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STATUTORY INSTRUMENTS

1998 No. 81

HEALTH AND SAFETY

**The Electrical Equipment for Explosive Atmospheres
(Certification) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>19th January 1998</i>
<i>Laid before Parliament</i>		<i>20th January 1998</i>
<i>Coming into force</i>	- -	<i>28th February 1998</i>

The Secretary of State, being the Minister designated⁽¹⁾, for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures for safety and consumer protection as respects electrical equipment and any provisions concerning the composition, labelling, marketing, classification or description of electrical equipment, in the exercise of the powers conferred on her by that section, and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Electrical Equipment for Explosive Atmospheres (Certification) (Amendment) Regulations 1998 and shall come into force on 28th February 1998.

(2) In these Regulations, “the principal Regulations” means the Electrical Equipment for Explosive Atmospheres (Certification) Regulations 1990⁽³⁾ and, for the purposes of regulation 2(3), “the Framework Directive” has the same meaning as that in the principal Regulations.

Amendment to the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) S.I. 1990/13; relevant amending instruments are S.I. 1990/2377, S.I. 1991/2826 and S.I. 1995/1186.

(2) In regulation 2(1), in the definition of “the First Specific Directive”, for the words “Commission Directive” there shall be substituted the words “Commission Directives” and at the end of the said definition there shall be added “and 97/53/EC(4)”.

(3) In regulation 12, the provisions in respect of electrical equipment to which the Framework Directive applies shall cease to have effect in relation to that equipment.

(4) After regulation 12, the following regulation shall be added—

“Transitional provisions in respect of electrical equipment to which the Framework Directive applies

12A.—(1) The provisions of the following paragraphs of this regulation shall apply to electrical equipment to which the Framework Directive applies.

(2) Subject to paragraph (4) below, on or after the coming into force date of the Electrical Equipment for Explosive Atmospheres (Certification) (Amendment) Regulations 1998 (in this regulation referred to as “the effective date”), a manufacturer of electrical equipment may apply to a certification body (which has been appointed for the purpose set out in regulation 3(1)(a) of the unamended Regulations in respect of the electrical equipment for which the application is made) for a certificate of conformity attesting that the electrical equipment which is the subject of the application conforms to the harmonised standards prescribed for that equipment in the unamended Regulations; and in that case the provisions of the unamended Regulations, as appropriate, shall apply as if the application had been made under regulation 4 of those Regulations.

(3) Subject to paragraph (4) below, an application for a certificate of conformity made under regulation 4 or for review under regulation 7 of the unamended Regulations before the effective date shall continue to be dealt with under the unamended Regulations.

(4) Notwithstanding regulation 12(3)(a) of the unamended Regulations, no certificate of conformity shall be issued by a certification body under paragraph (2) or (3) above in respect of electrical equipment after 30th September 1998.

(5) Subject to regulation 6 and without prejudice to paragraph (6) below, a certificate of conformity issued in accordance with the unamended Regulations before 30th September 1998, irrespective of whether such certificate was issued before, on or after the effective date, shall be regarded as in force for the purposes of regulation 11 (use of the distinctive Community mark) up to and including 30th June 2003.

(6) Subject to regulation 6, a certificate of conformity issued before 1st March 1996, in accordance with regulation 12 of the principal Regulations as in force immediately before 26th May 1995, shall be regarded as in force for the purposes of the said regulation 11 up to and including 30th June 2003.

(7) In this regulation references to “the unamended Regulations” means these Regulations as in force immediately before the effective date.”.

Amendment to the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996

3. In Schedule 1 (revocation of regulations) to the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996(5), there shall be added “The Electrical Equipment for Explosive Atmospheres (Certification) (Amendment) Regulations 1998(6)” in its first column and the date “1st July 2003” in its second column.

(4) OJ No. L257, 20.9.97, p.27; Article 1 of and the Annex to this Directive replaced Annex I to the First Specific Directive.

(5) S.I. 1996/192.

(6) S.I. 1998/81.

19th January 1998

John Battle,
Minister for Science, Energy and Industry,
Department of Trade and Industry

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EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make further amendments to the Electrical Equipment for Explosive Atmospheres (Certification) Regulations 1990 (S.I. 1990/13) (“the principal Regulations”), which apply in Great Britain, to give effect to the provisions of Commission Directive 97/53/EC (OJNo. L257, 20.9.97, p.27) which further adapt to technical progress Council Directive 79/196/EEC (OJ No. L43, 20.2.79, p.20) (“the First Specific Directive”) concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection.

2. The principal Regulations enable a manufacturer to apply to an appropriate certification body appointed under those Regulations for a certificate of conformity attesting that the electrical equipment, the subject of the application, conforms to the harmonised standards as defined in those Regulations. Regulation 2(2) of these Regulations extends the definitions of the First Specific Directive in the principal Regulations bringing into effect updated harmonised standards.

3. In respect of electrical equipment to which Council Directive 76/117/EEC (OJ No. L24, 30.1.76, p.45) (“the Framework Directive”) applies, regulation 2(3) provides that the provisions of regulation 12 in the principal Regulations (transitional provisions) in respect of such equipment shall cease to have effect; regulation 12 will, however, continue to apply to electrical equipment to which Council Directive 82/130/EEC (OJ No. L59, 2.3.82, p.10) (“the Gassy Mines Directive”) applies and to which the principal Regulations also relate.

4. Regulation 2(4) adds a new regulation 12A which substitutes the following transitional arrangements in respect only of electrical equipment to which the Framework Directive applies (paragraph (1)),—

- (a) paragraph (2) enables a manufacturer of electrical equipment which applies to a certification body for a certificate of conformity to have that equipment certified by reference to the harmonised standards in the principal Regulations which are in force immediately before the coming into force of these Regulations (in these Regulations referred to as “the unamended Regulations”). In that case the application is treated as if it had been made under the unamended Regulations. Paragraph (3) provides that applications for a certificate of conformity or for review before the coming into force of these Regulations shall continue to be dealt with under the unamended Regulations;
- (b) however, a certification body may not issue a certificate of conformity under either paragraph (2) or (3) after 30th September 1998 (paragraph (4));
- (c) paragraph (5) provides that certificates of conformity issued before 30th September 1998, irrespective of whether they were issued before, on or after the coming into force of these Regulations, shall be regarded as in force for the purposes of regulation 11 (use of distinctive Community mark), subject to regulation 6 (withdrawal of certificate), until 1st July 2003; and
- (d) paragraph (6) preserves the position in respect of certificates of conformity issued in accordance with the transitional provisions of regulation 12 of the principal Regulations (as in force immediately before 26th May 1995) but includes provisions similar to those in paragraph (5) as regards the effectiveness of such certificates until 1st July 2003.

5. Further these Regulations amend the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (S.I. 1996/192) to include reference to them

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in its Schedule 1 (revocation of regulations) to give effect to their revocation with effect from 1st July 2003.