

## SCHEDULE 2

Regulation 4

(Amendment of the principal Regulations coming into force on 1st January 1995)

### General provisions

**1.** For regulation 2(1) there shall be substituted—

“(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<sup>(1)</sup> as amended by Council Directive [91/368/EEC](#)(<sup>2</sup>), Council Directive [93/44/EEC](#)(<sup>3</sup>) and Article 6 of Council Directive [93/68/EEC](#)(<sup>4</sup>).”.

**2.**—(1) Except in respect of references to “Schedule 4 machinery”, the words “or a relevant safety component”, “or relevant safety component”, “or a safety component” or “or safety component” shall be inserted, as the context may require, after the words “relevant machinery” or “machinery” wherever they occur in the definitions specified in sub-paragraph (2) below, the regulations specified in sub-paragraph (3) below and, except for paragraph 6 thereof, in Schedule 6 (including the definition of “machinery for use at work” in paragraph 9 thereof).

(2) The definitions referred to in sub-paragraph (1) above are the definitions in regulation 2(2) of “EC type-examination certificate”, “relevant essential health and safety requirements”, “responsible person”, “series manufacture”, “supply”, “technical file” and “technical specification”.

(3) The regulations referred to in sub-paragraph (1) above are regulations 6(1), 10(1)(a), 12 (except in paragraphs (1)(c)(ii) and (1)(d)), 13, 14, 15, 16, 18(4)(a), 20(1) and (4), and 24(1).

**3.** Except in the case of regulations 4, 5, 7, 8, 9 and 34, and references to Schedule 4 machinery, in the headings after any reference to “machinery” or “relevant machinery” there shall be added “or safety components” or “or relevant safety components”, as the context may require.

**4.** Subject to paragraph 5(b) below, for “EC mark” wherever it occurs there shall be substituted “CE marking”.

### Specific amendments

**5.** In regulation 2(2)—

(a) after the definition of “business” there shall be inserted the definition—

““CE marking” means a mark consisting of the symbol “CE” set out in the form shown in Schedule 2A hereto:

Provided that in respect of an item of machinery first supplied in the European Economic Area before 1st January 1997, a responsible person may, for the purposes of regulation 12(1)(d) below but without prejudice to the requirements as to proper affixation in regulation 25(1) below, elect to affix a mark in the form shown in Schedule 2 hereto, followed by the last two figures of the year in which it is affixed;”;

(b) the definition of “EC mark” shall be omitted;

(c) after the definition of “relevant machinery” there shall be inserted the definition—

““relevant safety component” shall be construed in accordance with regulation 3(3) below;”;

(1) OJNo. 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.

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

(3) OJ No. L175, 19.7.93, p.12.

(4) OJ No. L220, 30.8.93, p.1.

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- (d) in the definition of the word “safe”—
    - (i) after the words “relevant machinery” in the first place where they occur there shall be inserted the words “or a relevant safety component” and in the second place where they occur there shall be inserted the words “or the relevant safety component”;
    - (ii) after the words “the machinery” there shall be inserted the words “or the safety component”; and
    - (iii) after the words “no risk (apart from one reduced to a minimum)” there shall be inserted the words “of its endangering the health of or”;
  - (e) after the definition of “safe” there shall be inserted the definition—
 

““safety component” means a component, provided that it is not interchangeable equipment, which is supplied separately to fulfil a safety function when in use and the failure or malfunctioning of which endangers the safety or health of exposed persons;”;

and
  - (f) for the definition of “Schedule 4 machinery” there shall be substituted—
 

““Schedule 4 machinery” means—

    - (a) machinery which is specified in Annex IV of the Machinery Directive and listed under the heading of “A. Machinery” in Schedule 4 hereto; or
    - (b) safety components which are specified in Annex IV of the Machinery Directive and listed under the heading of “B. Safety Components” in Schedule 4 hereto;”.
6. In regulation 3—
- (a) at the end of paragraph (1), there shall be added “and relevant safety components”; and
  - (b) at the end of the regulation there shall be added:
 

“(3) A relevant safety component is a safety component for machinery other than machinery to which regulation 5 or 10 below applies, unless that safety component is excluded from the scope of these Regulations pursuant to regulation 6, 7, 8 or 10(1)(a) below.”.
7. At the beginning of regulation 7 there shall be inserted “Subject to regulation 7A below,”.
8. After regulation 7, there shall be inserted the following regulation—

**“Specific machinery or safety components first supplied or put into service before 1st January 1995**

7A.—(1) These Regulations do not apply to any specific machinery or a safety component first supplied or put into service in the European Economic Area before 1st January 1995.

