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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Council Directive [89/392/EEC](#) on the approximation of the laws of the Member States relating to machinery, as amended by Council Directive [91/368/EEC](#) (the Machinery Directive).

Part II provides for the application of the Regulations. They apply to “relevant machinery” (regulation 3) which is machinery as defined in regulation 4, other than machinery excepted by regulations 5 to 10.

The Regulations do not apply to specified types of machinery (regulation 5 and Schedule 5) or machinery exported for use outside the Community (regulation 6). Regulations 7 and 8 set out transitional arrangements whereby the Regulations do not apply to machinery first supplied or put into service in the Community before 1st January 1993 or machinery first supplied or put into service in the Community on or before 31st December 1994 if it complies with the health and safety provisions in force in the relevant Member State at 31st December 1992. The Regulations do not apply before 1st July 1995 to certain specified machinery covered by other Directives (regulation 9). Further, they do not apply to machinery in respect of which the health and safety risks covered by the Machinery Directive are wholly covered by other Directives applicable to that machinery nor to machinery which is electrical equipment where the safety risks are mainly of electrical origin (regulation 10).

Part III sets out the general requirements of the Regulations. Regulations 11 and 12 provide that relevant machinery cannot be supplied (and this includes putting into service in the course of business by the manufacturer himself or by the importer of relevant machinery from outside the Community) unless it satisfies the relevant essential health and safety requirements and the appropriate conformity assessment procedure has been carried out. In addition, either an EC declaration of conformity (indicating that the machinery does satisfy the relevant essential health and safety requirements) must have been issued in respect of the machinery by the responsible person and the EC mark affixed to it by that person or, in the case of machinery intended for incorporation in other machinery, a declaration of incorporation must have been issued by the responsible person. The relevant machinery must also be safe. These requirements do not apply in respect of the supply of relevant machinery which has previously been used in the Community (regulation 11(3)).

The essential health and safety requirements (Annex I of the Machinery Directive) are set out in Schedule 3. Regulation 2 defines “responsible person” and “relevant essential health and safety requirements”. Regulations 13 to 15 describe the different conformity assessment procedures, which apply, as appropriate, to relevant machinery in general, relevant machinery posing special hazards (listed in Schedule 4) and relevant machinery manufactured in accordance with transposed harmonized standards. All the conformity assessment procedures require the responsible person to draw up a technical file and where the relevant machinery is machinery posing special hazards either to send the technical file to an approved body for retention or verification or to have an example of the machinery EC type-examined.

Regulation 18 provides for the appointment of United Kingdom approved bodies and specifies their functions. Regulation 19 provides for these bodies to charge fees.

Regulation 20 provides for certificates of adequacy (verification) in respect of technical files and regulation 21 sets out the procedures in respect of EC type-examination. Regulation 22 specifies the procedure whereby a responsible person issues EC declarations of conformity (including the contents of such a declaration). Regulation 23 provides for declarations of incorporation by a responsible

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person. Regulation 24 requires the retention, by the responsible person, of the technical file (or a copy of the file submitted to an approved body) for ten years following the supply of the last unit of the machinery to which it relates.

Regulation 25 contains the requirements which must be satisfied before an EC mark may be properly affixed, prohibits the affixing of the EC mark to machinery unless it is safe and enables enforcement authorities to require information from the supplier of relevant machinery without an EC mark. Regulation 26 sets out the conditions for relevant machinery being taken to satisfy the relevant essential health and safety requirements. Regulation 27 requires the notification of judicial remedies to persons aggrieved by a decision of a United Kingdom approved body.

Part IV and Schedule 6 make provision for the enforcement of the Regulations by the Health & Safety Executive in Great Britain, the Department of Economic Development and the Department of Agriculture in Northern Ireland, in relation to relevant machinery for use at work; and the weights and measures authorities in Great Britain and district councils in Northern Ireland in relation to relevant machinery for private use. In Scotland, proceedings are brought by the procurator-fiscal or Lord Advocate.

Regulations 29 and 30 provide for the offences and penalties for breach of the Regulations. There are also provisions relating to the defence of due diligence (regulation 31) and liability of persons other than the principal offender (regulation 32).

Consequential disapplications of United Kingdom law are set out in regulations 33 and 34. Mine regulations, which are disappplied, are specified in Schedule 7.

Schedule 1 sets out Regulations which are revoked from 1st January 1996. Schedule 2 sets out the form of the EC mark.