

BIS | Department for Business
Innovation & Skills

**THE SUPPLY OF MACHINERY
(SAFETY) (AMENDMENT)
REGULATIONS 2011**

Government Guidance Notes

NOVEMBER 2011

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About this Guidance

This guide is addressed to the manufacturers of new pesticide application equipment which is placed on the UK market after 15 December 2011 and the users of such equipment, which are mainly farmers and the amenities sector.

It clearly explains the requirements of the legislation.

This guidance cannot cover every situation and of course it may be necessary to consider the relevant legislation carefully to see how it applies in your circumstances. However, if you do follow the guidance it will help you to understand how to comply with the law.

This guidance has been designed to comply with the “Code of Practice on Guidance on Regulation 2009”. This was published in October 2009 and a copy can be downloaded from the BIS website at www.bis.gov.uk.

Background

This guidance relates to the UK implementation of Directive 2009/127/EC amending Directive 2006/42/EC with regard to machinery for pesticide application.

The Directive completes the package of legislative measures of the European Commission's Thematic Strategy on the Sustainable use of Pesticides and was adopted in 2009. This strategy stems from an overarching aim of the European Parliament and the European Council in July 2002 to further reduce the negative impacts on human health and the environment from the use of pesticides. Whilst recognizing the importance of pesticides to crop protection it called for a more sustainable use of pesticides in the future.

Directive 2009 /127/EC amends Directive 2006/42/EC (the Machinery Directive) which sets out the essential health and safety requirements (EHSRs) that machinery within its scope must meet before it can be placed, and/or put into service, on the EU Market. The Machinery Directive is a Single Market Directive with common requirements across the whole EU. It covers a wide range of machinery for all purposes and provides essential health and safety requirements to ensure that the machinery is designed and constructed with the safety of users and those working around it in mind. The Machinery Directive is implemented into UK law by the Supply of Machinery (Safety) Regulations 2008.

The 2009 Directive deals with machinery for pesticide application. Within the context of this directive 'pesticide(s)' means 'plant protection product(s)' within the meaning of Article 2(1) of Regulation (EC) No, 1107/2009. These are active substances or preparations containing one or more active substances, put up in the form in which it is supplied to the user intending to:

- protect plants or plant products against all harmful organisms or prevent the action of such organisms (for example agricultural/horticultural fungicides and insecticides);
- influence the life processes of plants, other than as a nutrient (for example as a growth regulator);
- preserve plant products, in so far as such substances or products are not subject to provisions of EU law on preservatives;
- destroy undesired plants or destroy parts of plants or check or prevent the undesired growth of plants (for example herbicides);
- checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants

The Directive does not change the definition of machinery in the Machinery Directive. What it does is to add an obligation for manufacturers and importers of pesticide application machinery to ensure the protection of the environment in addition to their existing obligation to protect the safety and health of workers and users of the machinery. This is done by introducing additional essential environmental protection requirements for new pesticide application equipment. These include requirements for machinery for pesticide application to be designed and constructed so that its operation does not damage the environment.

The new requirements apply to a large range of machinery used to apply pesticides: from the large sprayers often used by the farming and horticultural industries; through to the smaller equipment often used in the amenity sector; to small portable equipment used by gardeners. The equipment can be carried by workers or mounted on vehicles such as tractors, ATVs, aircraft and boats. Pesticides are typically applied to: fields, orchards, glasshouses, grassland, nursery stock, forestry, products in storage, seed being treated prior to planting, transport infrastructure, public spaces, industrial sites, sporting facilities and in private gardens.

The amendment means that, for the first time, the Machinery Directive will also cover certain environmental protection requirements.

The 2009 Directive was published in the Official Journal of the EU on 25 November 2009. The new requirements set out in Directive 2009/127/EC will become applicable on 15 December 2011. The relevant provisions of the Directive will be transposed into UK law by the Supply of Machinery (Safety) (Amendment) Regulations 2011.

