

**2011 No. 2157**

**HEALTH AND SAFETY**

**The Supply of Machinery (Safety) (Amendment) Regulations  
2011**

<i>Made</i>	- - - -	<i>5th September 2011</i>
<i>Laid before Parliament</i>		<i>7th September 2011</i>
<i>Coming into force</i>	- -	<i>15th December 2011</i>

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to machinery, including component parts of machines, components or equipment to be attached to or used with machines, and sub-assemblies to be incorporated into or assembled with machines.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Supply of Machinery (Safety) (Amendment) Regulations 2011 and come into force on 15th December 2011.

**Amendment of the Supply of Machinery (Safety) Regulations 2008**

2. The Supply of Machinery (Safety) Regulations 2008<sup>(c)</sup> are amended as set out in regulations 3 to 8.

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)(a), after “Directive 95/16/EC” insert “, as amended by Directive 2009/127/EC of the European Parliament and of the Council amending Directive 2006/42/EC with regard to machinery for pesticide application<sup>(d)</sup>”.

(3) In paragraph (2)—

(a) for the definition of “essential health and safety requirements” substitute—

““essential health and safety requirements” means the requirements set out in Annex I (Part 1 of Schedule 2), being requirements relating to the design and construction of the products to which these Regulations apply to ensure a high level of protection of the health and safety of persons and, where appropriate, of domestic animals and property

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(a) S.I. 2007/1679.

(b) 1972 c. 68; section 2(2) was amended by s 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(c) S.I. 2008/1597, as amended by SI 2011/1043.

(d) OJ No L 310, 25.11.2009, p.29.

and, in the case of machinery referred to in section 2.4 of Annex I, of the environment; ”;

(b) in the definition of “safe”, at the end insert—

“or

(c) in the case of machinery referred to in section 2.4 of Annex I (Part 1 of Schedule 2), endanger the environment;”.

4. Regulation 9 is revoked.

5. Paragraph (10) of regulation 16 is revoked.

6. In regulation 22(1)(a) omit “9”.

7. After regulation 28 insert—

#### **“Review**

29.—(1) Before the end of each review period, the Secretary of State must—

(a) carry out a review of these Regulations,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “Review period” means—

(a) the period of five years beginning with 1st December 2009, and

(b) subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.”.

8. Part 1 of Schedule 2 (Annex I: Essential health and safety requirements relating to the design and construction of machinery) is amended as set out in the Schedule to these Regulations.

#### **Amendment of Northern Ireland Statutory Rules**

9.—(1) The Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999<sup>(a)</sup> are amended as set out in paragraph (2).

(2) In regulation 2—

(a) omit the definition of “the 1992 Regulations”; and

(b) in the definition of “EC declaration of conformity”, for sub-paragraph (a) substitute—

“(a) section A of part 1 of Part 2 of Schedule 2 to the Supply of Machinery (Safety) Regulations 2008;”.

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(a) S.R. 1999 No. 304, to which there are amendments not relevant to these Regulations.

(3) The Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(a) are amended as set out in paragraph (4).

(4) In Schedule 2—

(a) omit the entry relating to the Supply of Machinery (Safety) Regulations 1992(b); and

(b) at the end insert a new entry as follows—

(i) in the first column: “The Supply of Machinery (Safety) Regulations 2008”; and

(ii) in the second column: “S.I. 2008/1597, amended by S.I. No. 2011/2157”.

*Mark Prisk*

Minister of State for Business and Enterprise  
Department for Business, Innovation and Skills

5th September 2011

## THE SCHEDULE

Regulation 8

### AMENDMENTS TO PART 1 OF SCHEDULE 2 TO THE SUPPLY OF MACHINERY (SAFETY) REGULATIONS 2008

1. For point 4 of the General Principles at the start of Annex I (Essential health and safety requirements relating to the design and construction of machinery) substitute—

“4. This Annex is organised in several parts. The first one is of general scope and applicable to all kinds of machinery. The other parts refer to certain kinds of more specific hazards. Nevertheless, it is essential to examine the whole of this Annex in order to be sure of meeting all the relevant essential requirements. When machinery is being designed, the requirements of the general part and the requirements of one or more of the other parts shall be taken into account, depending on the results of the risk assessment carried out in accordance with point 1 of these General Principles. Essential health and safety requirements for the protection of the environment are applicable only to the machinery referred to in section 2.4.”.

