

SUPPLYING NEW MACHINERY

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A short guide to the law and some information on what to do for anyone supplying machinery for use at work

HOW CAN THIS LEAFLET HELP ME?

This leaflet can help you if you are supplying machinery for use at work. It explains the main health and safety requirements of the law which you need to know about, and what you can do in practice to meet them. You may already know about CE marking but there are other requirements which are also important.

The information in this leaflet is arranged in four sections:

- the requirements of the law;
- what does the manufacturer have to do;
- what does the supplier have to do in practice; and
- further information.

This leaflet has been written primarily for the benefit of importers, agents or others who are supplying machinery for use at work which is manufactured by someone else. If you are a manufacturer of machinery, you will need to refer to other more detailed sources of information, some of which are given at the end of this leaflet.

If you are buying machinery for use at work, you will need to refer to other sources of information, such as the leaflet *Buying new machinery*.

In this leaflet, the term 'manufacturer' is used to refer not only to the actual manufacturer of machinery, but also, in some cases, to the person who assembles or installs machinery.

THE LAW

1 What is the law on supplying new machinery?

There are several relevant pieces of law, including:

- the Supply of Machinery (Safety) Regulations 1992, which implement the European Machinery Directive, and which contain detailed requirements for manufacturing safe **new** machinery;
- the Health and Safety at Work etc Act 1974, which contains general requirements for the manufacture and supply of safe workplace machinery (including second-hand machinery);
- other regulations which implement other European Directives, such as those on the supply of electrical equipment or on gas appliances, which are important for many suppliers of machinery (see question 11).

This leaflet concentrates on the first of these legal requirements.

2 What do the Supply of Machinery (Safety) Regulations 1992 apply to?

These Regulations apply to all new machinery manufactured or supplied in the UK, wherever it is to be used in the European Economic Area (EEA) (The European Economic Area comprises all EU and EFTA countries with the exception of Switzerland.) The term 'machinery' is broadly defined and includes what is generally understood by the term, as well as some other products.

Examples include:

- a complex production line;
- a fork-lift truck;
- a circular saw;
- an agricultural plough;
- lifting equipment and lifting tackle;
- an escalator.

There are, however, some exclusions (see page 11).

3 In brief, what are the requirements of these Regulations?

Most importantly, they require all UK manufacturers and suppliers of new machinery to make sure that the machinery which they supply is safe. They also require manufacturers to make sure that:

- machinery meets relevant essential health and safety requirements (these are listed in detail in the Regulations), which include the provision of sufficient instructions;
- a technical file for the machinery has been drawn up, and in certain cases, the machinery has been type-examined by a notified body;
- there is a 'declaration of conformity' (or in some cases a 'declaration of incorporation') for the machinery, which should be issued with it (see questions 18-20);
- there is CE marking affixed to the machinery (unless it comes with a declaration of incorporation).

Further details about the requirements of these Regulations are given in a publication, *Product standards - Machinery: Guidance Notes on UK Regulations* (see page 12).

4 Does the same law apply in other European countries?

The Machinery Directive has now been implemented as national law in all countries in the EEA. This means that the same legal requirements now apply to all new machinery wherever it is supplied within the EEA.

5 So if I am importing a machine from a manufacturer based in another country in the EEA, what do I have to do?

You need to make sure that the machinery is safe before you supply it on to others. To do this you will first need to make certain checks (see question 14 and the checklist on page 8).

6 What if I am directly importing machinery manufactured outside the EEA?

This machinery must still meet the Supply of Machinery (Safety) Regulations 1992 and **because you are importing it directly from outside the EEA, you take on the legal responsibilities of the manufacturer**. So you need to make sure either that the manufacturer has met the relevant requirements or that you meet them yourself.

7 What if I export machinery to countries outside the EEA?

You will need to find out the national requirements of the country to which you are exporting the machinery.

8 What law applies to the sale of second-hand machinery?

The Supply of Machinery (Safety) Regulations 1992 only apply to the first supply of machinery into the EEA, and only if this takes place after 1 January 1993. Therefore, if you are supplying second-hand machinery which was first in use before 1993, without substantially refurbishing it, the machinery does not need to comply with these Regulations. Also, if you are re-supplying used CE-marked machinery, these Regulations do **not** apply. However, all machinery should be maintained in a safe state, and Section 6 of the Health and Safety at Work etc Act 1974 will apply to the re-sale (in Great Britain) of all second-hand workplace machinery, however old it is.

9 What if the old machinery I am supplying is substantially refurbished?

If machinery has been refurbished to such an extent that almost all the replaceable parts are new, it would be considered to be new machinery and so you will need to comply with the Supply of Machinery (Safety) Regulations 1992. For example, where CNC controls are retrofitted to an older manual lathe, these Regulations apply. But if old machinery has simply been given new guards or some improved controls or just repainted, this would not make it 'new' and the Regulations will not apply when it is re-sold. However, Section 6 of the Health and Safety at Work etc Act 1974 **will** apply.