More information on the amendment can be found on the European Commission's page:

http://ec.europa.eu/enterprise/sectors/mechanical/documents/legislation/machinery/amendment/index_en.htm

The Supply of Machinery (Safety) (Amendment) Regulations 2011 – An overview

The Regulations implement Directive 2009/127/EC into UK law and amend the Supply of Machinery (Safety) Regulations 2008 (The Principal Regulations).

The Regulations introduces additional essential environmental protection requirements for new pesticide application equipment. These include requirements for machinery for pesticide application to be designed and constructed so that its operation does not damage the environment. Further details of these new requirements are given on Page 9 of this guidance.

The new requirements apply to machinery used to apply plant protection products.

The Regulations also make some additional minor amendments to the Principal Regulations. These are to:

- remove a requirement on the Secretary of State to publish information in relation to conformity assessment bodies as this information is already published by the European Commission on its NANDO (New Approach Notified and Designated Organisations) website;
- include a statutory review provision requiring the Secretary of State to review the operation and effect of the Principal Regulations and publish a report within five years of 1st December 2009 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Principal Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Principal Regulations or to amend them;
- make some consequential amendments to some Northern Ireland Statutory Rules relating to the revocation of the Supply of Machinery (Safety) Regulations 1992 by the Principal Regulations in 2008.

In addition, the Regulations remove a provision in relation to the duties of those putting machinery into service which duplicated obligations imposed under health and safety legislation. Further details of this are given on Page 10.

Scope of the Regulations

The definition of machinery for pesticide application

As mentioned earlier in this guidance, the 2011 Regulations do not change the definition of machinery in the Principal Regulations. Instead they add an obligation to ensure the protection of the environment in addition to the existing obligations to protect the safety and health of users of machinery and property.

The 2009 Directive has the following in its preamble - "Machinery for pesticide application includes self-propelled, towed, vehicle-mounted, semi-mounted and airborne machinery,

as well as stationary machinery intended for pesticide application, both for professional and non-professional use. It also includes powered or manually-operated portable and handheld machinery with a pressure chamber."

Machinery is defined in the Principal Regulations as:

- (i) an assembly, fitted with or intended to be fitted with a drive system other than directly applied human or animal effort, consisting of linked parts or components, at least one of which moves, and which are joined together for a specific application;
- (ii) an assembly as referred to in sub-paragraph (i), missing only the components to connect it on site or to sources of energy and motion;
- (iii) an assembly as referred to in sub-paragraph (i) or (ii), ready to be installed and able to function as it stands only if mounted on a means of transport, or installed in a building or structure;
- (iv) assemblies of machinery as referred to in sub-paragraphs (i) (ii) and (iii) or partly completed machinery, which, in order to achieve the same end, are arranged and controlled so that they function as an integral whole;
- (v) an assembly of linked parts or components, at least one of which moves and which are joined together, intended for lifting loads and whose only power source is directly applied human effort.

The definition also covers "interchangeable equipment" - this means a device which, after the putting into service of machinery or of a tractor, is assembled with that machinery or tractor by the operator himself in order to change its function or attribute a new function, in so far as this equipment is not a tool".

For further guidance on the definition of machinery please refer to the European Commission's detailed guidance which can be found on the following link:

http://ec.europa.eu/enterprise/sectors/mechanical/files/machinery/guide-appl-2006-42-ec-2nd-201006_en.pdf

The Department's guidance notes of September 2009 on the Principles Regulations may also be helpful. This can be found on the following link

<http://www.bis.gov.uk/files/file52968.pdf>

Further details of the Machinery Directive can be found on the BIS website on the following link:

<http://www.bis.gov.uk/policies/business-sectors/environmental-and-product-regulations/product-regulation/ec-product-directives/machinery-directive-2006-42-ec>

Modifications to existing machinery for pesticide application

As explained earlier in this guidance, the amendments made by the Regulations apply to manufacturers of new pesticide equipment. This means equipment that falls within the definition of machinery and is placed on the EEA market or put into service from the date when the amendments take effect, i.e. from 15 December 2011.

