
STATUTORY INSTRUMENTS

2005 No. 831

HEALTH AND SAFETY

**The Supply of Machinery (Safety)
(Amendment) Regulations 2005**

Made - - - - 20th March 2005
Laid before Parliament 24th March 2005
Coming into force - - 1st May 2005

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 (1) in relation to measures relating to the design and construction of, and to the placing on the market and putting into service of, machinery (2) and safety components for machinery (3), in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Supply of Machinery (Safety) (Amendment) Regulations 2005 and shall come into force on 1st May 2005.

Amendment of, and supplementary provisions relating to, the Supply of Machinery (Safety) Regulations 1992

2.—(1) The Supply of Machinery (Safety) Regulations 1992 (4) (“the principal Regulations”) are hereby amended as follows—

(a) for regulation 2(1) there shall be substituted—

“(1) In these Regulations, the “Machinery Directive” means Directive 98/37/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to machinery (5).”;

(b) in regulation 2(2), in the definition of “enforcement authority”, for sub-paragraph (b) there shall be substituted the following—

“(b) in Northern Ireland, the Health and Safety Executive for Northern Ireland(6);”;

(1) 1972 c. 68.

(2) S.I. 1992/707.

(3) S.I. 1993/2661.

(4) S.I. 1992/3073 as amended by S.I. 1994/2063.

(5) OJ No. L207, 23.7.98, p.1.

(6) See Article 12 of the Health and Safety at Work (Northern Ireland) Order (S.I. 1978/1039 (N.I.9); Article 12 was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and paragraph 8 of Schedule 1.

- (c) in regulation 2(2), in the definition of “harmonised standard” for the words from “Council Directive 83/189/EEC” to “technical standards and regulations”, there shall be substituted “Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (7)”;
- (d) for regulation 17, there shall be substituted—
- “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;
- (b) appointed by an EEA State other than the United Kingdom; or
- (c) recognised for the purpose of carrying out those functions by inclusion in a mutual recognition agreement, relating to the Machinery Directive, or a similar agreement (including a Protocol to the European Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the European Community and a State other than an EEA State;
- and in the case of either (a) or (b) above has been notified by the EEA State concerned to the Commission and the other EEA State pursuant to Article 9(1) of the Machinery Directive.”;
- (e) in regulation 26(2)(b)(i), for “regulation 11(3)” there shall be substituted “regulation 11(4)”;
- (f) for regulation 30(1), there shall be substituted—
- “(1) A person guilty of an offence under regulation 29(a) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months or to both; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.”;
- (g) in Schedule 5, for the words “Machinery for medical use, used in direct contact with patients” there shall be substituted “Medical devices: for the purposes of this Schedule “Medical devices” shall have the meaning ascribed to those words by the Medical Devices Regulations 2002 (8)”; (9) and
- (h) in Schedule 6,
- (i) for paragraph 2(1) there shall be substituted the following—
- “(1) In Northern Ireland, it shall be the duty of the Health and Safety Executive for Northern Ireland to make adequate arrangements for the enforcement of these Regulations in relation to relevant machinery for use at work, and a reference in the provisions applied to these Regulations by sub-paragraph (2) below to an “enforcing authority” or to its “field for responsibility” (however expressed) or to “the Department concerned” shall be construed accordingly.” and

(7) OJ No. L204, 21.7.98, p.37; Directive 98/34/EC has been amended by Directive 98/48/EC of the European Parliament and of the Council (OJ No. L217, 5.8.98, p.18).

(8) S.I. 2002/618 to which there is an amendment not relevant to these Regulations.

(9) This sub-paragraph implements Article 21(1) of Directive 98/79/EC of the European Parliament and of the Council on *in vitro* diagnostic medical devices (OJ No. L331, 7.12.98, p.1) the remainder of which has been implemented in S.I. 2002/618.

- (ii) in paragraph 9, the definition of “agriculture” shall be omitted.
- (2) Notwithstanding the amendment made by paragraph (1)(a) above,
- (a) for the purposes of regulation 22(6) of the principal Regulations, an EC declaration of conformity, and
 - (b) for the purposes of regulation 23(3)(f), a declaration of incorporation,
- shall be valid despite any specification of the Machinery Directive in accordance with the unamended definition of that expression.

