

## SCHEDULE 1

Regulation 2(1)

### ESSENTIAL HEALTH AND SAFETY REQUIREMENTS

#### *ESSENTIAL HEALTH AND SAFETY REQUIREMENTS RELATING TO THE DESIGN AND CONSTRUCTION OF EQUIPMENT AND PROTECTIVE SYSTEMS INTENDED FOR USE IN POTENTIALLY EXPLOSIVE ATMOSPHERES (Annex II to the ATEX Directive)*

##### **Preliminary observations**

1.—(1) Technological knowledge which can change rapidly, shall be taken into account as far as possible and be utilised immediately.

(2) For the devices referred to in regulation 3(2)(b), the essential health and safety requirements shall apply only in so far as they are necessary for the safe and reliable functioning and operation of those devices with respect to the risks of explosion.

#### *COMMON REQUIREMENTS FOR EQUIPMENT AND PROTECTIVE SYSTEMS*

##### *General requirements*

##### **Principles of integrated explosion safety**

2.—(1) Equipment and protective systems intended for use in potentially explosive atmospheres shall be designed from the point of view of integrated explosion safety.

(2) In this connection, the manufacturer shall take measures—

- (a) above all, if possible, to prevent the formation of explosive atmospheres which may be produced or released by equipment and by protective systems themselves;
- (b) to prevent the ignition of explosive atmospheres, taking into account the nature of every electrical and non-electrical source of ignition; and
- (c) should an explosion nevertheless occur which could directly or indirectly endanger persons and, as the case may be, domestic animals or property, to halt the explosion immediately or to limit the range of explosion flames and explosion pressures to a sufficient level of safety, or both.

(3) Equipment and protective systems shall be designed and manufactured after due analysis of possible operating faults in order as far as possible to preclude dangerous situations.

(4) Any misuse which can reasonably be anticipated shall be taken into account.

##### **Special checking and maintenance conditions**

3. Equipment and protective systems subject to special checking and maintenance conditions shall be designed and constructed with such conditions in mind.

##### **Surrounding area conditions**

4. Equipment and protective systems shall be so designed and constructed as to be capable of coping with actual or foreseeable surrounding area conditions.

##### **Marking**

5.—(1) All equipment and protective systems shall be marked legibly and indelibly with the following minimum particulars—

**Changes to legislation:** There are currently no known outstanding effects for the The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017. (See end of Document for details)

- (a) name, registered trade name or registered trade mark, and address of the manufacturer;
- (b) CE marking (see Annex II to RAMS);
- (c) designation of series or type;
- (d) batch or serial number, if any;
- (e) year of construction;
- (f) the specific marking of explosion protection



followed by the symbol of the equipment-group and category;

- (g) for equipment-group II,
  - (i) the letter 'G' (concerning explosive atmospheres caused by gases, vapours or mists);  
or
  - (ii) the letter 'D' (concerning explosive atmospheres caused by dust); or
  - (iii) both the letter 'G' (concerning explosive atmospheres caused by gases, vapours or mists) and the letter 'D' (concerning explosive atmospheres caused by dust).

(2) Furthermore, where necessary, they shall also be marked with all information essential to their safe use.

### Instructions

6.—(1) All equipment and protective systems shall be accompanied by instructions, including at least the following particulars—

- (a) a recapitulation of the information with which the equipment or protective system is marked, except for the batch or serial number (see paragraphs 5(1) and (2)), together with any appropriate additional information to facilitate maintenance (e.g. address of the repairer, etc.);
- (b) instructions for safe—
  - (i) putting into service;
  - (ii) use;
  - (iii) assembling and dismantling;
  - (iv) maintenance (servicing and emergency repair);
  - (v) installation;
  - (vi) adjustment;
- (c) where necessary, an indication of the danger areas in front of pressure-relief devices;
- (d) where necessary, training instructions;
- (e) details which allow a decision to be taken beyond any doubt as to whether an item of equipment in a specific category or a protective system can be used safely in the intended area under the expected operating conditions;
- (f) electrical and pressure parameters, maximum surface temperatures and other limit values;
- (g) where necessary, special conditions of use, including particulars of possible misuse which experience has shown might occur;
- (h) where necessary, the essential characteristics of tools which may be fitted to the equipment or protective system.

(2) The instructions shall contain the drawings and diagrams necessary for the putting into service, maintenance, inspection, checking of correct operation and, where appropriate, repair of the equipment or protective system, together with all useful instructions, in particular with regard to safety.

(3) Literature describing the equipment or protective system shall not contradict the instructions with regard to safety aspects.

### **Selection of materials**

7.—(1) The materials used for the construction of equipment and protective systems shall not trigger off an explosion, taking into account foreseeable operational stresses.

(2) Within the limits of the operating conditions laid down by the manufacturer, it shall not be possible for a reaction to take place between the materials used and the constituents of the potentially explosive atmosphere which could impair explosion protection.