It should be borne in mind that whilst there are no specific obligations on users of such equipment (e.g. farmers) under the Principal Regulations as amended by the new Regulations in certain circumstances a user may unwittingly become the “manufacturer” of the pesticide equipment if they make alterations to it which significantly alter the performance, function, or original specification, of the equipment.

If modified significantly a product may become a “new product” in which case the person who made the modifications will have to comply with the essential new requirements as specified in the Regulation as regards the new product, together with all the other obligations of a manufacturer (e.g. CE marking) before using it or selling it on. The European Commission’s “Blue Guide” provides guidance on what is considered a “new product”. Page 15 of the guide states:

“A product, which has been subject to important changes that aim to modify its original performance, purpose or type after it has been put into service, may be considered as a new product. This has to be assessed on a case-by case basis and, in particular, in view of the objective of the directive and the type of products covered by the directive in question. Where a rebuilt or modified product is considered as a new product, it must comply with the provisions of the applicable directives when it is placed on the market and put into service. This has to be verified – as deemed necessary according to the risk assessment – by applying the appropriate conformity assessment procedure laid down by the directive in question. In particular, if the risk assessment leads to the conclusion that the nature of the hazard or the level of risk has increased, then the modified product should normally be considered as a new product. The person who carried out important changes to the product is responsible for verifying whether or not it should be considered as a new product. Products which have been repaired (for example following a defect) without changing the original performance, purpose or type, are not considered as new products according to New Approach directives”.

The Blue Guide can be found on the following link:

http://ec.europa.eu/enterprise/policies/single-market-goods/documents/blue-guide/index_en.htm

See also paragraphs 82 and 72 of the European Commission’s [Guide to application of Directive 2006/42/EC – 2nd Edition - June 2010](#) which can be found using this link:

http://ec.europa.eu/enterprise/sectors/mechanical/files/machinery/guide-appl-2006-42-ec-2nd-201006_en.pdf

Essential Environmental Protection Requirements

The person responsible for placing new machinery for pesticide application on the EU market or putting it into service for the first time after 15 December 2011 (i.e. the manufacturer and/or importer) must ensure that it complies with all of the new essential

environmental protection requirements, in addition to any other existing essential health and safety requirements of the Machinery Directive which apply to the product.

In general terms, in addition to the existing requirements, the responsible person in relation to machinery for pesticide application is required to ensure an assessment is carried out of the risks of unintended exposure of the environment to pesticides and then design and construct the machinery taking into account the results of that risk assessment so that the machinery can be operated, adjusted and maintained without unintended exposure of the environment to pesticides. More specifically, machinery for pesticide application must be designed and constructed:

- to facilitate precise filling and ensure complete and easy emptying of pesticide, while preventing spillage and avoiding water source contamination;
- to ensure pesticide is deposited on target areas and where appropriate an even and homogenous deposition must be ensured;
- to prevent losses while the pesticide applications function is stopped;
- to facilitate cleaning;
- to facilitate the changing of worn parts; and
- to facilitate inspections by being able to connect the necessary measuring instruments.

The requirements also relate to the controls, monitoring, application rate and instructions of the pesticide application equipment. In addition, the responsible person (i.e. manufacturer/importer) must perform appropriate tests for each type of machinery concerned in relation to application rates and the drift and distribution of pesticide, or have such tests performed. Nozzles, filters and strainers must be marked so that their type and size can be clearly identified for easy replacement. Where appropriate, the machinery must be fitted with a specific mounting on which the operator can place the name of the pesticide in use and detailed instructions must be provided to relation to precautions to be taken by users, and restrictions on pesticides to be used with the equipment.

