

---

STATUTORY INSTRUMENTS

---

**1996 No. 192**

**The Equipment and Protective Systems Intended for Use  
in Potentially Explosive Atmospheres Regulations 1996**

**PART III**

**GENERAL REQUIREMENTS**

**Notified bodies appointed by the Secretary of State**

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

(2) An appointment—

- (a) may relate to all descriptions of equipment, protective systems, devices or components or such descriptions (which may be framed by reference to any circumstances whatsoever) of equipment, protective systems, devices or components 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, to carry out the procedures and specific tasks for which it has been appointed including (where so provided as part of those procedures) surveillance to ensure that the manufacturer duly fulfils the obligations arising out of the relevant quality assurance procedure;
- (d) shall be terminated—
  - (i) if it appears to the Secretary of State that the notified 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 notified 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 notified body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) above if—

- (a) the documents submitted to it in relation to carrying out such functions are not in English or another language acceptable to that body;
- (b) the person making the application has not submitted with its application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 13 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 commence the required work within 3 months of receiving the application.

(5) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may authorise another notified body to take over its functions in respect of such cases as he may specify.

(6) A notified body which is responsible, as part of any of the conformity assessment procedures referred to in regulation 10 above, for the assessment of the conformity of electrical equipment placed on the market before 1st July 2003, shall take account of the results of tests and verifications already carried out in respect of the harmonized standards which are applicable under—

- (a) Council Directive [76/117/EEC](#)(1) and Council Directive [79/196/EEC](#)(2); or
- (b) Council Directive [82/130/EEC](#)(3).

(7) If a notified body, to which an application has been made for an EC type-examination certificate pursuant to the EC type-examination procedure (referred to in Annex III of the ATEX Directive and set out in Schedule 6 hereto), is not satisfied that the requirements for such a certificate 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 those requirements, it shall—
  - (i) notify its decision in writing to the applicant stating the grounds on which the refusal is based; and
  - (ii) inform the applicant in writing of the procedure which it has established whereby an appeal may be made against that decision.

(8) 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 XI of the ATEX Directive (minimum criteria to be taken into account by member States for the notification of bodies)(4).

(1) OJNo. L24, 30.1.76, p. 45.

(2) OJ No. L43, 20.2.79, p. 20. Council Directive [79/196/EEC](#) was adapted to technical progress by Commission Directives [84/47/EEC](#) (OJ No. L31, 2.2.84, p. 19), [88/571/EEC](#) (OJ No. L311, 17.11.88, p. 46) and [94/26/EC](#) (OJ No. L157, 24.6.94, p. 33) and was amended by Council Directives [88/665/EEC](#) (OJ No. L382, 31.12.88, p. 42) and [90/487/EEC](#) (OJ No. L270, 2.10.90, p. 23).

(3) OJ No. L59, 2.3.82, p. 10. Council Directive [82/130/EEC](#) was adapted to technical progress by Commission Directives [88/35/EEC](#) (OJ No. L20, 26.1.88, p. 28), [91/269/EEC](#) (OJ No. L134, 29.5.91, p. 51) and [94/44/EC](#) (OJ No. L248, 23.9.94, p. 22).

(4) Notified bodies meeting the assessment criteria laid down in the relevant harmonized standards are presumed to meet the minimum criteria.