(3) Materials shall be so selected that predictable changes in their characteristics and their compatibility in combination with other materials will not lead to a reduction in the protection afforded; in particular, due account shall be taken of the material's corrosion and wear resistance, electrical conductivity, mechanical strength, ageing resistance and the effects of temperature variations.

### **Design and construction**

8.—(1) Equipment and protective systems shall be designed and constructed with due regard to technological knowledge of explosion protection so that they can be safely operated throughout their foreseeable lifetime.

(2) Components to be incorporated into or used as replacements in equipment and protective systems shall be so designed and constructed that they function safely for their intended purpose of explosion protection when they are installed in accordance with the manufacturer's instructions.

### **Enclosed structures and prevention of leaks**

9.—(1) Equipment which may release flammable gases or dusts shall, wherever possible, employ enclosed structures only.

(2) If equipment contains openings or non-tight joints, these shall, as far as possible, be designed in such a way that releases of gases or dusts cannot give rise to explosive atmospheres outside the equipment.

(3) Points where materials are introduced or drawn off shall, as far as possible, be designed and equipped so as to limit releases of flammable materials during filling or draining.

### **Dust deposits**

10.—(1) Equipment and protective systems which are intended to be used in areas exposed to dust shall be so designed that deposit dust on their surfaces is not ignited.

(2) In general, dust deposits shall be limited where possible. Equipment and protective systems shall be easily cleanable.

(3) The surface temperatures of equipment parts shall be kept well below the glow temperature of the deposit dust.

(4) The thickness of deposit dust shall be taken into consideration and, if appropriate, means shall be taken to limit the temperature in order to prevent a heat build up.

### **Additional means of protection**

11.—(1) Equipment and protective systems which may be exposed to certain types of external stresses shall be equipped, where necessary, with additional means of protection.

(2) Equipment shall withstand relevant stresses, without adverse effect on explosion protection.

### **Safe opening**

12. If equipment and protective systems are in a housing or a locked container forming part of the explosion protection itself, it shall be possible to open such housing or container only with a special tool or by means of appropriate protection measures.

### **Protection against other hazards**

13.—(1) Equipment and protective systems shall be so designed and manufactured as to—

- (a) avoid physical injury or other harm which might be caused by direct or indirect contact;
- (b) assure that surface temperatures of accessible parts or radiation which would cause a danger, are not produced;
- (c) eliminate non-electrical dangers which are revealed by experience;
- (d) assure that foreseeable conditions of overload do not give rise to dangerous situations.

(2) Where, for equipment and protective systems, the risks referred to in this paragraph (1) are wholly or partly covered by other European Union legislation, these Regulations do not apply or cease to apply in the case of such equipment and protective systems and of such risks upon application of that specific European Union legislation.

### **Overloading of equipment**

14. Dangerous overloading of equipment shall be prevented at the design stage by means of integrated measurement, regulation and control devices, such as over-current cut-off switches, temperature limiters, differential pressure switches, flowmeters, time-lag relays, overspeed monitors or similar types of monitoring devices, or both overspeed monitors and similar types of monitoring devices.

### **Flameproof enclosure systems**

15. If parts which can ignite an explosive atmosphere are placed in an enclosure, measures shall be taken to ensure that the enclosure withstands the pressure developed during an internal explosion of an explosive mixture and prevents the transmission of the explosion to the explosive atmosphere surrounding the enclosure.

## *POTENTIAL IGNITION SOURCES*

### **Hazards arising from different ignition sources**

16. Potential ignition sources such as sparks, flames, electric arcs, high surface temperatures, acoustic energy, optical radiation, electromagnetic waves and other ignition sources shall not occur.

### **Hazards arising from static electricity**

17. Electrostatic charges capable of resulting in dangerous discharges shall be prevented by means of appropriate measures.

### **Hazards arising from stray electric and leakage currents**

18. Stray electric and leakage currents in conductive equipment parts which could result in, for example, the occurrence of dangerous corrosion, overheating of surfaces or sparks capable of provoking an ignition shall be prevented.

### **Hazards arising from overheating**

19. Overheating caused by friction or impacts occurring, for example, between materials and parts in contact with each other while rotating or through the intrusion of foreign bodies shall, as far as possible, be prevented at the design stage.

### **Hazards arising from pressure compensation operations**

20. Equipment and protective systems shall be so designed or fitted with integrated measuring, control and regulation devices that pressure compensations arising from them do not generate shock waves or compressions which may cause ignition.

### **Hazards arising from external effects**

21.—(1) Equipment and protective systems shall be so designed and constructed as to be capable of performing their intended function in full safety, even in changing environmental conditions and in the presence of extraneous voltages, humidity, vibrations, contamination and other external effects, taking into account the limits of the operating conditions established by the manufacturer.

(2) Equipment parts used shall be appropriate to the intended mechanical and thermal stresses and capable of withstanding attack by existing or foreseeable aggressive substances.

### **Requirements in respect of safety-related devices**

22.—(1) Safety devices shall function independently of any measurement or control devices, or both measurement and control devices required for operation.

(2) As far as possible, failure of a safety device shall be detected sufficiently rapidly by appropriate technical means to prevent dangerous situations from occurring.