Responsible Persons

A responsible person is the manufacturer or the manufacturer's authorised representative. "Manufacturer" is defined in the Principal Regulations as follows:

a) a person who designs or manufactures that machinery or partly completed machinery:

i) with a view to its being placed on the market in the EEA under that person's own name or trademark or

(ii) for that person's own use in an EEA state; or

(b) if there is no such person (e.g. the machine was designed and manufactured outside the EU and was not intended for the EEA - not CE marked) the person who

places that machinery or partly completed machinery on the market or puts it into service.

The Regulations revoke regulation 9 of the Principal Regulations. Regulation 9 prohibits persons who are not “responsible persons”, e.g. end users, from placing machinery on the market or putting it into service unless it meets all the essential health and safety requirements of the Machinery Directive and is safe. This in effect places an obligation on users who are not “responsible persons” to satisfy themselves that machinery they have purchased is safe before they start to use it. We believe that this places a burden on end users which goes beyond the minimum requirements of the Machinery Directive. However, regulation 9 largely duplicated a provision in the Provision and Use of Work Equipment Regulations 1998 (SI 1998/2306) which implemented the Use of Work Equipment Directive 2009/104/EC and so the duty remains through those Regulations.

Enforcement

Enforcement of the amendment would be undertaken by the HSE, the Northern Ireland HSE, and by Local Authorities. These bodies already enforce the Machinery Directive in the UK (transposed into UK law by the Principal Regulations).

Definitions

Placing on the market

In the Principal Regulations:

a) references to placing machinery or partly completed machinery on the market are references to making it available in the EEA -

(i) for the first time;

(ii) with a view to distribution or use, whether by the person making it available or another; and

(iii) whether for reward or free of charge; and

b) references to putting any machinery or partly completed machinery into service are references to the first time that it is used for its intended purpose in an EEA state.

More detailed guidance on placing on the market in the context of the Machinery Directive can be found in the European Commission’s Guide to the application of Directive 2006/42/EC – 2nd Edition – June 2010 which can be found using this link:

http://ec.europa.eu/enterprise/sectors/mechanical/files/machinery/guide-appl-2006-42-ec-2nd-201006_en.pdf

Manufacturer

Please see the description given on Page 10 of this guidance.

Responsible Persons

Please see the description given on Page 10 of this guidance.

Entry into force

The Regulations come into force on 15 December 2011.

Further Sources of advice

HSE (to report an incident)

For further sources of advice please access the following link for HSE addresses/fax numbers: <http://www.hse.gov.uk/contact/maps/index.htm>

For general enquiries regarding the control of pesticides contact HSE at the following email address: pesticides@hse.gsi.gov.uk

HSE Northern Ireland

There are two main telephone numbers for HSENI. They are as follows:-

Tel: 02890 243249 Helpline: 0800 0320 121 Email: mail@hse.gov.uk

NFU

National Farmers' Union

Agriculture House

Stoneleigh Park

Warwickshire

CV8 2TZ

Tel: 02476 858500

Reference Documents

HSE's Codes of Practice for using plant protection products can be found under 'Pesticides' at this link: <http://www.hse.gov.uk/agriculture/faqs.htm#c4>

Contact points for further information

Department for Business, Innovation and Skills

Email address for product regulations queries: Prodregs@bis.gsi.gov.uk

Business Link

The Business Link website provides broad advice on compliance related issues. Their website address can be found at:

<http://www.businesslink.gov.uk/bdotg/action/home>

ANNEX A STATUTORY INSTRUMENT ON THE PESTICIDE AMENDMENT

2011 No. 2157

HEALTH AND SAFETY

The Supply of Machinery (Safety) (Amendment) Regulations 2011

<i>Made</i> - - - -	<i>5th September 2011</i>
<i>Laid before Parliament</i>	<i>7th September 2011</i>
<i>Coming into force</i> - -	<i>15th December 2011</i>

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to machinery, including component parts of machines, components or equipment to be attached to or used with machines, and sub-assemblies to be incorporated into or assembled with machines.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Supply of Machinery (Safety) (Amendment) Regulations 2011 and come into force on 15th December 2011.