10 What are the relevant requirements of the Health and Safety at Work etc Act 1974?

Section 6 of this Act places a duty on *'any person who designs, manufactures, imports or supplies any article for use at work...to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health....'*

Adequate information about the use for which the article is designed is also required. These requirements must be met by suppliers of all types of workplace machinery, whether the machinery is new or second-hand. But the drawing up of a technical file, type-examination, the issuing of a declaration of conformity and affixing CE marking are not required under this Act.

11 What other laws might be relevant to the supply of machinery?

The two sets of Regulations that will often apply are the:

- Electrical Equipment (Safety) Regulations 1994, which apply to most electrically powered machinery used in workplaces; and
- Electromagnetic Compatibility Regulations 1992 which cover equipment likely to cause electromagnetic disturbance, or whose performance is likely to be affected by electromagnetic disturbance.

In some cases, other law may apply such as the Simple Pressure Vessels (Safety) Regulations 1991 or the Gas Appliances (Safety) Regulations 1995. All these Regulations implement European Directives and contain various requirements. The existence of CE marking on machinery should indicate that the manufacturer has met **all** of the requirements that are relevant.

WHAT DOES THE MANUFACTURER HAVE TO DO?

It is primarily the task of the manufacturer to design and construct new machinery so that it can be used safely. In addition to meeting certain administrative and other requirements, there are specific practical issues that need to be addressed by the manufacturer. Some of these are as follows.

12 How does the manufacturer make sure that machinery can be used safely?

There are several procedures which they must follow, but in particular they should:

- identify the health and safety hazards (trapping, crushing, electrical shock, dust or fumes, noise, vibration, etc) that are likely to be present when the machinery is used;
- assess the likely risks;
- eliminate the risks, or if that is not possible:
 - provide safeguards (eg guarding dangerous parts of the machinery, providing noise enclosures) or, if that is not possible:
 - provide information about any residual risks and place signs on the machinery to warn of risks that cannot be reduced in other ways (eg 'noisy machine' signs).

Manufacturers may wish to refer to standards or other specifications when designing machinery.

13 Does new machinery have to be made to any particular standards?

No. Machinery must satisfy the essential health and safety requirements of the law, ie the Supply of Machinery (Safety) Regulations 1992 in the UK. But there are an increasing number of **harmonised European Standards** that will help manufacturers to do this. A harmonised European Standard has an EN before the number, eg EN 474-1, and is published as a British Standard eg BS EN 474-1:1995. The use of these standards is voluntary, and manufacturers can design and manufacture their machinery in accordance with other national or international standards if they wish, so long as the essential health and safety requirements of the law are satisfied.

WHAT DOES THE SUPPLIER HAVE TO DO?

14 What do I need to do as a supplier before providing machinery to others?

If it is manufactured in the EEA, you must make sure as much as you can that the machinery is safe. To do this, there are several practical checks that you can make - these are given in the checklist on page 8.

If you are importing machinery from outside the EEA, you will need to make sure that the machinery meets the requirements of the law in full (see question 6 above and 'Further Information' on page 12). **There may be information available about machinery safety from your trade association, HSE or other sources, which will help you to decide whether the machinery you are supplying is safe. You may also find relevant British or other Standards helpful.**

15 Can I regard CE marking as a guarantee of safety?

No. CE marking is not a quality mark and affixing it on machinery is only one of the several requirements that the manufacturer has to meet. By affixing CE marking to machinery, the manufacturer is claiming that all relevant legal requirements have been met, but you must still make sure as far as you can that the machinery is safe.

16 What if the machinery is manufactured by someone else either in the UK or elsewhere in the EEA and I (as a supplier) consider that the safeguards or other protective devices are inadequate?

There could be several reasons why this might happen. For example, the harmonised European Standard for that machinery may not yet have been agreed, and different interpretations of the level of protection that is required may exist in different countries. Alternatively, it may be that the machinery does not meet agreed levels of protection and the law is clearly not being met. If you are not satisfied with the levels of protection at the machinery you are supplying, discuss the matter with the manufacturer or your UK Trade Association.

CHECKLIST: DO NOT SUPPLY OR USE MACHINERY WHICH YOU CONSIDER UNSAFE

Before supplying new machinery:

- Look for obvious defects, such as missing guards or other safety devices, or inadequately protected electric wiring.
 - Check that known risks (including risks from fumes or dust, noise or vibration) from the machinery when it is in use will be properly controlled or that there is information on how they can be controlled.
 - Make sure the manufacturer has provided instructions for safe installation, use, adjustment and maintenance, and that these are in English if the machinery is for use in the UK (some maintenance instructions may be in another language if staff from the manufacturer are to carry out specialised maintenance).
 - Check that data about noise and vibration emissions have been provided, where appropriate.
 - Make sure that any warning signs are visible and easy to understand.
 - Check that you have a properly completed declaration of conformity, or a declaration of incorporation if appropriate.
 - Check for CE marking.
 - Check with the manufacturer if you have concerns about any of the above matters.
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REMEMBER:

Never assume that machinery is safe just because it has CE marking.