(3) The fail-safe principle is to be applied in general.

(4) Safety-related switching shall in general directly actuate the relevant control devices without intermediate software command.

(5) In the event of a safety device failure, equipment or protective systems or both shall wherever possible, be secured.

(6) Emergency stop controls of safety devices shall, as far as possible, be fitted with restart lockouts. A new start command may take effect on normal operation only after the restart lockouts have been intentionally reset.

### **Control and display units**

23. Where control and display units are used, they shall be designed in accordance with ergonomic principles in order to achieve the highest possible level of operating safety with regard to the risk of explosion.

### **Requirements in respect of devices with a measuring function for explosion protection**

24.—(1) In so far as they relate to equipment used in explosive atmospheres, devices with a measuring function shall be designed and constructed so that they can cope with foreseeable operating requirements and special conditions of use.

(2) Where necessary, it shall be possible to check the reading accuracy and serviceability of devices with a measuring function.

(3) The design of devices with a measuring function shall incorporate a safety factor which ensures that the alarm threshold lies far enough outside the explosion or ignition limits of the atmospheres to be registered, or both the explosion and ignition limits, taking into account, in particular, the operating conditions of the installation and possible aberrations in the measuring system.

### **Risks arising from software**

25. In the design of software-controlled equipment, protective systems and safety devices, special account shall be taken of the risks arising from faults in the programme.

### **Integration of safety requirements relating to the system**

26.—(1) Manual override shall be possible in order to shut down the equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that this does not compromise safety.

(2) When the emergency shutdown system is actuated, accumulated energy shall be dispersed as quickly and as safely as possible or isolated so that it no longer constitutes a hazard.

(3) Sub-paragraph (2) does not apply to electrochemically-stored energy.

### **Hazards arising from power failure**

27. Where equipment and protective systems can give rise to a spread of additional risks in the event of a power failure, it shall be possible to maintain them in a safe state of operation independently of the rest of the installation.

### **Hazards arising from connections**

28.—(1) Equipment and protective systems shall be fitted with suitable cable and conduit entries.

(2) When equipment and protective systems are intended for use in combination with other equipment and protective systems, the interface shall be safe.

### **Placing of warning devices as parts of equipment**

29. Where equipment or protective systems are fitted with detection or alarm devices for monitoring the occurrence of explosive atmospheres, the necessary instructions shall be provided to enable them to be provided at the appropriate places.

## ***SUPPLEMENTARY REQUIREMENTS IN RESPECT OF EQUIPMENT***

### ***Requirements applicable to equipment in equipment-group I***

### **Requirements applicable to equipment in category M 1 of equipment-group I**

30.—(1) Equipment shall be so designed and constructed that sources of ignition do not become active, even in the event of rare incidents relating to equipment.

- (2) Equipment shall be equipped with means of protection such that—
  - (a) either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection; or
  - (b) the requisite level of protection is ensured in the event of two faults occurring independently of each other.
- (3) Where necessary, equipment shall be equipped with additional special means of protection.
- (4) Equipment shall remain functional with an explosive atmosphere present.
- (5) Where necessary, equipment shall be so constructed that no dust can penetrate it.
- (6) The surface temperatures of equipment parts shall be kept clearly below the ignition temperature of the foreseeable air/dust mixtures in order to prevent the ignition of suspended dust.
- (7) Equipment shall be so designed that the opening of equipment parts which may be sources of ignition is possible only under non-active or intrinsically safe conditions. Where it is not possible to render equipment non-active, the manufacturer shall affix a warning label to the opening part of the equipment.
- (8) If necessary, equipment shall be fitted with appropriate additional interlocking systems.

#### **Requirements applicable to equipment in category M 2 of equipment-group I**

- 31.—(1) Equipment shall be equipped with means of protection ensuring that sources of ignition do not become active during normal operation, even under more severe operating conditions, in particular those arising from rough handling and changing environmental conditions.
- (2) The equipment shall be de-energised in the event of an explosive atmosphere.
  - (3) Equipment shall be so designed that the opening of equipment parts which may be sources of ignition is possible only under non-active conditions or via appropriate interlocking systems. Where it is not possible to render equipment non-active, the manufacturer shall affix a warning label to the opening part of the equipment.
  - (4) The requirements regarding explosion hazards arising from dust applicable to equipment category M 1 shall be applied.

#### *Requirements applicable to equipment in category I of equipment-group II*

#### **Explosive atmospheres caused by gases, vapours or mists**

- 32.—(1) Equipment shall be so designed and constructed that sources of ignition do not become active, even in event of rare incidents relating to equipment.
- (2) It shall be equipped with means of protection such that—
    - (a) either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection; or
    - (b) the requisite level of protection is ensured in the event of two faults occurring independently of each other.
  - (3) For equipment with surfaces which may heat up, measures shall be taken to ensure that the stated maximum surface temperatures are not exceeded even in the most unfavourable circumstances.
  - (4) Temperature rises caused by heat build-ups and chemical reactions shall also be taken into account.
  - (5) Equipment shall be so designed that the opening of equipment parts which might be sources of ignition is possible only under non-active or intrinsically safe conditions. Where it is not possible

to render equipment non-active, the manufacturer shall affix a warning label to the opening part of the equipment.