(2) For the purposes of this regulation, “specific machinery” means lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial trucks with elevating operation position.”.

9. In regulation 8(1) after “Subject to paragraph (2)” there shall be inserted “and regulation 8A below”.

10. After regulation 8, there shall be inserted the following regulation—

**“Application of regulation 8 to safety components or machinery for the lifting or moving of persons**

8A.—(1) The provisions of regulation 8 shall apply to a safety component.

(2) For the purposes of the application of regulation 8 to a safety component or machinery for lifting or moving persons, for the first date specified in paragraph (1) of that regulation there shall be substituted “31st December 1996” and for the date specified in paragraph 1(a) and (b) of that regulation there shall be substituted “14th June 1993”.

**11.** In regulation 9(1)(a) and (b) after the footnote reference in both places where it occurs there shall be added “and supplied with such plant”.

**12.** For regulation 11 there shall be substituted—

“**11.**—(1) Subject to paragraph (4) below, no person who is a responsible person for the purposes of these Regulations shall supply relevant machinery or a relevant safety component unless the requirements of regulation 12 below are complied with in relation thereto.

(2) Subject to paragraph (4) below, it shall be the duty of any person who supplies relevant machinery or a relevant safety component, but who is not a person to whom paragraph (1) above applies, to ensure that that relevant machinery or relevant safety component is safe.

(3) Where a person—

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

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

(4) The requirements of this regulation do not apply in relation to supply of relevant machinery or a relevant safety component which has previously been put into service in the Community or, on or after 1st January 1994, the European Economic Area.”.

**13.** In regulation 21—

- (a) in paragraphs (1), (2) and (7), after “relevant machinery” in each place where it occurs there shall be inserted “or the relevant safety component” and after “machinery” in each place where it occurs there shall be inserted “or the safety component”; and
- (b) in paragraph (4)—
  - (i) at the end of sub-paragraph (b)(ii) “and” shall be omitted; and
  - (ii) at the end of sub-paragraph (b)(iii) there shall be added—

“; and

- (iv) in the case of a safety component, that it is suitable for fulfilling the safety functions declared by the manufacturer”.

**14.** In regulation 22—

- (a) except in paragraph (2)(c), after “relevant machinery” in each place where it occurs there shall be inserted “or a relevant safety component” or “or the relevant safety component”, as the context may require, and after “machinery” in each place it occurs there shall be inserted “or a safety component” or “or the safety component”, as the context may require; and

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- (b) in paragraph (2)(c), after “machinery complies” there shall be added ”or, in the case of a safety component, the safety function fulfilled by that safety component unless that safety function is obvious from the description of the safety component referred to in sub-paragraph (b) above“.

**15.** In regulation 25—

- (a) for paragraph (1) there shall be substituted—

“(1) For the purposes of these Regulations, the CE marking shall not be regarded as properly affixed to relevant machinery unless—

- (a) that machinery—

- (i) satisfies the relevant health and safety requirements; and
  - (ii) is safe; and

- (b) the responsible person who affixes the CE marking to the relevant machinery—

- (i) has carried out the appropriate conformity assessment procedure and issued an EC declaration of conformity in respect thereof;
  - (ii) affixes the said marking in a distinct, visible, legible and indelible manner; and
  - (iii) in the case of relevant machinery which is the subject of Community Directives other than the Machinery Directive, which also provide for the affixing of the CE marking, has complied with the requirements of those other Directives in respect of that machinery:

Provided that—

- (aa) where one or more of those other Community Directives permit the responsible person during a transitional period to apply the requirements of that Directive or its transitional arrangements, the CE marking on the relevant machinery shall only indicate conformity with those Directives which have been applied; and
  - (bb) in that event, the particulars (as published in the Official Journal of the European Communities) of the Directives which have been applied shall be given in the documents, notices or instructions required by those Directives and which must accompany that relevant machinery.”;

- (b) paragraph (2) shall be omitted; and

- (c) for paragraph (3) there shall be substituted—

“(3) No markings which—

- (a) are likely to deceive any person as regards the meaning and form of the CE marking; or
  - (b) reduce the visibility or legibility of the CE marking,

shall be affixed to relevant machinery.”.

