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STATUTORY INSTRUMENTS

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**1994 No. 2326**

**CONSUMER PROTECTION**

**HEALTH AND SAFETY**

**The Personal Protective Equipment (EC Directive) (Amendment) Regulations 1994**

<i>Made</i>	- - - -	<i>5th September 1994</i>
<i>Laid before Parliament</i>		<i>8th September 1994</i>
<i>Coming into force</i>		
— <i>for the purposes of regulation 2</i>		<i>1st October 1994</i>
— <i>for all other purposes</i>		<i>1st January 1995</i>

The Secretary of State, being designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to safety as regards personal protective equipment, in exercise of the powers conferred on him by section 2(2) of the said Act hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Personal Protective Equipment (EC Directive) (Amendment) Regulations 1994.

(2) This paragraph, regulation 2 below and (so far as it relates to them) paragraph (1) above shall come into force on 1st October 1994.

(3) The other provisions of these Regulations shall come into force on 1st January 1995; and regulation 2 below shall thereupon cease to have effect.

(4) Regulation 2 of the Personal Protective Equipment (EC Directive) (Amendment) Regulations 1993<sup>(3)</sup> is hereby revoked.

2. Paragraph 31 of Schedule 1 to the Provision and Use of Work Equipment Regulations 1992<sup>(4)</sup> and Schedule 1 to the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993<sup>(5)</sup> shall have effect as if references therein to Council Directive [89/686/EEC](#) of 21st December

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(1) S.I. 1990/1304.

(2) 1972 c. 68.

(3) S.I. 1993/3074.

(4) S.I. 1992/2932, to which there is an amendment not relevant to these Regulations.

(5) S.R. 1993 No. 20.

1989 on the approximation of the laws of the Member States relating to personal protective equipment<sup>(6)</sup> were references to that Directive as amended by Council Directive [93/95/EEC](#) of 29th October 1993<sup>(7)</sup>.

**3.—(1)** The Personal Protective Equipment (EC Directive) Regulations 1992<sup>(8)</sup> (“the principal Regulations”), paragraph 31 of Schedule 1 to the aforementioned Provision and Use of Work Equipment Regulations 1992, Schedule 1 to the Personal Protective Equipment at Work Regulations 1992<sup>(9)</sup> and Schedule 1 to the aforementioned Personal Protective Equipment at Work Regulations (Northern Ireland) 1993 shall have effect as if references therein to the aforementioned Council Directive [89/686/EEC](#) (in the principal Regulations and in this regulation referred to as “the Directive”) were references to the Directive as amended by both the aforementioned Council Directive [93/95/EEC](#) and Article 7 of Council Directive [93/68/EEC](#) of 22nd July 1993<sup>(10)</sup>; and references to “the Directive” in regulation 4 below shall be construed accordingly.

(2) The copy of the Directive printed in the Schedule to the principal Regulations shall be read as if it were amended as provided in the Schedule to the aforementioned Personal Protective Equipment (EC Directive) (Amendment) Regulations 1993 and the Schedule to these Regulations.

**4.—(1)** In a case in which Article 13(4) of the Directive (CE marking affixed unduly) applies and Article 7 thereof (safety) does not, an enforcement authority, in performance of the duty imposed by regulation 3(2)(c) of the principal Regulations, may give to the appropriate person a notice—

- (a) stating that the enforcement authority suspects that the CE marking has been affixed to PPE unduly within the meaning of Article 13(4) of the Directive,
- (b) specifying the respect in which it is so suspected and giving particulars thereof,
- (c) requiring the appropriate person—
  - (i) to secure that the PPE conforms as regards the provisions of the Directive concerning the CE marking within such period as may be specified in the notice, or
  - (ii) to provide evidence within that period, to the satisfaction of the enforcement authority, that the CE marking has been properly affixed, and
- (d) warning the appropriate person that if the non-conformity continues or satisfactory evidence is not provided within that period, action may be taken in accordance with section 14, 16 or 17 of the Consumer Protection Act 1987<sup>(11)</sup>;

and in such a case sections 14, 16 and 17 of the Consumer Protection Act 1987 (applied by regulation 3(2)(b) of the principal Regulations) shall not be applied until such a notice has so been served and the appropriate person upon whom it has been served has failed to comply with its requirements.

(2) In paragraph (1) above—

“appropriate person” means the manufacturer of the PPE in question or any authorised representative of his established within the European Economic Area;

“enforcement authority” means a weights and measures authority in Great Britain or a district council in Northern Ireland;

“PPE” means a product to which the Directive applies.

**5.** Until the end of 1996, sections 13, 14, 16 and 17 of the Consumer Protection Act 1987, regulation 10(1) of the Provision and Use of Work Equipment Regulations 1992, regulation 4(3)(e)

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<sup>(6)</sup> O.J. No. L399, 30.12.89, p.18.

<sup>(7)</sup> O.J. No. L276, 9.11.93, p.11.

<sup>(8)</sup> S.I. [1992/3139](#), amended by S.I. [1993/3074](#) and extended by section 2(1) of the European Economic Area Act 1993 (c. 51).

<sup>(9)</sup> S.I. [1992/2966](#), amended by S.I. [1993/3074](#).

<sup>(10)</sup> O.J. No. L220, 30.8.93, p.1.

<sup>(11)</sup> [1987 c. 43](#).

of each of the Personal Protective Equipment at Work Regulations 1992 and the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993 and regulation 4 above shall not be applied in respect of a failure of a product to comply with the current version of the Directive in any particular if it would have complied with the previous version of the Directive in that particular; and in this regulation—

- (a) “the current version of the Directive” means Council Directive [89/686/EEC](#) of 21st December 1989 as amended as set out in regulation 3(1) above, and
- (b) “the previous version of the Directive” means that Directive before its amendment by Council Directive [93/68/EEC](#) of 22nd July 1993.