2. For the first, unnumbered, paragraph of section 2 of Annex I (Supplementary essential health and safety requirements for certain categories of machinery) substitute—

“Foodstuffs machinery, machinery for cosmetics or pharmaceutical products, hand-held and/or hand-guided machinery, portable fixing and other impact machinery, machinery for working wood and material with similar physical characteristics and machinery for pesticide application must meet all the essential health and safety requirements set out in this section (see point 4 of the General Principles at the start of this Annex).”.

3. After section 2.3 insert—

“2.4. MACHINERY FOR PESTICIDE APPLICATION

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(a) S.R. 1999 No. 305, to which there are amendments not relevant to these Regulations.

(b) S.I. 1992/3073, which was revoked by S.I. 2008/1597.

2.4.1. ***Definition***

“Machinery for pesticide application” means machinery that is specifically intended for the application of plant protection products within the meaning of Article 2(1) of Regulation 1107/2009/EC of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market<sup>(a)</sup> (excluding any such machinery placed on the market or put into service before 15th December 2011).

2.4.2. ***General***

The responsible person in relation to machinery for pesticide application must ensure that an assessment is carried out of the risks of unintended exposure of the environment to pesticides, in accordance with the process of risk assessment and risk reduction referred to in the General Principles, point 1.

Machinery for pesticide application must be designed and constructed taking into account the results of the risk assessment referred to in the first paragraph so that the machinery can be operated, adjusted and maintained without unintended exposure of the environment to pesticides.

Leakage must be prevented at all times.

2.4.3. ***Controls and monitoring***

It must be possible to easily and accurately control, monitor and immediately stop the pesticide application from the operating positions.

2.4.4. ***Filling and emptying***

The machinery must be designed and constructed to facilitate precise filling with the necessary quantity of pesticide and to ensure easy and complete emptying, while preventing spillage of pesticide and avoiding the contamination of the water source during such operations.

2.4.5. ***Application of pesticides***

2.4.5.1. **Application rate**

The machinery must be fitted with means of adjusting the application rate easily, accurately and reliably.

2.4.5.2. **Distribution, deposition and drift of pesticide**

The machinery must be designed and constructed to ensure that pesticide is deposited on target areas, to minimise losses to other areas and to prevent drift of pesticide to the environment. Where appropriate, an even distribution and homogeneous deposition must be ensured.

2.4.5.3. **Tests**

In order to verify that the relevant parts of the machinery comply with the requirements set out in sections 2.4.5.1 and 2.4.5.2 the responsible person must, for each type of machinery concerned, perform appropriate tests, or have such tests performed.

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(a) OJ No L 309, 24.11.2009, p.1.

2.4.5.4. **Losses during stoppage**

The machinery must be designed and constructed to prevent losses while the pesticide application function is stopped.

2.4.6. ***Maintenance***

2.4.6.1. **Cleaning**

The machinery must be designed and constructed to allow its easy and thorough cleaning without contamination of the environment.

2.4.6.2. **Servicing**

The machinery must be designed and constructed to facilitate the changing of worn parts without contamination of the environment.

2.4.7. ***Inspections***

It must be possible to easily connect the necessary measuring instruments to the machinery to check the correct functioning of the machinery.

2.4.8. ***Marking of nozzles, strainers and filters***

Nozzles, strainers and filters must be marked so that their type and size can be clearly identified.

2.4.9. ***Indication of pesticide in use***

Where appropriate, the machinery must be fitted with a specific mounting on which the operator can place the name of the pesticide in use.