(6) If necessary, equipment shall be fitted with appropriate additional interlocking systems.

#### **Explosive atmospheres caused by air and dust mixtures**

33.—(1) Equipment shall be so designed and constructed that ignition of air and dust mixtures does not occur even in the event of rare incidents relating to equipment.

(2) It shall be equipped with means of protection such that—

- (a) either, in the event of failure of one means of protection, at least an independent second means provides the requisite level of protection; or
- (b) the requisite level of protection is ensured in the event of two faults occurring independently of each other.

(3) Where necessary, equipment shall be so designed that dust can enter or escape from the equipment only at specifically designated points.

(4) The requirement in sub-paragraph (3) shall also be met by cable entries and connecting pieces.

(5) The surface temperatures of equipment parts shall be kept well below the ignition temperature of the foreseeable air and dust mixtures in order to prevent the ignition of suspended dust.

(6) With regard to the safe opening of equipment parts, sub-paragraph 32(5) applies.

*Requirements applicable to equipment in category 2 of equipment-group II*

#### **Explosive atmospheres caused by gases, vapours or mists**

34.—(1) Equipment shall be so designed and constructed as to prevent ignition sources arising, even in the event of frequently occurring disturbances or equipment operating faults, which normally have to be taken into account.

(2) Equipment parts shall be so designed and constructed that their stated surface temperatures are not exceeded, even in the case of risks arising from abnormal situations anticipated by the manufacturer.

(3) Equipment shall be so designed that the opening of equipment parts which might be sources of ignition is possible only under non-active conditions or via appropriate interlocking systems. Where it is not possible to render equipment non-active, the manufacturer shall affix a warning label to the opening part of the equipment.

#### **Explosive atmospheres caused by air and dust mixtures**

35.—(1) Equipment shall be designed and constructed so that ignition of air and dust mixtures is prevented, even in the event of frequently occurring disturbances or equipment operating faults which normally have to be taken into account.

(2) With regard to surface temperatures, sub-paragraph 33(5) applies.

(3) With regard to protection against dust, sub-paragraph 33(3) applies.

(4) With regard to the safe opening of equipment parts, sub-paragraph 34(3) applies.

*Requirements applicable to equipment in category 3 of equipment-group II*

#### **Explosive atmospheres caused by gases, vapours or mists**

36.—(1) Equipment shall be so designed and constructed as to prevent foreseeable ignition sources which can occur during normal operation.



(2) Surface temperatures shall not exceed the stated maximum surface temperatures under intended operating conditions. Higher temperatures in exceptional circumstances may be allowed only if the manufacturer adopts special additional protective measures.

### **Explosive atmospheres caused by air and dust mixtures**

37.—(1) Equipment shall be so designed and constructed that air and dust mixtures cannot be ignited by foreseeable ignition sources likely to exist during normal operation.

(2) With regard to surface temperatures, sub-paragraph 33(5) applies.

(3) Equipment, including cable entries and connecting pieces, shall be so constructed that, taking into account the size of its particles, dust can neither develop explosive mixtures with air nor form dangerous accumulations inside the equipment.

#### *Supplementary requirements in respect of protective systems*

### **General requirements**

38.—(1) Protective systems shall be dimensioned in such a way as to reduce the effects of an explosion to a sufficient level of safety.

(2) Protective systems shall be designed and capable of being positioned in such a way that explosions are prevented from spreading through dangerous chain reactions or flashover and incipient explosions do not become detonations.

(3) In the event of a power failure, protective systems shall retain their capacity to function for a period sufficient to avoid a dangerous situation.

(4) Protective systems shall not fail due to outside interference.

#### *Planning and design*

### **Characteristics of materials**

39.—(1) With regard to the characteristics of materials, the maximum pressure and temperature to be taken into consideration at the planning stage are the expected pressure during an explosion occurring under extreme operating conditions and the anticipated heating effect of the flame.

(2) Protective systems designed to resist or contain explosions shall be capable of withstanding the shock wave produced without losing system integrity.

(3) Accessories connected to protective systems shall be capable of withstanding the expected maximum explosion pressure without losing their capacity to function.

(4) The reactions caused by pressure in peripheral equipment and connected pipe-work shall be taken into consideration in the planning and design of protective systems.

### **Pressure-relief systems**

40. If it is likely that stresses on protective systems will exceed their structural strength, provision shall be made in the design for suitable pressure-relief devices which do not endanger persons in the vicinity.

### **Explosion suppression systems**

41. Explosion suppression systems shall be so planned and designed that they react to an incipient explosion at the earliest possible stage in the event of an incident and counteract it to best effect, with due regard to the maximum rate of pressure increase and the maximum explosion pressure.