Department of Trade and Industry  
5th September 1994

*Ian Taylor*  
Parliamentary Under-Secretary of State for Trade  
and Technology

## SCHEDULE

Regulation 3(2)

## AMENDMENTS TO THE DIRECTIVE

In paragraphs 5 and 6, the words “Contracting Parties” are substituted for the word “Community” by virtue of paragraph 8 of Protocol 1 annexed to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(12)</sup>.

1. Throughout the text, the term “EC mark” is replaced by “CE marking”.
2. In Article 4 the first paragraph is replaced by the following text:
 

“1. Member States may not prohibit, restrict or hinder the placing on the market of PPE or PPE components which comply with the provisions of this Directive and which bear the CE marking attesting their conformity to all the provisions of this Directive, including the certification procedures in Chapter II.”
3. The following paragraph is added to Article 5:
  - (a) Where the PPE is subject to other Directives concerning other aspects and which also provide for the affixing of the CE marking, the latter shall indicate that the PPE is also presumed to conform to the provisions of the other Directives.
  - (b) However, where one or more of these Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the Directives and accompanying such PPE.”
4. In Article 9 the first paragraph is replaced by the following:
 

“1. Member States shall notify the Commission and the other Member States of the bodies which they have appointed to carry out the procedures referred to in Article 8 together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

The Commission shall publish in the Official Journal of the European Communities a list of the notified bodies and their identification numbers and the tasks for which they have been notified. The Commission shall ensure that this list is kept up to date.”
5. The introductory sentence of Article 12 is replaced by the following text:
 

“The EC declaration of conformity is the procedure whereby the manufacturer or his authorised representative established within the Contracting Parties:”
6. Article 13 is replaced by the following text:

“Article 13

1. The CE conformity marking shall consist of the initials “CE” in the form shown in the specimen in Annex IV. In the event of the involvement of a notified body in the production control phase as indicated in Article 11, its identification number shall be added.
2. The CE marking must be affixed to each piece of manufactured PPE so as to be visible, legible and indelible throughout the expected life of the PPE; however, if this is

(12) Council Directive 93/68/EEC was added to Chapter XXII of Annex II to the EEA Agreement by item P in Annex 3 to Decision No. 7/94 of the EEA Joint Committee of 21st March 1994 (O.J. No. L160, 28.6.94, p.1).

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not possible in view of the characteristics of the product, the CE marking may be affixed to the packaging.

3. The affixing of markings on the PPE which are likely to deceive third parties as to the meaning and form of the CE marking shall be prohibited. Any other marking may be affixed to the PPE or its packaging provided that the visibility and legibility of the CE marking is not thereby reduced.

4. Without prejudice to Article 7:

- (a) where a Member State establishes that the CE marking has been affixed unduly, the manufacturer or his authorised representative established within the Contracting Parties shall be obliged to make the product conform as regards the provisions concerning the CE marking and to end the infringement under the conditions imposed by the Member State;
- (b) where non-conformity continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the product in question or to ensure that it is withdrawn from the market in accordance with the procedures laid down in Article 7.”.

7. The following text is added to section 1.4 of Annex II:

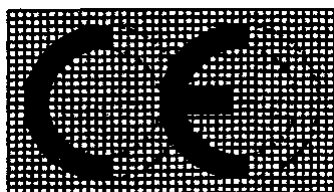
- “(h) where appropriate, the references of the Directives applied in accordance with Article 5(6)(b);
- (i) the name, address and identification number of the notified body involved in the design stage of the PPE.”.

8. Annex IV is replaced by the following text:

#### “ANNEX IV

##### CE CONFORMITY MARKING AND INFORMATION

— The CE conformity marking shall consist of the initials “CE” taking the following form:



- If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.
- The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5mm. This minimum dimension may be waived for small-scale PPE.

##### *Additional information*

- The last two digits of the year in which the CE marking was affixed; this information is not required in the case of the PPE referred to in Article 8(3).”

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## EXPLANATORY NOTE

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

These Regulations give effect to Council Directive [93/95/EEC](#) of 29th October 1993 (O.J. No. L276, 9.11.93, p.11) amending Directive [89/686/EEC](#) on the approximation of the laws of the Member States relating to personal protective equipment (O.J. No. L399, 30.12.89, p.18) (known as the “PPE Directive”) in respect of the application of the PPE Directive by the Provision and Use of Work Equipment Regulations 1992 and the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993.

They also give effect to the amendments made by Council Directive [93/68/EEC](#) of 22nd July 1993 (O.J. No. L220, 30.8.93, p.1) (known as the “CE Marking Directive”) to the PPE Directive, which was implemented by the Personal Protective Equipment (EC Directive) Regulations 1992 and applied by the Provision and Use of Work Equipment Regulations 1992, the Personal Protective Equipment at Work Regulations 1992 and the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993. Provision is made for giving notices requiring conformity with the requirements of the PPE Directive (as amended) relating to affixing of the CE marking. Until the end of 1996, equipment may comply with the PPE Directive either as amended or not as amended by the CE Marking Directive.

References in the Personal Protective Equipment (EC Directive) Regulations 1992 to the Community and to Member States are to be read, by virtue of section 2(1) of the European Economic Area Act 1993, as references to the European Economic Area and to states party to the Agreement creating the Area.

A Compliance Cost Assessment in respect of these Regulations is available and a copy can be obtained from the Department of Trade and Industry, Standards Policy Unit, 3rd Floor, 151 Buckingham Palace Road, London SW1W 9SS.