**16.** In regulation 26(1)—

- (a) after “is affixed” there shall be inserted “or a relevant safety component which is accompanied by an EC declaration of conformity”; and
- (b) for “the relevant essential health and safety requirements” there shall be substituted “all the provisions of the Machinery Directive”.

**17.** For regulation 28 there shall be substituted—

“28.—(1) Subject to paragraph (2) below, Schedule 6 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

(2) Except in the case of relevant machinery which, in the opinion of an enforcement authority, is not safe, where an enforcement authority has reasonable grounds for suspecting that the CE marking has not been properly affixed to relevant machinery by the responsible person in accordance with regulation 25(1) above, it may give notice in writing to that person and, subject to paragraph (3) below, no action may be taken pursuant to Schedule 6 and no proceedings may be brought pursuant to regulation 29(a) below in respect of that machinery until such notice has been given and the responsible person to whom it has been given has failed to comply with its requirements.

(3) Notwithstanding paragraph (2) above, for the purpose of ascertaining whether or not the CE marking has been affixed in accordance with regulation 25(1) above, action may be taken pursuant to the following provisions as they are applied by Schedule 6—

- (a) in Great Britain in relation to relevant machinery for use at work, section 20 of the Health and Safety at Work etc. Act 1974<sup>(5)</sup>;
- (b) in Northern Ireland in relation to relevant machinery for use at work, Article 22 of the Health and Safety at Work (Northern Ireland) Order 1978<sup>(6)</sup>; and
- (c) in relation to relevant machinery as goods for private use and consumption, section 29 of the Consumer Protection Act 1987<sup>(7)</sup>.

(4) Notice which is given under paragraph (2) above shall—

- (a) state that the enforcement authority suspects that the CE marking has not been properly affixed to relevant machinery in accordance with regulation 25(1) above;
- (b) specify the respect in which it is so suspected and give particulars thereof;
- (c) require the responsible person—
  - (i) to secure that any relevant machinery to which the notice relates conforms as regards the provisions concerning the proper affixation of the CE marking within such period as may be specified in the notice; or
  - (ii) to provide evidence within that period, to the satisfaction of that enforcement authority, that the CE marking has been properly affixed; and
- (d) warn the responsible person that if the non-conformity continues (or if satisfactory evidence has not been provided) within the period specified in the notice, further action may be taken under the Regulations.”.

18. Regulation 29(b) shall be omitted.

19. In regulation 30(1) the words “or (b)” shall be omitted.

20. After Schedule 2, the following Schedule shall be inserted—

#### “SCHEDULE 2A

Regulation 2(2)

#### CE CONFORMITY MARKING

The CE conformity marking shall consist of the initials “CE” taking the following form:

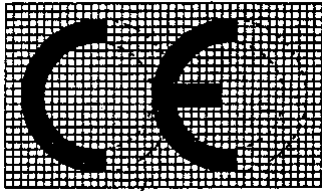
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<sup>(5)</sup> 1974 c. 37.

<sup>(6)</sup> S.I.1978/1039 (N.I. 9).

<sup>(7)</sup> 1987 c. 43.

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If the CE marking is reduced or enlarged the proportions given in the above drawing must be respected.

The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm. This minimum dimension may be waived for small-scale machinery.”.

**21.** In Schedule 3—

- (a) for the title there shall be substituted—  
“ESSENTIAL HEALTH AND SAFETY REQUIREMENTS RELATING TO THE DESIGN AND CONSTRUCTION OF MACHINERY AND SAFETY COMPONENTS”;
- (b) after “(Annex I of the Machinery Directive)” there shall be inserted—  
“For the purposes of this Annex, “machinery” means either “machinery” or “safety component” as defined in Article 1(2).”;
- (c) in section 1.7.3, for the second indent there shall be substituted “— the CE marking (see Annex III);” and after the final indent there shall be added—  
“;  
— the year of construction”; and
- (d) after section 5 there shall be inserted—

“**6. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS TO OFFSET THE PARTICULAR HAZARDS DUE TO THE LIFTING OR MOVING OF PERSONS.**

Machinery presenting hazards due to the lifting or moving of persons must be designed and constructed to meet the requirements set out below.

*General*

*Definition*

- (6.1.1) For the purposes of this Chapter, “carrier” means the device by which persons are supported in order to be lifted, lowered or moved.

