1990 No. 284

HEALTH AND SAFETY

Electrical Equipment for Explosive Atmospheres (Certification) Regulations (Northern Ireland) 1990

Made . . . . . *30th July 1990*

Coming into operation . . *3rd September 1990*

The Department of Economic Development, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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 exercise of the powers conferred on it by that section, and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electrical Equipment for Explosive Atmospheres (Certification) Regulations (Northern Ireland) 1990, and shall come into operation on 3rd September 1990.

Interpretation

2.—(1) In these Regulations—

"certification body" shall be construed in accordance with regulation 3;

"certificate of conformity" means the certificate referred to in Article 8 of the Framework Directive except that in relation to the electrical equipment designed for work underground in mines susceptible to firedamp it means the certificate referred to in Article 8 of the Gassy Mines Directive;

"electrical equipment" means any constituent part of an electrical installation or any other electrical device to which the Framework Directive or the Gassy Mines Directive applies;

"the First Specific Directive" means Council Directive No. 79/196/EEC(**c**) concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection, as adapted to technical progress by Commission Directives No. 84/47/EEC(**d**) and 88/571/EEC(**e**);

(**a**) S.I. 1972/1811

(**b**) 1972 c. 68: section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

(**c**) O.J. No. L43, 20.2.79, p. 20

(**d**) O.J. No. L31, 2.2.84, p. 19

(**e**) O.J. No. L311, 17.11.88, p. 46

"the Framework Directive" means Council Directive No. 76/117/EEC(**a**) concerning electrical equipment for use in potentially explosive atmospheres;

"the Gassy Mines Directive" means Council Directive No. 82/130/EEC(**b**) concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp, as adapted to technical progress by Commission Directive No. 88/35/EEC(**c**);

"harmonised standards" means the standards specified in Annex 1 of the First Specific Directive except that in relation to the electrical equipment designed for work underground in mines susceptible to firedamp it means the standards specified in Annex A (amended in accordance with Annex B) to the Gassy Mines Directive;

"inspection certificate" means the certificate referred to in Article 9 of the Framework Directive except that in relation to the electrical equipment designed for work underground in mines susceptible to firedamp it means the certificate referred to in Article 9 of the Gassy Mines Directive;

"manufacturer" means a manufacturer of electrical equipment; and

"Member State" means a Member State of the European Communities other than the United Kingdom.

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

Appointment of certification body

3. The Department of Economic Development (hereinafter referred to as "the certification body") is hereby appointed for the following purposes, that is to say:—

(*a*) of assessing and testing electrical equipment to determine whether it conforms to the appropriate harmonised standards, and of issuing certificates of conformity;

(*b*) of asssessing and testing electrical equipment which differs from harmonised standards to determine whether it offers a degree of safety at least equivalent to those standards, and of issuing inspection certificates;

(*c*) of carrying out surveillance of the manufacture of electrical equipment to ascertain whether the equipment conforms to the type of equipment in respect of which a certificate of conformity or, as the case may be, an inspection certificate has been issued; and

(*d*) of doing such other things as may be required or permitted by or in connection with these Regulations.

(a) O.J. No. L24, 30.1.76, p. 45
(b) O.J. No. L59, 2.3.82, p. 10
(c) O.J. No. L20, 26.1.88, p. 28
(d) 1954 c. 33 (N.I.)

Certificates of conformity

4.—(1) A manufacturer may apply in writing to the certification body for a certificate of conformity attesting that the electrical equipment which is the subject of the application conforms to the appropriate harmonised standards.

(2) An application under paragraph (1) shall be accompanied by such information and documents as the certification body may reasonably require. Samples of the equipment to which the application relates and such other information and documents as the certification body may reasonably require shall be provided by the manufacturer when so requested.

(3) The certification body shall on receipt of—

(*a*) an application for a certificate of conformity in relation to electrical equipment; and

(*b*) such fee as may be agreed between itself and the manufacturer of that equipment or the written agreement of that manufacturer to pay that fee,

carry out or cause to be carried out such checks, examinations and tests as are required for it to determine whether the electrical equipment conforms to the appropriate harmonised standards.

(4) If, as a result of the checks, examinations and tests carried out on any electrical equipment in accordance with paragraph (3), the certification body determines that the equipment conforms to the appropriate harmonised standards, it shall issue to the manufacturer a certificate of conformity attesting that it does so, and shall draw up a report of its determination.

(5) The certificate of conformity may be issued subject to such conditions as the certification body may reasonably stipulate.

Inspection certificates

5.—(1) A manufacturer may apply in writing to the certification body for an inspection certificate attesting that the electrical equipment to which the application relates offers a degree of safety at least equivalent to that of the appropriate harmonised standards.

(2) An application under paragraph (1) shall be accompanied by such information and documents as the certification body may reasonably require. Samples of the equipment to which the application relates and such other information and documents as the certification body may reasonably require shall be provided by the manufacturer when so requested.

(3) The certification body shall, on receipt of—

(*a*) an application for an inspection certificate in relation to electrical equipment; and

(*b*) such fees as may be agreed between itself and the manufacturer of that equipment, or the written agreement of that manufacturer to pay that fee,

carry out or cause to be carried out such checks, examinations and tests as are required for it to determine whether the electrical equipment offers a degree of safety at least equivalent to that of the appropriate harmonised standards.

(4) If, as a result of the checks, examinations and tests carried out on any electrical equipment in accordance with paragraph (3), the certification body determines that the equipment offers a degree of safety at least equivalent to that of the appropriate harmonised standards, it shall, in the case of electrical equipment for use in mines, draw up a report of its determination, and in every case proceed in accordance with paragraphs (5) to (7).

(5) The certification body shall send the specifications of the equipment, the inspection records, the draft inspection certificate, and, in the case of electrical equipment for use in mines, the report of its determination, to each Member State or to their certification bodies (or both); which, within 4 months of receiving those documents, may submit comments, ask for additional inspections, and, where appropriate, refer the matter to the Committee set up under Article 6 of the Framework Directive for proceedings in accordance with Article 7 of that Directive, or, in the case of electrical equipment for use in mines, to the Committee referred to in Article 6 of the Gassy Mines Directive for proceedings in accordance with Article 7 of that Directive (in either case hereinafter referred to as "the Committee").

(6) If no Member State requests that the matter be referred to the Committee by the end of the period specified in paragraph (5), the certification body, after considering any comments submitted in accordance with the procedures specified in that paragraph, and if the results of any additional inspections requested are satisfactory, shall issue the inspection certificate.

(7) If a Member State requests that the matter be referred to the Committee, the certification body shall not issue an inspection certificate unless it has received a favourable opinion from the Committee.

(8) The inspection certificate may be issued subject to such conditions as the certification body may reasonably stipulate.

Refusal and withdrawal of certificates of conformity and inspection certificates

6.—(1) Where the certification body determines that it cannot issue a certificate of conformity or an inspection certificate in respect of any electrical equipment, it shall forthwith send the manufacturer of that equipment a notice in writing of that determination.

(2) The certification body may withdraw a certificate of conformity or inspection certificate relating to any electrical equipment if it has reason to believe that—

(*a*) the certificate should not have been issued;

(*b*) the conditions to which the certificate is subject have not been complied with within such period (if any) as the certification body has reasonably specified;

(*c*) the electrical equipment distributed by the manufacturer in pursuance of the certificate is not in conformity with the certified design; or

(*d*) the manufacturer of the electrical equipment to which the certificate relates has, without reasonable cause, contravened the requirements of regulation 10 (access to place of manufacture).