**Explosion decoupling systems**

42. Decoupling systems intended to disconnect specific equipment as swiftly as possible in the event of incipient explosions by means of appropriate devices shall be planned and designed so as to remain proof against the transmission of internal ignition and to retain their mechanical strength under operating conditions.

43. Protective systems shall be capable of being integrated into a circuit with a suitable alarm threshold so that, if necessary, there is cessation of product feed and output and shutdown of equipment parts which can no longer function safely.

## SCHEDULE 2

Regulation 2(1)

## NOTIFIED BODY REQUIREMENTS

1. A conformity assessment body shall be established in [<sup>F1</sup>the United Kingdom] and have legal personality.

**Textual Amendments**

**F1** Words in Sch. 2 para. 1 substituted (10.8.2023) by [The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations \(Northern Ireland\) 2017 \(Amendment\) \(Northern Ireland\) Regulations 2023 \(S.I. 2023/861\)](#), regs. 1(b), **9(a)**

2. A conformity assessment body shall be a third party body independent of the organisation or the product it assesses.

3. A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses is to be a conformity assessment body for the purposes of regulation 44 (Notification) provided that such body can demonstrate—

- (a) its independence from such business association or professional federation; and
- (b) the absence of any conflict of interest.

4.—(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products, nor the representative of any of those parties.

(2) Sub-paragraph (1) does not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of products for personal purposes.

5. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of the products, or represent the parties engaged in those activities.

6. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities shall not engage in activity that may conflict with their independence of judgment or integrity in relation to conformity assessment activities for which they are notified (including consultancy services).

7. A conformity assessment body shall ensure that the activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

8. A conformity assessment body and its personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of their conformity assessment activities, especially as regards persons or groups of persons who have an interest in the results of those activities.

9. A conformity assessment body shall be capable of carrying out all of the conformity assessment activities for which it has been, or is to be, notified, whether those activities are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

10. A conformity assessment body shall have—

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;
- (b) descriptions of procedures in accordance with which conformity assessment activities are to be carried out, ensuring the transparency of and the ability to reproduce those procedures, and have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
- (c) procedures for the performance of conformity assessment activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the process.

11. A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to the necessary equipment or facilities to enable it to perform those activities.

12. The personnel responsible for carrying out conformity assessment activities shall have—

- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments which the personnel carry out and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of the essential health and safety requirements, of the applicable harmonised standards and of the ATEX Directive and of these Regulations;
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

13. A conformity assessment body shall be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.

14. The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities shall not depend on the number of assessments carried out or on the results of those assessments.

15. A conformity assessment body shall have, and shall satisfy the [F<sup>2</sup>Secretary of State] that it has, adequate civil liability insurance in respect of its activities.

**Changes to legislation:** There are currently no known outstanding effects for the *The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017*. (See end of Document for details)

#### Textual Amendments

- F2** Words in Sch. 2 para. 15 substituted (10.8.2023) by [The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations \(Northern Ireland\) 2017 \(Amendment\) \(Northern Ireland\) Regulations 2023 \(S.I. 2023/861\)](#), regs. 1(b), **9(b)**

16. A conformity assessment body shall ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations and that proprietary rights are protected.

17. Paragraph 16 does not prevent the personnel from providing information to the [<sup>F3</sup>Secretary of State] pursuant to these Regulations or under any enactment.

#### Textual Amendments

- F3** Words in Sch. 2 para. 17 substituted (10.8.2023) by [The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations \(Northern Ireland\) 2017 \(Amendment\) \(Northern Ireland\) Regulations 2023 \(S.I. 2023/861\)](#), regs. 1(b), **9(b)**

18. A conformity assessment body shall participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any notified body coordination group established under the ATEX Directive and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

## SCHEDULE 3

Regulation 49

### OPERATIONAL OBLIGATIONS OF NOTIFIED BODIES

1. A notified body shall carry out conformity assessments in accordance with the relevant conformity assessment procedures.

2. A notified body shall carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

3. A notified body shall perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

4. A notified body shall respect the degree of rigour and the level of protection required to ensure that the product is in conformity with the requirements of these Regulations.

5. Where a notified body finds that essential health and safety requirements or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require the manufacturer to take appropriate corrective measures and shall not issue a certificate of conformity or grant an approval.

6. Where, in the course of the monitoring of conformity following the issue of a certificate or grant of an approval, a notified body finds that a product is no longer in conformity with the essential health and safety requirements, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate of conformity or approval (if necessary).

