
STATUTORY INSTRUMENTS

2023 No. 861

**The Equipment and Protective Systems
Intended for Use in Potentially Explosive
Atmospheres Regulations (Northern Ireland) 2017
(Amendment) (Northern Ireland) Regulations 2023**

Amendments to Part 5 (Market Surveillance and Enforcement)

7.—(1) In regulation 56—

(a) in paragraph (3), for “inform the European Commission, Great Britain and the other Member States” substitute “notify the Secretary of State”;

(b) after paragraph (3) insert—

“(3A) Subject to paragraph (3B), where the Secretary of State receives a notice under paragraph (3) or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to Northern Ireland, the Secretary of State must inform the European Commission and other relevant states of—

(a) the results of the evaluation; and

(b) the actions which the Executive has required the economic operator to take.

(3B) Paragraph (3A) does not require the Secretary of State to inform the European Commission or other relevant states where the lack of conformity extends only to any of England or Wales or Scotland.”;

(c) after paragraph (5) insert—

“(5A) Where the Secretary of State receives a notice under paragraph (5), the Secretary of State must notify the European Commission and other relevant states of the measures taken without delay.”; and

(d) in paragraph (6), for “notice in paragraph (5) shall” substitute “notices in paragraphs (5) and (5A) must”.

(2) In regulations 56(5), 57(1) and 58(2), for “European Commission, Great Britain and the other Member States” substitute “Secretary of State”.

(3) In regulation 57—

(a) in paragraph (1)—

(i) for “Member State” in the first place in which it occurs substitute “relevant state”;

(ii) at the end of sub-paragraph (a) insert “and”;

(iii) in sub-paragraph (b), for “product; and” substitute “product.”;

(iv) omit sub-paragraph (c);

(b) after paragraph (1) insert—

“(1A) Where another relevant state has initiated the procedure under Article 35 of the ATEX Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other relevant states of—

- (a) any measures taken in Northern Ireland by the Executive in respect of the product;
- (b) any additional information which the Executive has at its disposal relating to the lack of conformity of the product.”;
- (c) in paragraphs (2) and (3), for “Member State” substitute “relevant state”;
- (d) in paragraph (2), after “are taken” insert “in Northern Ireland”;
- (e) in paragraph (4), for “inform the European Commission” substitute “notify the Secretary of State”; and
- (f) after paragraph (4) insert—
 - “(4A) Where the Secretary of State receives a notice under paragraph (4), the Secretary of State must inform the European Commission of the action taken in respect of Northern Ireland.”.
- (4) After regulation 58(2) insert—
 - “(2A) Where the Secretary of State receives a notice under paragraph (2), the Secretary of State must notify the European Commission and the other relevant states immediately.”.
- (5) After regulation 59(1)(a) insert—
 - “(aa) the UK(NI) indication—
 - (i) has not been affixed, in contravention of regulation 41A; or
 - (ii) has been affixed other than in accordance with regulation 41A;”.
- (6) In regulation 61(1), for “35 or 36” substitute “35, 36 or 41A”.