2.4.10. ***Instructions***

The instructions must provide the following information:

- (a) precautions to be taken during mixing, loading, application, emptying, cleaning, servicing and transport operations in order to avoid contamination of the environment;
- (b) detailed conditions of use for the different operating environments envisaged, including the corresponding preparation and adjustments required to ensure the deposition of pesticide on target areas while minimising losses to other areas, to prevent drift to the environment and, where appropriate, to ensure an even distribution and homogeneous deposition of pesticide;
- (c) the range of types and sizes of nozzles, strainers and filters that can be used with the machinery;
- (d) the frequency of checks and the criteria and method for the replacement of parts subject to wear that affect the correct functioning of the machinery, such as nozzles, strainers and filters;
- (e) specification of calibration, daily maintenance, winter preparation and other checks necessary to ensure the correct functioning of the machinery;
- (f) types of pesticides that may cause incorrect functioning of the machinery;
- (g) an indication that the operator should keep updated the name of the pesticide in use on the specific mounting referred to in section 2.4.9;
- (h) the connexion and use of any special equipment or accessories, and the

necessary precautions to be taken;

- (i) an indication that the machinery may be subject to national requirements for regular inspection by designated bodies, as provided for in Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009<sup>(a)</sup> establishing a framework for Community action to achieve the sustainable use of pesticides;
- (j) the features of the machinery which must be inspected to ensure its correct functioning;
- (k) instructions for connecting the necessary measuring instruments.”

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<sup>(a)</sup> OJ No. L 309, 24.11.2009, p. 71.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Supply of Machinery (Safety) Regulations 2008 (S.I. 2008/1597) (the “Principal Regulations”) and make consequential amendments to some Northern Ireland Statutory Rules.

Regulations 3 and 8 amend the Principal Regulations to implement Directive 2009/127/EC of the European Parliament and of the Council of 21st October 2009 (O.J. No. L 310, 25.11.2009, p.29) amending Directive 2006/42/EC with regard to machinery for pesticide application (“the 2009 Directive”). The 2009 Directive amends Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery (O.J. L 157, 9.6.2006, p. 24) (“the Machinery Directive”) to ensure that in the case of machinery for the application of pesticides the essential health and safety requirements under the Machinery Directive include requirements relating to the protection of the environment.

Regulation 3 amends the definitions of “essential health and safety requirements” and “safe” in regulation 2 of the Principal Regulations to extend their scope to include protection of the environment in the case of machinery for the application of pesticides.

Regulation 8 introduces the Schedule to these Regulations which amends Part 1 of Schedule 2 to the Principal Regulations (Annex I: Essential health and safety requirements relating to the design and construction of machinery) to reflect the amendments made by the 2009 Directive to Annex I of the Machinery Directive. The Schedule inserts into Annex I as set out in Part 1 of Schedule 2 to the Principal Regulations a definition of machinery for pesticide application as well as essential health and safety requirements which must be complied with in relation to such machinery in order to protect the environment.

Regulation 4 revokes regulation 9 of the Principal Regulations which prohibits the putting into service of machinery by persons other than the “responsible person” unless it is safe and regulation 6 makes an amendment consequential on that revocation.

Regulation 5 revokes a provision of the Principal Regulations which requires the Secretary of State to publish a list of UK notified bodies. A list of all relevant notified bodies is available on the European Commission’s NANDO (New Approach Notified and Designated Organisations) website.

Regulation 7 inserts a provision into the Principal Regulations requiring the Secretary of State to review the operation and effect of the Principal Regulations and publish a report within five years of 1st December 2009 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Principal Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Principal Regulations or to amend them.

Regulation 9 makes amendments to the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999 (S.R. 1999 No. 304) and the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 (S.R. 1999 No. 305). These amendments are consequential on the making of the Principal Regulations and the revocation of the Supply of Machinery (Safety) Regulations 1992 (S.I. 1992/3063).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Advanced Manufacturing and Services Group, Department for Business, Innovation and Skills (BIS), 1 Victoria Street, London SW1H 0ET. As these Regulations transpose a Directive, a transposition note setting out how the Government has transposed the Directive in the United Kingdom has also been prepared. These documents are published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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