*Mechanical strength*

- (6.1.2) The working coefficients defined in heading 4 are inadequate for machinery intended for the lifting or moving of persons and must, as a general rule, be doubled. The floor of the carrier must be designed and constructed to offer the space and strength corresponding to the maximum number of persons and the maximum working load set by the manufacturer.

*Loading control for types of device moved by power other than human strength*

- (6.1.3) The requirements of 4.2.1.4 apply regardless of the maximum working load figure. This requirement does not apply to machinery in respect of which the manufacturer can demonstrate that there is no risk of overloading and/or overturning.

### *Controls*

- (6.2.1) (6.2) Where safety requirements do not impose other solutions:
- The carrier must, as a general rule, be designed and constructed so that persons inside have means of controlling movements upwards and downwards and, if appropriate, of moving the carrier horizontally in relation to the machinery.
- In operation, those controls must override the other devices controlling the same movement, with the exception of the emergency stop devices.
- The controls for these movements must be of the maintained command type, except in the case of machinery serving specific levels.
- (6.2.2) If machinery for the lifting or moving of persons can be moved with the carrier in a position other than the rest position, it must be designed and constructed so that the person or persons in the carrier have the means of preventing hazards produced by the movement of the machinery.
- (6.2.3) Machinery for the lifting or moving of persons must be designed, constructed or equipped so that excess speeds of the carrier do not cause hazards.

### *Risks of persons falling from the carrier*

- (6.3.1) (6.3) If the measures referred to in 1.5.15 are not adequate, carriers must be fitted with a sufficient number of anchorage points for the number of persons possibly using the carrier, strong enough for the attachment of personal protective equipment against the danger of falling.
- (6.3.2) Any trapdoors in floors or ceilings or side doors must open in a direction which obviates any risk of falling should they open unexpectedly.
- (6.3.3) Machinery for lifting or moving must be designed and constructed to ensure that the floor of the carrier does not tilt to an extent which creates a risk of the occupants falling, including when moving.
- The floor of the carrier must be slip-resistant.

### *Risks of the carrier falling or overturning*

- (6.4.1) (6.4) Machinery for the lifting or moving of persons must be designed and constructed to prevent the carrier falling or overturning.
- (6.4.2) Acceleration and braking of the carrier or carrying vehicle, under the control of the operator or triggered by a safety device and under the maximum load and speed conditions laid down by the manufacturer, must not cause any danger to exposed persons.

### *Markings*

- (6.5) Where necessary to ensure safety, the carrier must bear the relevant essential information.”.

**22.** In Schedule 4, before section 1 there shall be inserted “**A. Machinery**” and at the end of the Schedule there shall be added—

“**16.** Devices for the lifting of persons involving a risk of falling from a vertical height of more than three metres.

**17.** Machines for the manufacture of pyrotechnics.

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### *B. Safety components*

1. Electro-sensitive devices designed specifically to detect persons in order to ensure their safety (non-material barriers, sensor mats, electromagnetic detectors, etc.).
  2. Logic units which ensure the safety functions of bi-manual controls.
  3. Automatic movable screens to protect the presses referred to in 9, 10 and 11.
  4. Roll-over protection structures (ROPS).
  5. Falling-object protective structures (FOPS).”.
23. For Schedule 5 there shall be substituted—

#### “SCHEDULE 5

Regulation 5

#### EXCLUDED MACHINERY

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.

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, including funicular railways, 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 member States relating to the type-approval of wheeled agricultural or forestry tractors<sup>(8)</sup>, as last amended by Directive [88/297/EEC](#)<sup>(9)</sup>.

Machines specially designed and constructed for military or police purposes.

Lifts which permanently serve specific levels of buildings and constructions, having a car moving between guides which are rigid and inclined at an angle of more than 15 degrees to the horizontal and designed for the transport of:

- persons,
- persons and goods,

<sup>(8)</sup> OJ No. L84, 28.3.74, p.10.

<sup>(9)</sup> OJ No. L126, 20.5.88, p.52.



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- goods alone if the car is accessible, that is to say, a person may enter it without difficulty, and fitted with controls situated inside the car or within reach of a person inside.

Means of transport of persons using rack and pinion rail mounted vehicles.

Mine winding gear.

Theatre elevators.

Construction site hoists intended for lifting persons or persons and goods.”.