
STATUTORY INSTRUMENTS

2008 No. 1597

The Supply of Machinery (Safety) Regulations 2008

PART 5

Notified bodies

Functions of UK notified bodies

18.—(1) Subject to the terms of their notified body designations and paragraph (2), UK notified bodies shall carry out the functions of notified bodies specified in Annexes IX and X (Parts 9 and 10 of Schedule 2).

(2) A UK notified body shall not be obliged to carry out these functions where—

- (a) the documents submitted to it in relation to the carrying out of any such function (other than the instructions for the machinery) are not in English or another language acceptable to the body;
- (b) the responsible person has not submitted with its application the amount of the fee which the body requires to be submitted with the application; or
- (c) the body reasonably believes that, having regard to the number of outstanding applications made to it in relation to its appointment under these Regulations, it will be unable to carry out the required work within 3 months of receiving the application.

(3) If, having issued a certificate to a responsible person under Annex IX or an approval to a manufacturer under Annex X, a UK notified body finds—

- (a) that the manufacturer has, after the issue of that certificate or approval, failed to satisfy applicable requirements of these Regulations in respect of the machinery to which the certificate or approval relates (whether or not such failure is continuing); or
- (b) that the certificate or approval should not have been issued,

it shall proceed in accordance with paragraph (4).

(4) Where paragraph (3) applies, the UK notified body concerned shall—

- (a) consider—
 - (i) what corrective action, if any, the manufacturer should take in the light of its findings; and
 - (ii) whether, and, if so, on what terms, the certificate or approval should be suspended, withdrawn, or made subject to restrictions;
- (b) send to the manufacturer a notice in writing, setting out the conclusions it has provisionally reached under paragraph (a), and the reasons for those conclusions, and invite the manufacturer to respond to them within such reasonable period of time as is specified in the notice;
- (c) make a decision on the matters specified in paragraph (a), including provision for the suspension or withdrawal of a certificate or approval, or making it subject to restrictions, if it considers the taking of any such action appropriate, having regard to—

- (i) the manufacturer's response;
 - (ii) the principle of proportionality; and
 - (iii) paragraph (6); and
- (d) communicate the decision, with a detailed statement of the reasons for it, to the manufacturer.
- (5) Where a UK notified body, acting under paragraph (4)—
 - (a) suspends or withdraws a certificate, or makes it subject to restrictions; or
 - (b) considers that action by an enforcement authority may prove necessary in connection with the machinery which is the subject of its decision,it shall communicate its decision under that paragraph to the enforcement authorities and the Secretary of State (if the Secretary of State is not an enforcement authority in relation to the machinery concerned).
- (6) In making a decision under paragraph (4), a UK notified body shall not suspend or withdraw a certificate or approval, or make it subject to restrictions, if the manufacturer has ensured compliance with the applicable requirements of these Regulations by means of appropriate corrective measures.
- (7) An appeal may be made in accordance with the provisions of Schedule 4—
 - (a) by a manufacturer who is aggrieved by a decision which a UK notified body has made under paragraph (4); or
 - (b) by a responsible person who is aggrieved by a decision of a UK notified body—
 - (i) not to issue a type-examination certification pursuant to Annex IX (Part 9 of Schedule 2), point 5; or
 - (ii) in relation to a quality system which is notified to a responsible person pursuant to Annex X (Part 10 of Schedule 2), point 2.3.