

2005 No. 830

HEALTH AND SAFETY

**The Equipment and Protective Systems Intended for Use in
Potentially Explosive Atmospheres (Amendment) Regulations
2005**

<i>Made</i> - - - -	<i>20th March 2005</i>
<i>Laid before Parliament</i>	<i>24th March 2005</i>
<i>Coming into force</i> - -	<i>1st May 2005</i>

The Secretary of State, being a Minister designated (a) for the purposes of section 2(2) of the European Communities Act 1972 (b) in relation to measures relating to equipment and protective systems intended for use in potentially explosive atmospheres, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations 2005 and shall come into force on 1st May 2005.

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

2. The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (c) are hereby amended as follows:—

- (a) in regulation 2(2), in the definition of “harmonised standard” for the words from “Council Directive 83/189/EEC” to “technical standards and regulations”, there shall be substituted the words “Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (d)”;
- (b) for regulation 11, there shall be substituted—

“11 For the purposes of these Regulations, a notified body is a body which has been appointed to carry out one or more of the conformity assessment procedures specified in Article 8 of the ATEX Directive and referred to in regulation 10 above and which has been—

- (a) appointed as a notified body in Great Britain pursuant to regulation 12 below;

(a) S.I. 1995/751.

(b) 1972 c.68.

(c) S.I. 1996/192, as amended by S.I. 2001/3766; there is another amending instrument but it is not relevant.

(d) OJ No. L204, 21.7.98, p.37; Directive 98/34/EC has been amended by Directive 98/48/EC of the European Parliament and of the Council (OJ No. L217, 5.8.98, p.18).

- (b) appointed as a notified body in Northern Ireland;
- (c) appointed by a member State other than the United Kingdom; or
- (d) recognised for the purpose of carrying out the relevant procedure by inclusion in a mutual recognition agreement, relating to the ATEX Directive, or a similar agreement (including a Protocol to the European Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the European Community and a State other than a member State,

and in the case of (a), (b) and (c) above has been notified by the member State concerned to the Commission and the other member States pursuant to Article 9(1) of the ATEX Directive.”; and

(c) for regulation 17, there shall be substituted—

“17 A person guilty of an offence under regulation 16 above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment 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.”.

Consequential amendment of the Provision and Use of Work Equipment Regulations 1998

3. In the second column of Schedule 1 to the Provision and Use of Work Equipment Regulations 1998 (a), relating to the entry for the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 in the first column, for the reference to “S.I. 1996/192” there shall be substituted “S.I. 1996/192, amended by S.I. 1998/81, 2001/3766, 2005/830”.

20th March 2005

Sainsbury of Turville
Parliamentary under Secretary of State for
Science and Innovation
Department of Trade and Industry

(a) S.I. 1998/2306 as amended by S.I. 2002/2174.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996 (S.I. 1996/192), as amended by S.I. 1998/81 (which is not relevant to this instrument) and S.I. 2001/3766, (the “1996 Regulations”). The 1996 Regulations implemented, in Great Britain, Directive 94/9/EC of the European Parliament and the Council on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres.

These Regulations

- (a) amend the definition of “harmonised standard” to reflect the consolidation of Council Directive 83/189/EEC (as amended) in Directive 98/34/EC (OJ No. L204, 21.7.98, p.37) (regulation 2(a));
- (b) substitute wording for regulation 11 of the 1996 Regulations to reflect the recognition of notified bodies under various agreements (regulation 2(b)); and
- (c) increase the penalty (in regulation 17) for certain offences created by the 1996 Regulations (regulation 2(c)).

These Regulations also make a consequential amendment to other legislation (regulation 3).

As these Regulations only effect amendments required to regularise certain provisions of the 1996 Regulations and other legislation as well as to amend enforcement provisions of the 1996 Regulations, it has not been necessary to prepare a Transposition Note for this instrument.

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