Amendment of the Supply of Machinery (Safety) Regulations 2008

2. The Supply of Machinery (Safety) Regulations 2008⁽³⁾ are amended as set out in regulations 3 to 8.

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)(a), after “Directive 95/16/EC” insert “, as amended by Directive 2009/127/EC of the European Parliament and of the Council amending Directive 2006/42/EC with regard to machinery for pesticide application⁽⁴⁾”.

(3) In paragraph (2)—

(a) for the definition of “essential health and safety requirements” substitute—

““essential health and safety requirements” means the requirements set out in Annex I (Part 1 of Schedule 2), being requirements relating to the design and construction of the products to which these

⁽¹⁾ S.I. 2007/1679.

⁽²⁾ 1972 c. 68; section 2(2) was amended by s 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by the Schedule to the European Union (Amendment) Act 2008 (c. 7).

⁽³⁾ S.I. 2008/1597, as amended by SI 2011/1043.

⁽⁴⁾ OJ No L 310, 25.11.2009, p.29.

Regulations apply to ensure a high level of protection of the health and safety of persons and, where appropriate, of domestic animals and property and, in the case of machinery referred to in section 2.4 of Annex I, of the environment;”;

(b) in the definition of “safe”, at the end insert—

“or

(c) in the case of machinery referred to in section 2.4 of Annex I (Part 1 of Schedule 2), endanger the environment;”.

4. Regulation 9 is revoked.

5. Paragraph (10) of regulation 16 is revoked.

6. In regulation 22(1)(a) omit “9”.

7. After regulation 28 insert—

“Review

29.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “Review period” means—

- (a) the period of five years beginning with 1st December 2009, and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.”.

8. Part 1 of Schedule 2 (Annex I: Essential health and safety requirements relating to the design and construction of machinery) is amended as set out in the Schedule to these Regulations.

Amendment of Northern Ireland Statutory Rules

9.—(1) The Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999⁽⁵⁾ are amended as set out in paragraph (2).

(2) In regulation 2—

- (a) omit the definition of “the 1992 Regulations”; and
- (b) in the definition of “EC declaration of conformity”, for sub-paragraph (a) substitute—

“(a) section A of part 1 of Part 2 of Schedule 2 to the Supply of Machinery (Safety) Regulations 2008;”

⁽⁵⁾ S.R. 1999 No. 304, to which there are amendments not relevant to these Regulations.

(3) The Provision and Use of Work Equipment Regulations (Northern Ireland) 1999⁽⁶⁾ are amended as set out in paragraph (4).

(4) In Schedule 2—

- (a) omit the entry relating to the Supply of Machinery (Safety) Regulations 1992⁽⁷⁾; and
- (b) at the end insert a new entry as follows—
 - (i) in the first column: “The Supply of Machinery (Safety) Regulations 2008”; and
 - (ii) in the second column: “S.I. 2008/1597, amended by S.I. No. 2011/2157”.

5th September 2011

Mark Prisk
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

THE SCHEDULE

Regulation 8

AMENDMENTS TO PART 1 OF SCHEDULE 2 TO THE SUPPLY OF MACHINERY (SAFETY) REGULATIONS 2008

1. For point 4 of the General Principles at the start of Annex I (Essential health and safety requirements relating to the design and construction of machinery) substitute—

“4. This Annex is organised in several parts. The first one is of general scope and applicable to all kinds of machinery. The other parts refer to certain kinds of more specific hazards. Nevertheless, it is essential to examine the whole of this Annex in order to be sure of meeting all the relevant essential requirements. When machinery is being designed, the requirements of the general part and the requirements of one or more of the other parts shall be taken into account, depending on the results of the risk assessment carried out in accordance with point 1 of these General Principles. Essential health and safety requirements for the protection of the environment are applicable only to the machinery referred to in section 2.4.”