17 What is contained in technical files, and should the contents of these files be made available to suppliers and users?

Manufacturers are required to draw up technical files for the machinery they make. These files must include drawings of the machinery and its control circuits, the specifications and standards used in design, and information about relevant test results and other data. Technical reports and certificates from other organisations may also be included. Technical files demonstrate how machinery meets relevant essential health and safety requirements and, as such, are useful for manufacturers and for the national enforcing authorities.

However, manufacturers are not obliged to make the contents of technical files available to other suppliers or to the eventual users of the machinery.

18 When will machinery have a declaration of conformity?

When it is finished and ready for installation and use.

19 What should a declaration of conformity have on it?

A declaration of conformity must:

- state the name and address of the manufacturer or (in the case of machinery made outside the EEA) of the importer;
- contain a description of the machinery, its make, type and serial number;

- indicate all relevant European laws (directives) with which the machinery complies;
- state details of any notified body that has been involved;
- specify which standards have been used in the manufacture (if any); and
- be signed by a person with authority to do so.

For machinery supplied in the UK, the declaration of conformity must be in English. For machinery exported to other countries in the EEA, instructions must be in the recognised language of the country where it is to be used.

20 When is a declaration of incorporation appropriate rather than a declaration of conformity?

If the machinery is intended for:

- incorporation into other machinery; or
- assembly with other machinery;

and if certain other conditions are met, the manufacturer may issue a declaration of incorporation instead of a declaration of conformity. The declaration should contain similar information to that contained in the declaration of conformity, but importantly, it must state that the machinery should not be used until:

- the machinery into which has been incorporated; or
- the assembly to which it has been added has been declared to conform fully with the legal requirements.

In practice, this means that the machinery should not be used until the final product has been manufactured, all relevant essential health and safety requirements met, and a declaration of conformity issued - by the final installer or assembler.

The **machinery should not be CE marked** if it has a declaration of incorporation; CE marking should only take place at the end of incorporation or assembly.

MACHINERY EXCLUDED FROM THE COVERAGE OF THE SUPPLY OF MACHINERY (SAFETY) REGULATIONS 1992

- Machinery whose only power source is directly applied manual effort, unless it is a machine used for lifting or lowering loads.
- Machinery for medical use used in direct contact with patients.
- Special equipment for use in fairgrounds and/or amusement parks.
- Steam boilers, tanks and pressure vessels.
- Machinery specially designed or put into service for nuclear purposes which, in the event of failure, may result in an emission of radio-activity.
- Radio-active sources forming part of a machine.
- Firearms.
- Storage tanks and pipelines for petrol, diesel fuel, inflammable liquids and dangerous substances.

- Means of transport, ie vehicles and their trailers intended solely for transporting passengers by air or on road, rail or water networks. Also, transport which is designed for transporting goods by air, on public road or rail networks or on water. Vehicles used in the mineral extraction industry are not excluded.
- Sea-going vessels and mobile offshore units together with equipment on board such vessels or units.
- Cableways, including funicular railways, for the public or private transportation of people.
- Agriculture and forestry tractors, as defined by certain European Directives.
- Machines specially designed and constructed for military or police purposes.
- Certain goods and passenger lifts.
- Means of transport of people using rack and pinion rail mounted vehicles.
- Mine winding gear.
- Theatre elevators.
- Construction site hoists intended for lifting individuals or people and goods.

FURTHER INFORMATION

Guidance on legislation

A guide to the Health and Safety at Work etc Act 1974

DTI *Product standards - Machinery: Guidance Notes on UK Regulations* May 1995 available from the Department of Trade and Industry Business in Europe Hotline: 0117 944 4888.

Publications on the other Regulations referred to above are available from the same Business in Europe Hotline.

Other publications

HSE *Buying new machinery* INDG271

HSE *Using work equipment safely* INDG229

HSE *Keep the noise down! Advice for purchasers of workplace machinery* INDG263

The future availability and accuracy of the references listed in this publication cannot be guaranteed

British Standards are available from British Standards Institution, 389 Chiswick High Road, London W4 9AL. Tel: 0181 996 7000. Fax: 0181 996 7001.

HSE priced and free publications are available by mail order from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 6FS. Tel: 01787 881165 Fax: 01787 313995.

HSE priced publications are also available from good booksellers.

For other enquiries ring HSE's InfoLine Tel: 0845 345 0055 , or write to HSE's Information Centre, Broad Lane, Sheffield S3 7HQ.

HSE home page on the World Wide Web: <http://www.open.gov.uk/hse/hsehome.htm>

This leaflet contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.

This leaflet is available in priced packs of 15 from HSE Books, ISBN 0 7176 1560 X. Single free copies are also available from HSE Books.

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Further help: Contact HSE Infoline: Telephone 0845 345 0055

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