7. Where the notified body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the notified body shall restrict, suspend or withdraw any certificate of conformity or approval.
8. Paragraph 9 applies where a notified body is minded to—
  - (a) refuse to issue a certificate of conformity or grant an approval;
  - (b) restrict, suspend or withdraw a certificate of conformity or approval.
9. Where this paragraph applies, the notified body shall—
  - (a) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
  - (b) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, an opportunity to make representations within a reasonable period from the date of the notice; and
  - (c) take account of any such representations before taking its decision.
10. A notified body shall inform the Executive of—
  - (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity or approval;
  - (b) any circumstances affecting the scope of, or conditions for, notification under regulation 44 (Notification); and
  - (c) on request, any conformity assessment activities performed within the scope of its notification under regulation 44 and any other activity performed, including cross-border activities and subcontracting.
11. A notified body shall make provision in its contracts with its clients enabling such clients to appeal against a decision—
  - (a) to refuse to issue a certificate of conformity or grant an approval; or
  - (b) to restrict, suspend or withdraw a certificate of conformity or approval.
12. A notified body shall provide other bodies notified under the ATEX Directive carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.
13. A notified body shall participate in the work of any notified body coordination group established under the ATEX Directive, directly or by means of its designated representatives.
14. A notified body shall—
  - (a) acknowledge receipt of the technical documentation provided by the manufacturer in accordance with regulation 39(1)(b)(ii)(bb) (Conformity assessment procedures) as soon as possible; and
  - (b) retain the technical documentation referred to in sub-paragraph (a).

## SCHEDULE 4

Regulation 53(1)

### ENFORCEMENT POWERS OF THE HEALTH AND SAFETY EXECUTIVE FOR NORTHERN IRELAND UNDER THE 1978 ORDER

#### **Enforcement powers under the 1978 Order**

1. For the purposes of enforcing these Regulations, the following Articles of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) Article 21 (Appointment of inspectors);
- (b) Article 22 (Powers of inspectors);
- (c) Article 23 (Improvement notices);
- (d) Article 24 (Prohibition notices);
- (e) Article 25 (Provisions supplementary to Articles 23 and 24);
- (f) Article 26 (Appeal against improvement or prohibition notice);
- (g) Article 27 (Power to deal with cause of imminent danger);
- (h) Article 27A (Power of customs officer to detain articles and substances);
- (i) Article 28 (Power of enforcing authorities to indemnify inspectors);
- (j) Article 29 (Obtaining of information);
- (k) Article 29A (Information communicated by Commissioners for Revenue and Customs);
- (l) Article 30 (Restrictions on disclosure of information);
- (m) Article 31 (Offences);
- (n) Article 32 (Extension of time for bringing summary proceedings);
- (o) Article 33 (Venue);
- (p) Article 36 (Prosecution by inspectors);
- (q) Article 38 (Evidence); and
- (r) Article 39 (Power of court to order cause of offence to be remedied and, in certain cases, forfeiture).

#### **Modifications to the 1978 Order**

2. The Articles of the 1978 Order referred to in paragraph 1 are to apply as if—

- (a) references to “relevant statutory provisions” were references to—
  - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and
  - (ii) these Regulations;
- (b) references to “risk” were references to risk within the meaning of regulation 2(5) of these Regulations;
- (c) in Article 21—
  - (i) in paragraph (1), for “Every enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ”;
  - (ii) in paragraph (1), “within its field of responsibility” were omitted;
  - (iii) in paragraph (2), sub-paragraph (b) were omitted;

- (iv) in paragraph (3), for “enforcing authority which appointed him” there were substituted “ Health and Safety Executive for Northern Ireland ”;
- (d) in Article 22—
  - (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
  - (ii) in paragraph (2)(c)(i), for “his (the inspector's) enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ”;
  - (iii) in paragraph 2(h), for “him to have caused or likely to cause danger to health or safety”, there were substituted “ contravene the relevant statutory provisions or present a risk ”; and
  - (iv) paragraph (3) were omitted;
- (e) in Article 23—
  - (i) before paragraph (a), there were inserted—
    - “(za) is making available on the market a product which presents a risk;”;
  - (ii) after “specifying the”, there were inserted “ risk, or ”; and
  - (iii) after “requiring that person to”, there were inserted “ address the risk or ”;
- (f) for Article 24(2) and (3) there were substituted—
  - “(2) An inspector may serve a notice (in this Part referred to as a “prohibition notice”) on a person if, as regards any activities to which this paragraph applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
    - (a) a risk; or
    - (b) a contravention of a relevant statutory provision.
  - (3) A prohibition notice shall—
    - (a) state that the inspector is of the said opinion;
    - (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
    - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of the opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
    - (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) have been remedied.”
- (g) in Article 25, paragraphs (3), (4) and (5) were omitted
- (h) in Article 27A(1)—
  - (i) for “any enforcing authority or inspector”, there were substituted “ the Health and Safety Executive for Northern Ireland ”; and
  - (ii) for the “authority”, there were substituted “ the Health and Safety Executive for Northern Ireland ”;
- (i) for the title to Article 28, there were substituted “ Power to indemnify its inspectors ”;

- (j) in Article 28, for each of the following references there were substituted “ the Health and Safety Executive for Northern Ireland ”
  - (i) “the enforcing authority which appointed him”;
  - (ii) “that authority”; and
  - (iii) “the authority”;
- (k) in Article 29—
  - (i) in paragraph (1)(b) for “an enforcing authority” there were substituted “ the Health and Safety Executive for Northern Ireland ” and for “the authority's functions” there were substituted “ its functions ”;
  - (ii) “the department concerned, or” were omitted;
  - (iii) for “the Executive”, in each case it appears, there were substituted “ the Health and Safety Executive for Northern Ireland ” and
  - (iv) “or, as the case may be, to the enforcing authority in question” were omitted;
- (l) for Article 29A(2) substitute—