2. For the first, unnumbered, paragraph of section 2 of Annex I (Supplementary essential health and safety requirements for certain categories of machinery) substitute—

“Foodstuffs machinery, machinery for cosmetics or pharmaceutical products, hand-held and/or hand-guided machinery, portable fixing and other impact machinery, machinery for working wood and material with similar physical characteristics and machinery for pesticide application must meet all the essential health and safety requirements set out in this section (see point 4 of the General Principles at the start of this Annex).”

3. After section 2.3 insert—

“2.4. MACHINERY FOR PESTICIDE APPLICATION

⁽⁶⁾ S.R. 1999 No. 305, to which there are amendments not relevant to these Regulations.

⁽⁷⁾ S.I. 1992/3073, which was revoked by S.I. 2008/1597.

2.4.1. **Definition**

“Machinery for pesticide application” means machinery that is specifically intended for the application of plant protection products within the meaning of Article 2(1) of Regulation 1107/2009/EC of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market⁽⁸⁾ (excluding any such machinery placed on the market or put into service before 15th December 2011).

2.4.2. **General**

The responsible person in relation to machinery for pesticide application must ensure that an assessment is carried out of the risks of unintended exposure of the environment to pesticides, in accordance with the process of risk assessment and risk reduction referred to in the General Principles, point 1.

Machinery for pesticide application must be designed and constructed taking into account the results of the risk assessment referred to in the first paragraph so that the machinery can be operated, adjusted and maintained without unintended exposure of the environment to pesticides.

Leakage must be prevented at all times.

2.4.3. **Controls and monitoring**

It must be possible to easily and accurately control, monitor and immediately stop the pesticide application from the operating positions.

2.4.4. **Filling and emptying**

The machinery must be designed and constructed to facilitate precise filling with the necessary quantity of pesticide and to ensure easy and complete emptying, while preventing spillage of pesticide and avoiding the contamination of the water source during such operations.

2.4.5. **Application of pesticides**2.4.5.1. **Application rate**

The machinery must be fitted with means of adjusting the application rate easily, accurately and reliably.

2.4.5.2. **Distribution, deposition and drift of pesticide**

The machinery must be designed and constructed to ensure that pesticide is deposited on target areas, to minimise losses to other areas and to prevent drift of pesticide to the environment. Where appropriate, an even distribution and homogeneous deposition must be ensured.

2.4.5.3. **Tests**

In order to verify that the relevant parts of the machinery comply with the requirements set out in sections 2.4.5.1 and 2.4.5.2 the responsible person must, for each type of machinery concerned, perform appropriate tests, or have such

⁽⁸⁾ OJ No L 309, 24.11.2009, p.1.

tests performed.

2.4.5.4. **Losses during stoppage**

The machinery must be designed and constructed to prevent losses while the pesticide application function is stopped.

2.4.6. ***Maintenance***

2.4.6.1. **Cleaning**

The machinery must be designed and constructed to allow its easy and thorough cleaning without contamination of the environment.

2.4.6.2. **Servicing**

The machinery must be designed and constructed to facilitate the changing of worn parts without contamination of the environment.

2.4.7. ***Inspections***

It must be possible to easily connect the necessary measuring instruments to the machinery to check the correct functioning of the machinery.

2.4.8. ***Marking of nozzles, strainers and filters***

Nozzles, strainers and filters must be marked so that their type and size can be clearly identified.

2.4.9. ***Indication of pesticide in use***

Where appropriate, the machinery must be fitted with a specific mounting on which the operator can place the name of the pesticide in use.

