

SCHEDULE 25

Amendment of the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 2016

Insertion of regulations 36A and 36B

21. After regulation 36 insert—

“Obligations which are met by complying with obligations in the ATEX Directive

36A.—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the ATEX Directive;
- (b) “CE marking” has the meaning given to it in Article 2(26); and
- (c) “harmonised standard” has the meaning given to in in Article 2(18).

(2) Subject to paragraphs (6) and (7) paragraph (3) applies where, before placing the product on the market, the manufacturer—

- (a) ensures that the product has been designed and manufactured in accordance with the essential safety requirements set out in Annex II;
- (b) ensures that the relevant conformity assessment procedures that apply to that product in accordance with Article 13(1) and (2) have been carried out;
- (c) draws up the technical documentation referred to in Annexes III to IX;
- (d) ensures that the records and correspondence relating to the conformity assessment procedures are prepared in or translated into English;
- (e) affixes a CE marking and the inscriptions in accordance with Articles 15 and 16(1) to (4);
- (f) draws up an EU declaration of conformity, in accordance with Article 14; and
- (g) ensures that the declaration of conformity is prepared in or translated into English.

(3) Where this paragraph applies—

- (a) the requirements of regulations 5, 6, 7(1), (3) and 7(6) are to be treated as being satisfied;
- (b) regulations 2(a), 7(6), 8, 9(2), 17(4), 36 and 59 apply subject to the modifications in paragraph (10);
- (c) Part 3 does not apply; and
- (d) regulation 57 does not apply.

(4) Subject to paragraphs (6) and (7) paragraph (5) applies where, before placing a product on the market, the importer ensures that—

- (a) the relevant conformity assessment procedure referred to in Article 13 has been carried out;
- (b) the manufacturer has drawn up the technical documents relevant to the conformity assessment procedure followed; and
- (c) the product bears the CE marking and inscriptions referred to in point 1.0.5 of Annex II.

(5) Where this paragraph applies—

- (a) the requirements of regulation 19(1)(a) to (c) are to be treated as being satisfied; and
 - (b) regulations 2(a), 18, 23 and 27 apply subject to the modifications in paragraph (10).
- (6) This paragraph applies where there is no designated standard or part of a designated standard which corresponds exactly to a harmonised standard or part of a harmonised standard referred to in Article 12.
- (7) Where paragraph (6) applies, paragraphs (2)(b) and (4)(a) are to be treated as requiring the manufacturer to carry out—
- (a) the conformity assessment procedure set out in Article 13(1)(b); and
 - (b) the relevant conformity assessment procedure that applies to that product in accordance with Article 13(2).
- (8) Paragraph (9) applies where, before making a product available on the market, a distributor ensures that the product bears the CE marking and inscriptions referred to in point 1.0.5 of Annex II.
- (9) Where this paragraph applies—
- (a) regulation 29(1)(a)(i) is to be treated as being satisfied; and
 - (b) regulations 2(a), 30 and 31(1) apply subject to the modifications in paragraph (10).
- (10) The modifications referred to in subparagraphs (3)(b), (5)(b) and (9)(b) are that—
- (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
 - (b) any reference to “UK marking” is to be read as reference to the CE marking;
 - (c) any reference to “essential safety requirements” is to be read as a reference to the essential safety requirements referred to in Annex II;
 - (d) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (e) any reference to “relevant conformity assessment procedure” is to be read as a reference to the relevant conformity assessment procedures referred to in Article 13;
 - (f) any reference to “technical documentation” is a reference to the technical documentation referred to in Annexes III to IX.

Conformity assessment procedure obligation which is met by complying with the ATEX Directive

36B.—(1) In this regulation any reference to an Article or Annex is a reference to an Article or an Annex of the ATEX Directive;

(2) Paragraph (3) applies where, prior to the manufacture of a product, the manufacturer ensures that the conformity assessment procedure that applies to that product in accordance with Annex III as referred to in Article 13(1)(a) and (b) has been carried out.

- (3) Where this paragraph applies—
- (a) any requirement to follow the Type-examination set out in Part 1 of Schedule 3A in regulation 39 is to be treated as being satisfied;
 - (b) any reference to “relevant conformity assessment procedure” in regulations 6(a), 7(1), 19(a), 36(1)(b), 40(c) and 41(3) is to be read as including the conformity

assessment procedure set out in Annex III as referred to in Article 13(1)(a) and (b); and

- (c) any reference to “technical documentation” in regulations 6(b), 8, 19(b) and 27(b) is to be read as including the technical documentation relating to the design of the product referred to in Annex III.”.