“(2) This paragraph applies to the Health and Safety Executive for Northern Ireland and to an inspector”;
- (m) in Article 30—
  - (i) for “the Executive”, in each case it appears, there were substituted “ the Health and Safety Executive for Northern Ireland ”;
  - (ii) in paragraph (3)(a), “or any enforcing authority” were omitted;
  - (iii) in paragraph (4)—
    - (aa) “or an enforcing authority” were omitted; and
    - (bb) “(including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
  - (iv) in paragraph (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions” were omitted; and
  - (v) in paragraph 6—
    - (aa) “16(4)(a) or” were omitted; and
    - (bb) for paragraph (b), there were substituted—
      - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
- (n) in Article 31—
  - (i) in paragraph (1), sub-paragraphs (a) to (i) and (k) to (m) were omitted;
  - (ii) for paragraph (2), there were substituted—

“(2) Any person guilty of an offence under this Article is liable—

    - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term 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.”;
  - (iii) paragraph (3) were omitted;
- (o) in Article 32—
  - (i) in paragraph (1)—



- (aa) sub-paragraphs (a) and (b) were omitted; and
- (bb) for the words from “and it appears” to the end, there were substituted “and it appears from the proceedings at the inquest that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the inquest, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the inquest ”; and
- (ii) paragraphs (3) and (4) were omitted;
- (p) in Article 33, for “any enforcing authority”, there were substituted “ the Health and Safety Executive for Northern Ireland ”;
- (q) in Article 36, for “enforcing authority which appointed him” there were substituted “ Health and Safety Executive for Northern Ireland ”; and
- (r) in Article 39, paragraphs (3A), (4) and (5) were omitted.

## SCHEDULE 5

Regulation 53(2)

### COMPLIANCE, WITHDRAWAL AND RECALL NOTICES

#### **Compliance notice**

1.—(1) The Executive may serve a compliance notice on a relevant economic operator in respect of a product if the Executive has reasonable grounds for believing that there is non-compliance.

(2) A compliance notice shall—

- (a) require the relevant economic operator on which it is served to—
  - (i) end the non-compliance within such period as may be specified in the notice; or
  - (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the Executive that the non-compliance has not in fact occurred; and
- (b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under sub-paragraph (a) within the period specified in the notice, further action may be taken in respect of the product or any product of the same type made available on the market by the relevant economic operator.

(3) A compliance notice may include directions as to the measures to be taken by the economic operator to secure compliance, including different ways of securing compliance.

(4) Subject to sub-paragraph (5), the Executive may revoke or vary a compliance notice by serving a notification on the economic operator.

(5) The Executive may not vary a compliance notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

#### **Withdrawal notice**

2.—(1) The Executive may serve a withdrawal notice on a relevant economic operator in respect of a product if the Executive has reasonable grounds for believing that—

- (a) the product has been made available on the market; and
- (b) there is non-compliance.

(2) A withdrawal notice shall prohibit the relevant economic operator from making the product available on the market without the consent of the Executive.

(3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the product.

(4) A withdrawal notice may require the relevant economic operator to keep the Executive informed of the whereabouts of any product referred to in the notice.

(5) A consent given by the Executive pursuant to a withdrawal notice, may impose such conditions on the making available on the market as the Executive considers appropriate.

(6) Subject to sub-paragraph (7), the Executive may revoke or vary a withdrawal notice by serving a notification on the economic operator.

(7) The Executive may not vary a withdrawal notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

(8) A withdrawal notice has effect throughout Northern Ireland.

### **Recall notice**

3.—(1) The Executive may serve a recall notice on a relevant economic operator in respect of a product if the Executive has reasonable grounds for believing that—

- (a) the product has been made available to end-users; and
- (b) there is non-compliance.

(2) A recall notice shall require the relevant economic operator to use reasonable endeavours to organise the return of the product from end-users to the relevant economic operator or another person specified in the notice.

(3) A recall notice may—

- (a) require the recall to be effected in accordance with a code of practice;
- (b) require the relevant economic operator to—
  - (i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;
  - (ii) publish a notice in such form and such manner as is likely to bring to the attention of end-users any risk the product poses and the fact of the recall; or
  - (iii) make arrangements for the collection or return of the product from end-users or its disposal; or
- (c) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the product.

(4) In determining what requirements to include in a recall notice, the Executive shall take into consideration the need to encourage distributors and end-users to contribute to its implementation.

(5) A recall notice may only be issued by the Executive where—

- (a) other action which it may require under these Regulations would not suffice to address the non-compliance;
- (b) the action being undertaken by the relevant economic operator is unsatisfactory or insufficient to address the non-compliance;
- (c) the Executive has given not less than 10 days' notice to the relevant economic operator of its intention to serve such a notice; and
- (d) the Executive has taken account of any advice obtained under sub-paragraph (6).