2.4.10. ***Instructions***

The instructions must provide the following information:

- (a) precautions to be taken during mixing, loading, application, emptying, cleaning, servicing and transport operations in order to avoid contamination of the environment;
- (b) detailed conditions of use for the different operating environments envisaged, including the corresponding preparation and adjustments required to ensure the deposition of pesticide on target areas while minimising losses to other areas, to prevent drift to the environment and, where appropriate, to ensure an even distribution and homogeneous deposition of pesticide;
- (c) the range of types and sizes of nozzles, strainers and filters that can be used with the machinery;
- (d) the frequency of checks and the criteria and method for the replacement of parts subject to wear that affect the correct functioning of the machinery, such as nozzles, strainers and filters;
- (e) specification of calibration, daily maintenance, winter preparation and other checks necessary to ensure the correct functioning of the machinery;
- (f) types of pesticides that may cause incorrect functioning of the machinery;
- (g) an indication that the operator should keep updated the name of the pesticide in use on the specific mounting referred to in section 2.4.9;

- (h) the connexion and use of any special equipment or accessories, and the necessary precautions to be taken;
- (i) an indication that the machinery may be subject to national requirements for regular inspection by designated bodies, as provided for in Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009⁽⁹⁾ establishing a framework for Community action to achieve the sustainable use of pesticides;
- (j) the features of the machinery which must be inspected to ensure its correct functioning;
- (k) instructions for connecting the necessary measuring instruments.”.

⁽⁹⁾ OJ No. L 309, 24.11.2009, p. 71.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Supply of Machinery (Safety) Regulations 2008 (S.I. 2008/1597) (the “Principal Regulations”) and make consequential amendments to some Northern Ireland Statutory Rules.

Regulations 3 and 8 amend the Principal Regulations to implement Directive 2009/127/EC of the European Parliament and of the Council of 21st October 2009 (O.J. No. L 310, 25.11.2009, p.29) amending Directive 2006/42/EC with regard to machinery for pesticide application (“the 2009 Directive”). The 2009 Directive amends Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery (O.J. L 157, 9.6.2006, p. 24) (“the Machinery Directive”) to ensure that in the case of machinery for the application of pesticides the essential health and safety requirements under the Machinery Directive include requirements relating to the protection of the environment.

Regulation 3 amends the definitions of “essential health and safety requirements” and “safe” in regulation 2 of the Principal Regulations to extend their scope to include protection of the environment in the case of machinery for the application of pesticides.

Regulation 8 introduces the Schedule to these Regulations which amends Part 1 of Schedule 2 to the Principal Regulations (Annex I: Essential health and safety requirements relating to the design and construction of machinery) to reflect the amendments made by the 2009 Directive to Annex I of the Machinery Directive. The Schedule inserts into Annex I as set out in Part 1 of Schedule 2 to the Principal Regulations a definition of machinery for pesticide application as well as essential health and safety requirements which must be complied with in relation to such machinery in order to protect the environment.

Regulation 4 revokes regulation 9 of the Principal Regulations which prohibits the putting into service of machinery by persons other than the “responsible person” unless it is safe and regulation 6 makes an amendment consequential on that revocation.

Regulation 5 revokes a provision of the Principal Regulations which requires the Secretary of State to publish a list of UK notified bodies. A list of all relevant notified bodies is available on the European Commission’s NANDO (New Approach Notified and Designated Organisations) website.

Regulation 7 inserts a provision into the Principal Regulations requiring the Secretary of State to review the operation and effect of the Principal Regulations and publish a report within five years of 1st December 2009 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Principal Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Principal Regulations or to amend them.

Regulation 9 makes amendments to the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999 (S.R. 1999 No. 304) and the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 (S.R. 1999 No. 305). These amendments are consequential on the making of the Principal Regulations and the revocation of the Supply of Machinery (Safety) Regulations 1992 (S.I. 1992/3063).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Advanced Manufacturing and Services Group, Department for Business, Innovation and Skills (BIS), 1 Victoria Street, London SW1H 0ET. As these Regulations transpose a Directive, a transposition note setting out how the Government has transposed the Directive in the United Kingdom has also been prepared. These documents are published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk

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