Consequential Amendments

3. In the Lifts Regulations 1997 (**10**), for each reference to “Directive [89/392/EEC](#)” there shall be substituted the words “Directive [98/37/EC](#)(**11**)” in the following provisions—

- (a) regulation 2(1)(c)(ii); and
- (b) section 1.1 (the head note and both places) and section 5 of Annex 1 to the Lifts Directive as set out in Schedule 1.

4. In the second column of Schedule 1 to the Provision and Use of Work Equipment Regulations 1998 (**12**)—

- (a) relating to the entry for the Supply of Machinery (Safety) Regulations 1992 in the first column, to the reference to “S.I.[1992/3073](#), amended by S.I. [1994/2063](#)” there shall be added “, [2005/831](#)”; and
- (b) relating to the entry for the Lifts Regulations 1997 in the first column, to the reference to “S.I. [1997/831](#)” there shall be added “, amended by S.I. [2005/831](#)”.

5. In the Lifting Operations and Lifting Equipment Regulations 1998 (**13**), in regulation 2(1) for the definition of “the 1992 Regulations” there shall be substituted ““the 1992 Regulations” means the Supply of Machinery (Safety) Regulations 1992 (**14**) as amended by regulation 2(1)(a) of the Supply of Machinery (Safety) (Amendment) Regulations 2005 (**15**)”.

Sainsbury of Turville
Parliamentary under-Secretary of State for
Science and Innovation
Department of Trade and Industry

20th March 2005

(10) S.I. [1997/831](#).

(11) Directive [98/37/EC](#) (OJ No. L207, 23.7.98, p.1).

(12) S.I. [1998/2306](#) as amended by S.I. [2002/2174](#).

(13) S.I. [1998/2307](#); there are amendments not relevant to these Regulations.

(14) S.I. [1992/3073](#); there are amendments not relevant to these Regulations.

(15) S.I. [2005/831](#)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Supply of Machinery (Safety) Regulations 1992 as amended (the “principal Regulations”).

They amend certain definitions in regulation 2 of the principal Regulations as follows:

- (a) the definition of “Machinery Directive” to reflect the consolidation of the Machinery Directive by way of Directive [98/37/EC](#) of the European Parliament and of the Council (OJNo. L207, 23.7.98, p.1) (regulation 2(1)(a));
- (b) the definition of “enforcement authority” to reflect changes made in Northern Ireland (regulation 2(1)(b)); and
- (c) the definition of “harmonised standard” to reflect the consolidation of Council Directive [83/189/EEC](#) (as amended) in Directive [98/34/EC](#) (OJ No. L204, 21.7.98, p.37) (regulation 2(1)(c)).

Regulation 2(1)(d) substitutes wording for regulation 17 of the principal Regulations, to reflect the recognition of notified bodies under various agreements.

Regulation 2(1)(e) effects a minor amendment of the principal Regulation to correct paragraph numbers in regulation 11 following the earlier amendment of the principal Regulations.

Regulation 2(1)(f) substitutes the wording of regulation 30(1) of the principal Regulations in order to increase the range of penalties available for offences under regulation 29(a) of the principal Regulations.

Regulation 2(1)(g) amends Schedule 5 (Excluded Machinery) to the principal Regulations in order to implement the provisions of Article 21(1) of Directive [98/79/EEC](#) of the European Parliament and of the Council (OJ No.L331, 7.12.98, p.1); apart from that Article, that Directive has been implemented by the Medical Devices Regulations 2002 (S.I. [2002/618](#)).

Regulation 2(1)(h) amends Schedule 6 (Enforcement) to the principal Regulations to effect a change as regards the enforcement arrangements in Northern Ireland.

Regulation 2(2) clarifies the position as regards EC declarations of conformity and declarations of incorporation, which refer to the Machinery Directive by way of its earlier numbering, and provides that these declarations shall still be valid despite the consolidation (with a new number) of the Machinery Directive.

Regulations 3, 4 and 5 make consequential amendments.

As these Regulations only implement the provisions of Article 21(1) of Directive [98/79/EEC](#) (by regulation 2(1)(g)) and otherwise effect amendments required to regularise the provisions of the principal Regulations and other legislation as well as to amend enforcement provisions of the principal Regulations, it has not been necessary to prepare a Regulatory Impact Assessment or Transposition Note for this instrument.