

**EXPLANATORY MEMORANDUM TO**  
**THE EQUIPMENT AND PROTECTIVE SYSTEMS INTENDED FOR USE IN**  
**POTENTIALLY EXPLOSIVE ATMOSPHERES (AMENDMENT)**  
**REGULATIONS 2005**  
**(“THE AMENDMENT REGULATIONS”)**

**S.I. 2005 No. 830**

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

**Description**

2. The Amendment Regulations effect further amendments to the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (S.I. 1996/192) (“the 1996 Regulations”) which transpose Directive 94/9/EC in Great Britain. The Amendment Regulations primarily extend the range of penalties available for offences created by the 1996 Regulations by introducing liability on conviction on indictment in addition to liability on summary conviction (regulation 2(c)). The opportunity has also been taken to update the provisions in the 1996 Regulations to reflect the consolidation of Directive 83/189/EEC into Directive 98/34/EC and also, as regards notified bodies for the purposes of the conformity assessment procedures in the 1996 Regulations, the possibility of recognition in mutual recognition agreements and similar agreements (regulation 2(a) and (b)). Finally, in regulation 3, a consequential amendment is made to other Regulations to reflect the amendment of the 1996 Regulations.

**Matters of special interest to the Joint Committee on Statutory Instruments**

3. None.

**Legislative Background**

4. As indicated in paragraph 2, the Amendment Regulations further amend the 1996 Regulations which implemented Directive 94/9/EC in Great Britain. The 1996 Regulations have been amended previously on two occasions (although only the amendment made in 2001 is relevant). As in the case of the 1996 Regulations, the power to make the Amendment Regulations is contained in section 2(2) of the European Communities Act 1972. The reasons for these further amendments are set out in the Policy background (paragraph 7, below); since these further amendments are not specifically required by Directive 94/9/EC, the scrutiny history of that Directive is not relevant for the purposes of the consideration of the Amendment Regulations.

**Extent**

5. These Regulations apply to Great Britain only.

## **European Convention on Human Rights**

6. Not applicable.

## **Policy Background**

7. Following a review of several Regulations which implemented product safety Directives, certain sets of Regulations were identified where it was considered appropriate to increase the range of penalties available for offences under those Regulations bearing in mind the possible severity of consequences to the health and safety of people and damage to property which might arise in the event of such an offence. Those Regulations included the 1996 Regulations. Consultation, as regards the proposed increase of the penalties, then took place in 2002 alongside similar proposals concerning other Regulations but without any substantive comments being received. It is now considered appropriate to progress the amendment in the case of the 1996 Regulations. The other amendments being effected by the Amendment Regulations are matters of formality and reflect existing Community obligations; in that connection relevant amendments are being made to the Regulations, for which this Department is responsible, which implement product safety Directives as and when a suitable opportunity occurs.

## **Impact**

8. In view of the nature of the amendments made by the Amendment Regulations, no further Regulatory Impact Assessment (RIA) has been carried out or a Transposition Note prepared.
9. There are no likely costs to the public which have been identified save in the event of any enforcement action against individuals for offences under the 1996 Regulations. In addition, it is not considered that there will be any additional costs to the Exchequer arising from the Amendment Regulations.

## **Contact**

9. The contact at the Department of Trade and Industry, Standards and Technical Directorate is Mrs. Rosemary Wasserberg {tel no. 020 7215 1427 or e-mail address [rosemary.wasserberg@dti.gsi.gov.uk](mailto:rosemary.wasserberg@dti.gsi.gov.uk)} who can answer any queries regarding the instrument.

DEPARTMENT OF TRADE AND INDUSTRY  
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