC. ACT 1974(67))

| (1) Title | (2) Reference | (3) Extent of disapplication |
|--|--------------------------------|---------------------------------|
| The Rixey Park Mine (Storage Battery Locomotives) Special Regulations 1974 | S.I. 1974/1866 | Regulations 4 to 8 |

PART III

(MADE UNDER THE HEALTH AND SAFETY AT WORK ETC. ACT 1974)

| (1) Title | (2) Reference | (3) Extent of disapplication |
|---|--------------------------------|---------------------------------|
| The Markham Mine (Diesel Vehicles) Regulations 1976 | S.I. 1976/1734 | Regulations 4 to 6 |
| The Bentinck Mine (Diesel Engined Stone Dusting Machine) Regulations 1976 | S.I. 1976/2046 | Regulations 4 to 7 |
| The Thoresby Mine (Cable Reel LoadHaul-Dump Vehicles) Regulations 1978 | S.I. 1978/119 | Regulations 4 to 6 |
| The Sallet Hole Nos 1 and 2 Mines (Diesel Vehicles) Regulations 1978 | S.I. 1978/761 | Regulations 5 to 7 |
| The Trelewis Drift Mine (Diesel Vehicles) Regulations 1978 | S.I. 1978/1376 | Regulations 4 to 6 |
| The Boulby Mine (Diesel Vehicles) Regulations 1979 | S.I. 1979/1532 | Regulations 5 to 8 |
| The Sallet Hole No. 2 Mine (Storage Battery Locomotives) Special Regulations 1980 | S.I. 1980/1203 | Regulations 4 to 9 |
| The Harworth Mine (Cable Reel LoadHaul-Dump Vehicles) Regulations 1980 | S.I. 1980/1474 | Regulations 4 to 6 |
| The Point of Ayr Mine (Diesel Vehicles) Regulations 1980 | S.I. 1980/1705 | Regulations 4 to 6 |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [89/392/EEC](#) on the approximation of the laws of the Member States relating to machinery, as amended by Council Directive [91/368/EEC](#) (the Machinery Directive).

Part II provides for the application of the Regulations. They apply to “relevant machinery” (regulation 3) which is machinery as defined in regulation 4, other than machinery excepted by regulations 5 to 10.

The Regulations do not apply to specified types of machinery (regulation 5 and Schedule 5) or machinery exported for use outside the Community (regulation 6). Regulations 7 and 8 set out transitional arrangements whereby the Regulations do not apply to machinery first supplied or put into service in the Community before 1st January 1993 or machinery first supplied or put into service in the Community on or before 31st December 1994 if it complies with the health and safety provisions in force in the relevant Member State at 31st December 1992. The Regulations do not apply before 1st July 1995 to certain specified machinery covered by other Directives (regulation 9). Further, they do not apply to machinery in respect of which the health and safety risks covered by the Machinery Directive are wholly covered by other Directives applicable to that machinery nor to machinery which is electrical equipment where the safety risks are mainly of electrical origin (regulation 10).

Part III sets out the general requirements of the Regulations. Regulations 11 and 12 provide that relevant machinery cannot be supplied (and this includes putting into service in the course of business by the manufacturer himself or by the importer of relevant machinery from outside the Community) unless it satisfies the relevant essential health and safety requirements and the appropriate conformity assessment procedure has been carried out. In addition, either an EC declaration of conformity (indicating that the machinery does satisfy the relevant essential health and safety requirements) must have been issued in respect of the machinery by the responsible person and the EC mark affixed to it by that person or, in the case of machinery intended for incorporation in other machinery, a declaration of incorporation must have been issued by the responsible person. The relevant machinery must also be safe. These requirements do not apply in respect of the supply of relevant machinery which has previously been used in the Community (regulation 11(3)).

The essential health and safety requirements (Annex I of the Machinery Directive) are set out in Schedule 3. Regulation 2 defines “responsible person” and “relevant essential health and safety requirements”. Regulations 13 to 15 describe the different conformity assessment procedures, which apply, as appropriate, to relevant machinery in general, relevant machinery posing special hazards (listed in Schedule 4) and relevant machinery manufactured in accordance with transposed harmonized standards. All the conformity assessment procedures require the responsible person to draw up a technical file and where the relevant machinery is machinery posing special hazards either to send the technical file to an approved body for retention or verification or to have an example of the machinery EC type-examined.

Regulation 18 provides for the appointment of United Kingdom approved bodies and specifies their functions. Regulation 19 provides for these bodies to charge fees.

Regulation 20 provides for certificates of adequacy (verification) in respect of technical files and regulation 21 sets out the procedures in respect of EC type-examination. Regulation 22 specifies the procedure whereby a responsible person issues EC declarations of conformity (including the contents of such a declaration). Regulation 23 provides for declarations of incorporation by a responsible

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person. Regulation 24 requires the retention, by the responsible person, of the technical file (or a copy of the file submitted to an approved body) for ten years following the supply of the last unit of the machinery to which it relates.

Regulation 25 contains the requirements which must be satisfied before an EC mark may be properly affixed, prohibits the affixing of the EC mark to machinery unless it is safe and enables enforcement authorities to require information from the supplier of relevant machinery without an EC mark. Regulation 26 sets out the conditions for relevant machinery being taken to satisfy the relevant essential health and safety requirements. Regulation 27 requires the notification of judicial remedies to persons aggrieved by a decision of a United Kingdom approved body.

Part IV and Schedule 6 make provision for the enforcement of the Regulations by the Health & Safety Executive in Great Britain, the Department of Economic Development and the Department of Agriculture in Northern Ireland, in relation to relevant machinery for use at work; and the weights and measures authorities in Great Britain and district councils in Northern Ireland in relation to relevant machinery for private use. In Scotland, proceedings are brought by the procurator-fiscal or Lord Advocate.

Regulations 29 and 30 provide for the offences and penalties for breach of the Regulations. There are also provisions relating to the defence of due diligence (regulation 31) and liability of persons other than the principal offender (regulation 32).

Consequential disapplications of United Kingdom law are set out in regulations 33 and 34. Mine regulations, which are disappplied, are specified in Schedule 7.

Schedule 1 sets out Regulations which are revoked from 1st January 1996. Schedule 2 sets out the form of the EC mark.