

2001 No. 3766

HEALTH AND SAFETY

**The Equipment and Protective Systems Intended for Use in
Potentially Explosive Atmospheres (Amendment)
Regulations 2001**

Made - - - - - *22nd November 2001*

Laid before Parliament *29th November 2001*

Coming into force - - *21st December 2001*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to equipment and protective systems intended for use in potentially explosive atmospheres, in exercise of the powers conferred on her by that section and of all her other enabling powers hereby makes the following Regulations:

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations 2001 and shall come into force on 21st December 2001.

Interpretation

2. In these Regulations—

- (a) the “ATEX Directive” means Directive 94/9/EC of the European Parliament and the Council on the approximation of the laws of Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres(c); and
- (b) the “principal Regulations” means the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996(d).

Amendment of the principal Regulations

3.—(1) The principal Regulations shall have effect as amended by the following provisions of this regulation.

(2) In regulation 2—

- (a) in paragraph (2), in the definition of “responsible person” there shall be inserted the following words—
 - (i) after the first occurrence of the words “on the market”, “or puts that equipment, protective system or device into service”; and
 - (ii) after the second occurrence of the words “on the market”, “or puts it into service”; and

(a) S.I. 1995/751

(b) 1972 c. 68.

(c) OJ No. L100, 19.4.94 p.1, as amended by corrigendum, OJ No. L21, 26.1.2000 p.42.

(d) S.I. 1996/192, as amended by S.I. 1998/81.

(b) after paragraph (2), the following shall be added—

“(3) For the purposes of these Regulations, equipment, protective systems or devices shall not be regarded as having been put into service where a person—

(a) being a manufacturer of equipment, protective systems or devices for his own use; or

(b) having imported equipment, protective systems or devices from a country or territory outside the Community for his own use,

puts that equipment, protective system or device into service otherwise than in the course of a business.”.

(3) In regulation 3, in paragraph (2)—

(a) in sub-paragraph (a), for the words “or the processing of material” there shall be substituted the words “and the processing of material, as the case may be,”; and

(b) in sub-paragraph (b), for the definition of “protective systems” there shall be substituted the following—

““protective systems” means devices other than components of equipment which are intended to halt incipient explosions immediately or limit the effective range of an explosion or both, as the case may be, and which systems are separately placed on the market for use as autonomous systems;”.

(4) In regulation 5, in paragraph (1), there shall be inserted the words “and put into service” after the first occurrence of the words “placed on the market”.

(5) In regulation 6, in paragraph (1), there shall be inserted the words “or put into service” after the words “place on the market”.

(6) In regulation 8, in sub-paragraph (b) of paragraph (2) there shall be substituted the words “written attestation” for the word “certificate”.

(7) In regulation 9, there shall be substituted the words “or device shall not be regarded as being placed on the market and put into service”, for the first occurrence of the word “device”.

(8) In regulation 14, in sub-paragraph (b) of paragraph (1), there shall be substituted the words “written attestation” for the word “certificate”.

(9) In Schedule 2—

(a) in section 5, there shall be substituted the words “equipment, protective systems and devices” for the words “equipment and protective systems”; and

(b) in section 9, there shall be substituted the words “equipment, protective systems or devices” for both occurrences of the words “equipment or protective systems”.

(10) In Schedule 3(a)—

(a) in point 1.1.3, there shall be substituted the word “mechanical” for the word “impact”;

(b) in point 1.2.3, there shall be substituted—

(i) the words “releases of” for the word “developing” in the second paragraph of that point; and

(ii) the word “releases” for the word “escapes” in the third paragraph of that point;

(c) in point 1.2.7, paragraph (d), there shall be substituted the word “do” for the word “shall”;

(d) in point 1.5.1, there shall be—

(i) inserted the words “or both measurement and control devices” after the words “measurement or control devices” in the first paragraph of that point; and

(ii) substituted the word “The” for the words “For electrical circuits the” in the third paragraph of that point;

(e) in point 2.1.1, there shall be substituted the italicised word “mists” for the italicised word “hazes”; and

(f) in point 3.0.2, there shall be substituted the word “positioned” for the word “positional”.

(11) In Schedule 4(a), section 2, in the second sub-paragraph of paragraph (b), there shall be inserted the word “occasionally” after the word “occur”.

