STATUTORY RULES OF NORTHERN IRELAND

2008 No. 422

HEALTH AND SAFETY

The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations (Northern Ireland) 2008

Made - - - -	*20th October 2008*
Coming into operation	*1st December 2008*

The Department of Enterprise, Trade and Investment(**1**), makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**2**). The Department has been designated for the purposes of that section in relation to measures relating to equipment and protective systems intended for use in potentially explosives atmospheres(**3**) and measures relating to consumer protection(**4**).

Citation and commencement

1. These Regulations may be cited as the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 1st December 2008.

Interpretation

2.—(1) In these Regulations—

(a) the "ATEX Directive" means Directive 94/9/EC of the European Parliament and the Council on the approximation of the laws of Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres(**5**); and

(b) the "principal Regulations" means the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 1996(**6**).

(**1**) Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services, *see*S.I. 1982/846 (N.I. 11), Article 3

(**2**) 1972 c. 68: the enabling powers conferred by section 2(2) were extended by section 1 of the European Economic Area Act 1993 (c. 51). Section 2(2) was further amended by section 27(1), and paragraphs 2 and 3 by section 27(2), of the Legislative and Regulatory Reform Act 2006 (c. 51)

(**3**) S.I. 1995/751

(**4**) S.I. 1993/2661, which superseded S.I. 1972/1811 in relation to specific areas of consumer protection

(**5**) O.J. No. L100, 19.4.94, p.1, as amended by corrigenda, O.J. No. L21, 26.1.2000, p 42 and O.J. No. L304, 5.12.2000, p.19

(**6**) S.R. 1996 No. 247, as amended by S.R. 1998 No. 77 and S.R. 1999 No. 125

(2) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (16).

(2) In regulation 2 (Interpretation)—

(a) in paragraph (2)—

(i) in the definition of "harmonized standard" for "Council Directive No.83/189/EEC of 28th March 1983", substitute "Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998(**8**)";

(ii) in the definition of "responsible person"—

(aa) after the first occurrence of "on the market", insert "or puts that equipment, protective system or device into service"; and

(bb) after the second occurrence of "on the market", insert "or puts it into service"; and

(b) after paragraph (4), add the following paragraph—

"(5) For the purposes of these Regulations, equipment, protective systems or devices shall not be regarded as having been put into service where a person—

(a) being a manufacturer of equipment, protective systems or devices for his own use; or

(b) having imported equipment, protective systems or devices from a country or territory outside the Community for his own use,

puts that equipment, protective system or device into service otherwise than in the course of a business.".

(3) In regulation 3(2) (Equipment, protective systems, devices and components)—

(a) in sub-paragraph (a), for "or the processing of material" substitute "and the processing of material, as the case may be,"; and

(b) for sub-paragraph (b) substitute—

"(b) "protective systems" means devices other than components of equipment which are intended to halt incipient explosions immediately or limit the effective range of an explosion or both, as the case may be, and which systems are separately placed on the market for use as autonomous systems;".

(4) In regulation 6(1) (General duty relating to the placing on the market of equipment, protective systems or devices by a responsible person), after "place on the market", insert "or put into service".

(5) In regulation 8(2)(b) (General duty relating to the placing on the market of components by a responsible person), for "certificate" substitute "written attestation".

(6) In regulation 9 (Exceptions to placing on the market in respect of certain equipment, protective systems, devices and components), for "device" where it first appears substitute "or device shall not be regarded as being placed on the market and put into service".

(7) For regulation 11 (Notified bodies), substitute—

(**7**) 1954 c. 33 (N.I.)

(**8**) O.J. 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 (O.J. No. L217, 5.8.98, p.18)