(6) A relevant economic operator which has received notice from the Executive of an intention to serve a recall notice may at any time prior to the service of the recall notice require the Executive to seek the advice of such person as the Institute determines on the questions of—

- (a) whether there is non-compliance; and
- (b) whether the issue of a recall notice would be proportionate.

(7) Sub-paragraphs (5)(b), (c) and (d) do not apply in the case of a product presenting a serious risk requiring, in the view of the Executive, urgent action.

(8) Where a relevant economic operator requires the Executive to seek advice under sub-paragraph (6), that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the Executive.

(9) In this paragraph, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

(10) A recall notice served by the Executive may require the relevant economic operator to keep the Executive informed of the whereabouts of a product to which the recall notice relates, so far as the relevant economic operator is able to do so.

(11) Subject to sub-paragraph 12, the Executive may revoke or vary a recall notice by serving a notification on the economic operator.

(12) The Executive may not vary a recall notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

(13) A recall notice has effect throughout Northern Ireland.

## Interpretation

4. In this Schedule, “non-compliance” means that the product—
- (a) presents a risk; or
  - (b) is not in conformity with Part 2 or RAMS in its application to a product.

## SCHEDULE 6

Regulation 40(b)

### EU DECLARATION OF CONFORMITY (No. XXXX)

1. Product model/product (product, type, batch or serial number):
2. Name and address of manufacturer and, where applicable, the authorised representative:
3. This declaration of conformity is issued under the sole responsibility of the manufacturer.
4. Object of the declaration (identification of product allowing traceability; it may, where necessary for the identification of the product, include an image):
5. The object of the declaration described above is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:
7. Where applicable, the notified body (name, number) performed (description of intervention) and issued the certificate:
8. Additional information:  
Signed for and on behalf of:

**Changes to legislation:** There are currently no known outstanding effects for the The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017. (See end of Document for details)

(place and date of issue):

(name, function) (signature):

SCHEDULE 7

Regulation 72(1)

AMENDMENTS

<i>Column 1 Title</i>	<i>Column 2 Reference</i>	<i>Column 3 Extent of amendment</i>
Provision of Use at Work Equipment Regulations (Northern Ireland) 1999 <sup>M1</sup>	S.R. 1999 No. 305	In column (1) of Schedule 2 for “Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 1996” substitute “ Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017 ”; and In column (2) of Schedule 2 for “S.R. 1996 No. 247, amended by S.R. 1998 No. 77, S.R. 1999 No. 125 and S.R. 2008 No. 422” substitute “ S.R. 2017 No. 90 ”
Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2003 <sup>M2</sup>	S.R. 2003 No. 152	In paragraph 1 of Schedule 3 for “Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 1996” substitute “ Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017 ”

**Marginal Citations**

**M1** S.R. 1999 No. 305, as amended by S.I. 1999/2001; S.R. 2000 No. 87; S.I. 2001/1701; S.R. 2003 No. 423; S.I. 2004/129; S.R. 2005 No. 279; S.R. 2005 No. 397; S.R. 2006 No. 1; S.R. 2007 No. 31; S.R. 2007 No. 291; S.R. 2008 No. 422; S.I. 2011/2157; S.R. 2012 No. 179; S.R. 2016 No. 146; S.R. 2016 No. 427; S.I. 2016/1092; S.I. 2016/1093; S.I. 2016/1101 and S.I. 2016/1105: revoked in part by S.R. 2007 No. 291 and S.R. 2015 No. 223

**Changes to legislation:** There are currently no known outstanding effects for the *The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017*. (See end of Document for details)

**M2** S.R. 2003 No. 152, as amended by S.R. 2006 No. 173, S.R. 2010 No. 160, S.R. 2012 No. 177 and S.R. 2015 No. 265: revoked in part by S.R. 2016 No. 427

SCHEDULE 8

Regulation 72(2)

REVOCATIONS

<i>Column 1 Title</i>	<i>Column 2 Reference</i>	<i>Column 3 Extent of revocation</i>
Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 1996	S.R. 1996 No. 247 <sup>M3</sup>	The whole Regulations
Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations (Northern Ireland) 1999	S.R. 1999 No. 125 <sup>M4</sup>	The whole Regulations
Electrical Equipment for Explosive Atmospheres (Certification) (Amendment) Regulations (Northern Ireland) 2000	S.R. 2000 No. 85 <sup>M5</sup>	The whole Regulations
Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations (Northern Ireland) 2008	S.R. 2008 No. 422 <sup>M6</sup>	The whole Regulations

**Marginal Citations**

**M3** S.R. 1996 No. 247, amended by S.R. 1998 No. 77, S.R. 1999 No. 125 and S.R. 2008 No. 422

**M4** S.R. 1999 No. 125

**M5** S.R. 2000 No. 85, revoked in part by S.R. 2008 No. 422

**M6** S.R. 2008 No. 422

**Changes to legislation:**

There are currently no known outstanding effects for the The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017.