(12) In Schedule 6(b), in the second paragraph of section 5, there shall be substituted the word “significant” for the word “relevant”.

(13) In Schedule 7(c), in the second indent of section 4.2, there shall be substituted the word “test” for the word “text”.

(14) In Schedule 8(d), section 4.1 there shall be substituted the word “equivalent” for the word “equipment” the last time the word “equipment” occurs in that section.

(15) In Schedule 9(e)—

(a) in section 1, there shall be substituted -

(i) the word “satisfies” for the word “satisfy”, and

(ii) the word “it” for the word “them”; and

(b) in section 2, the words “or protective systems” shall be omitted.

(16) In Schedule 10(f), section 3—

(a) in point 3.1, the words “and protective systems” shall be omitted; and

(b) in point 3.2, in the first paragraph, there shall be substituted the word “instructions” for the word “instruments”.

(17) In Schedule 11(g), in section 1, there shall be substituted the word “satisfies” for the word “satisfy”.

22nd November 2001.

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

(a) Annex I to the ATEX Directive.
(b) Annex III to the ATEX Directive.
(c) Annex IV to the ATEX Directive.
(d) Annex V to the ATEX Directive.
(e) Annex VI to the ATEX Directive.
(f) Annex VII to the ATEX Directive.
(g) Annex VIII to the ATEX Directive.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (S.I. 1996/192, as amended by S.I. 1998/81) (the Principal Regulations), which implemented Directive 94/9/EC of the European Parliament and Council on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres (the ATEX Directive), to give effect to a corrigendum to the ATEX Directive (26/1/2000 O.J. No. L21) which makes typographical changes (regulation 3 paragraphs (3), (6) and (8) to (17)).

These Regulations also amend the Principal Regulations to include requirements relating to the activity of “putting into service” in specific situations. They amend the definition of “responsible person” in the Principal Regulations to include, in certain circumstances, a person who puts equipment, protective systems, devices or components into service (regulation 3(2)(a)). However, these Regulations make provision that the activity of putting into service shall not be regarded as having taken place in certain circumstances (regulation 3(2)(b)). Paragraph (5) of regulation 3 of these Regulations amends regulation 6 of the Principal Regulations to provide a general duty on responsible persons not to put equipment, protective systems or devices into service unless certain requirements specified in the Principal Regulations have been complied with.

A regulatory impact assessment in respect of these Regulations is available and a copy can be obtained from the Department of Trade and Industry, Standards and Technical Regulations Directorate, 151 Buckingham Palace Road, London SW1W 9SS. A copy has also been placed in the libraries of both Houses of Parliament.

At the time of making these Regulations the text of Statutory Instruments made from 1987 onwards have been available on the HMSO Website at www.legislation.hmso.gov.uk/stat.htm.

TRANSPOSITION NOTES

These Amending Regulations have two purposes; first to perfect the transposition of Directive 94/9/EC of the European Parliament and the Council on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres (OJ No L100, 19.4.94, p. 1) (the Directive) in respect of the activity of putting into service such equipment and systems and, secondly, to give effect to a corrigendum to the Directive (OJ No L21, 26.1.2000, p. 42) which makes provision for a number of typographical changes, as opposed to changes of substance, to the Directive.

The regulations identified below transpose and give effect to the Articles of the Directive or the paragraphs of the corrigendum, as the case may be, as specified through amendments to the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (S.I. 1996 No. 192):—

- (a) regulations 3(2) and (5) transpose in part Articles 2, 3, 4.1, 7.1 and 8 by extending obligations to meet those requirements in the Directive which relate to the activity of putting equipment and systems into service to such persons who undertake that activity;
- (b) regulation 3(4) transposes in part Article 15.2 of the Directive which makes transitional provision to extend such provision to the activity of putting equipment and systems into service;
- (c) regulation 3(7) transposes in part Article 2 by ensuring that appropriate exceptions to the scope of the application of the Directive extend to the activity of putting equipment and systems into service;
- (d) regulations 3(3), 3(6) and 3(8) to 3(17) inclusive give effect to paragraphs 1, 2, 4, 6 to 13 inclusive, 15 to 23 inclusive, 26 and 28 to 34 inclusive of the corrigendum to the Directive to correct a number of typographical errors.

£1.75

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1343 12/2001 642736 19585

ISBN 0-11-038961-1



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